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BY THE COMPTROLLER GENERAL

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Report To The Congress

OF THE UNITED STATES

Evaluation Of U.S. Efforts To Promote Nuclear Non-Proliferation Treaty

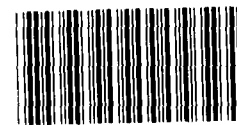
The Nuclear Non-Proliferation Treaty is the world's principal political instrument for controlling the spread of nuclear weapons. However, more than 50 countries, some with nuclear programs, are not party to the Treaty.

The United States is using diplomatic initiatives and incentives such as technical assistance to encourage more nations to become Treaty parties. Principal objections of key nations include claims that the Treaty discriminates against non-nuclear weapon states and could adversely affect their peaceful nuclear programs and endanger their national security and that nuclear weapons states have not aggressively pursued disarmament.

In August 1980, the second conference of party states will be held to review the operation of the Treaty. This report discusses some of the issues that will be raised.



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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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To the President of the Senate and the
Speaker of the House of Representatives

This report discusses the efforts of the United States to encourage nations to become party to the Nuclear Non-Proliferation Treaty. It concludes that the overall approach followed by the administration in these efforts appears reasonable in light of inhibiting factors. The report also contains a recommendation to the Secretary of State.

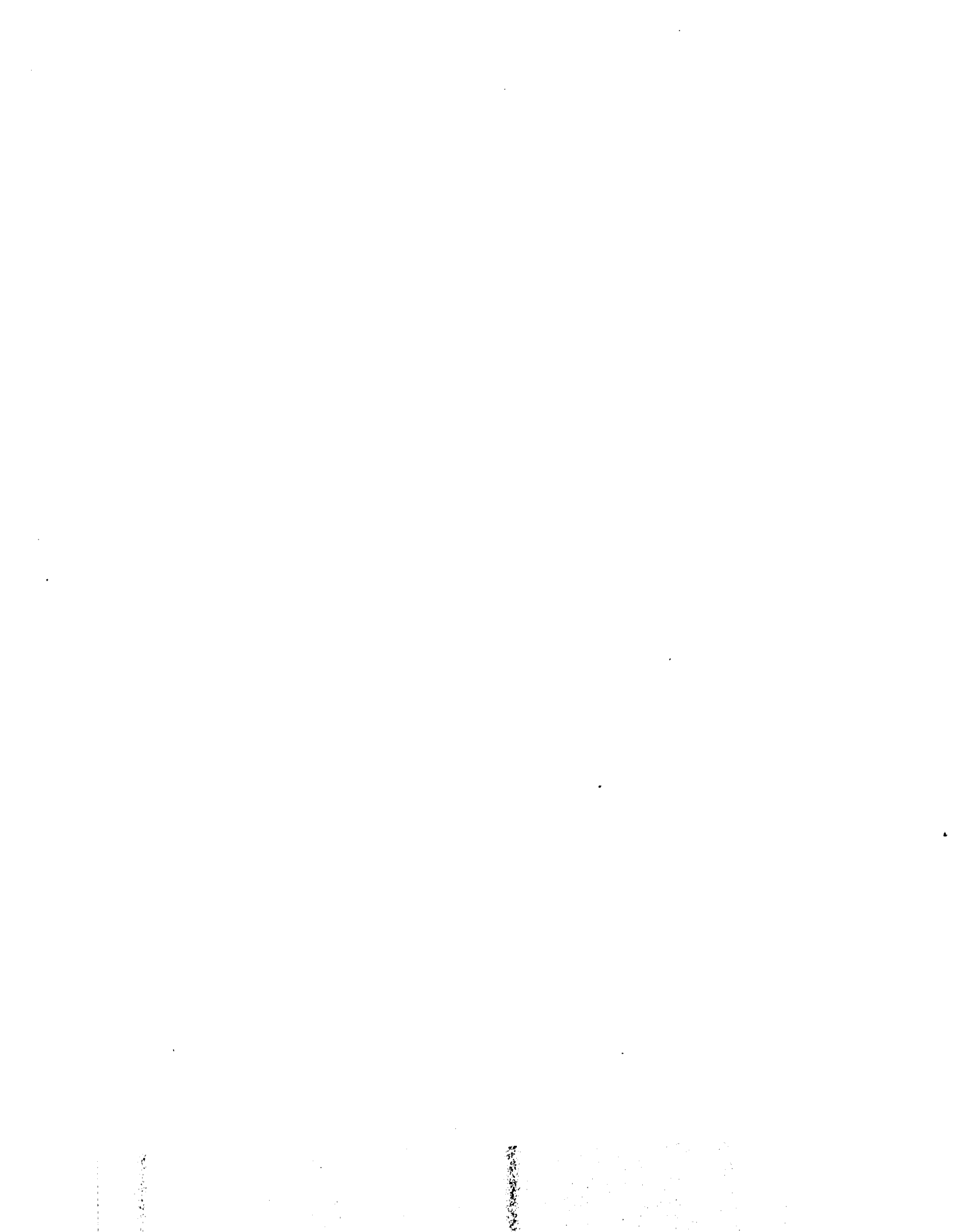
Our review was made pursuant to Section 602(e) of the Nuclear Non-Proliferation Act of 1978 which requires the Comptroller General to complete a study and report to the Congress on the implementation and impact of the Act on the nuclear non-proliferation policies, purposes, and objectives of the Act.

One of the national policy declarations specified in the Act is to strongly encourage nations which have not ratified the Nuclear Non-Proliferation Treaty to do so at the earliest possible date. This is an interim report which evaluates the efforts made toward fulfillment of that specific policy objective.

We are sending copies of this report to the Director, Office of Management and Budget; the Secretary of State; and to the Director, Arms Control and Disarmament Agency.

Comptroller General
of the United States

*AGC 00032
AGC 00456
CNGO 1109*



D I G E S T

Entry into force of the Treaty on the Non-Proliferation of Nuclear Weapons on March 5, 1970, climaxed almost a quarter century of effort to establish a universal accord to stop the spread of nuclear weaponry.

By July 1, 1980, 114 countries were party to the Treaty and 5 had signed but had not yet ratified it. However, 46 countries have neither signed nor ratified the Treaty, including nuclear weapon states--France and the People's Republic of China--as well as advanced and rapidly advancing non-nuclear weapon states such as South Africa, Israel, Spain, Brazil, India, Argentina, and Pakistan. (See pp. 6 through 8, app. I, and app. II.)

The United States encourages states to become parties through diplomatic initiatives and by offering various incentives. Although some aspects of the incentives effort need closer monitoring, the overall U.S. approach appears reasonable. (See ch. 3.)

In August 1980, the second conference of party states will be held to review the operation of the Treaty. This report discusses some of the issues that will be raised.

CRITICISMS OF THE TREATY

Reasons given by nonparty states for not coming under the Treaty fall into three principal categories:

- claims that the Treaty discriminates against non-nuclear weapon states;
- concerns about national security; and
- suspicions that joining the Treaty would adversely affect their peaceful nuclear programs and activities.

Some of these concerns have been echoed by non-nuclear weapon states that have already become Treaty parties. (See ch. 2.)

Countries which claim that the Treaty discriminates against non-nuclear weapon states point out, for example, that, although non-nuclear weapon states are required to relinquish forever the option to develop or acquire nuclear weapons, the Treaty requires parties only "to pursue negotiations in good faith" toward nuclear disarmament.

The non-nuclear weapon states also charge that the nuclear weapon superpowers--the United States and the Soviet Union--have accomplished little toward meeting the disarmament goals set forth in the Treaty. (See pp. 11, 12, and 14.)

They also point out that nuclear weapon state parties are not required to place any of their facilities under international safeguards, but non-nuclear weapon state parties are required to place all of their facilities and special nuclear materials under the safeguards system of the International Atomic Energy Agency (IAEA). Furthermore, nonparty states, which have not relinquished the nuclear weapons option, are required to place under IAEA safeguards only the specific nuclear materials and equipment imported from a Treaty party. (See pp. 15 and 16, and app. IV.)

Concern over rival states who are not party to the Treaty is given as one basis for countries' not becoming Treaty parties. For example, Israel does not trust its Arab neighbors, and Pakistan views India as a major threat to its sovereignty. Some non-nuclear weapon states cite the absence of a Treaty provision that would guarantee their security against nuclear attack. (See pp. 12 and 13.)

Certain non-nuclear weapon states have expressed fears that the commitment to accept IAEA safeguards would jeopardize their nuclear industrial secrets or otherwise impede their peaceful nuclear programs. Other countries

have charged that the nuclear industrialized states have not satisfactorily fulfilled their obligations to facilitate the exchange of nuclear materials, equipment, and information with developing Treaty parties. (See pp. 15 through 18.)

The non-nuclear weapon states party to the Treaty used the first Treaty Review Conference in 1975 as a forum to express their concerns. However, none of the proposals they presented to allay their concerns were adopted, and their concerns may resurface during the second Review Conference in August 1980. (See ch. 4.)

U.S. EFFORTS TO ENCOURAGE ADHERENCE

The Arms Control and Disarmament Agency, working closely with the Department of State, spearheads U.S. efforts to encourage adherence to the Treaty. Their efforts fall into two principal categories--diplomatic initiatives and general incentives. (See ch. 3.)

Diplomatic initiatives can be direct, with the United States working through its embassies abroad or with foreign embassies in Washington, or indirect, with other party states being urged to encourage the adherence of certain nonparty states. The indirect diplomatic approach is used where another party state may have more influence with the targeted nonparty state than the United States has, and it serves to identify the Treaty as a universal effort, not mainly an American one. (See pp. 20 through 22.)

The United States has offered various incentives to countries to become party to the Treaty. In December 1967 the President announced that the United States would voluntarily place its peaceful nuclear activities under IAEA safeguards to demonstrate that safeguards would not undermine nuclear programs. Negotiation of a safeguards agreement between the United States and the IAEA was completed in 1976. However, conclusion of the agreement was planned to follow certain events, including Treaty adherence by a number of industrialized non-nuclear weapon states and the conclusion

of Treaty safeguards agreements between those states and the IAEA. The last of these events took place in December 1977, and the U.S.-IAEA agreement was submitted to the Senate for its advice and consent in February 1978.

On July 2, 1980, the Senate gave its consent, subject to five specific understandings intended to satisfy the concerns expressed during June and December 1979 hearings. The agreement will enter into force when the Agency receives written notice from the United States that U.S. statutory and constitutional requirements for entry into force have been met.

Although neither State nor the Arms Control and Disarmament Agency claims that the agreement will induce any particular country to join the Treaty, the Arms Control and Disarmament Agency believes it should enhance the U.S. position at the 1980 Treaty Review Conference and help U.S. efforts to encourage nonparty states to accept Treaty safeguards. (See pp. 25 through 27.)

In 1975 the United States announced that Treaty parties would be given preference in allocations of voluntary in-kind contributions to the IAEA technical assistance program. Gradually annual contributions increased from \$300,000 to more than \$1 million in 1978.

Then, in 1978, the United States announced that it would establish a new technical assistance program for \$1 million annually for 5 years. The new program was also to be funded by voluntary contributions to the IAEA. The expansion was announced, however, without a prior determination whether the existing voluntary contributions were effective in attracting broader Treaty adherence, or whether the expansion was warranted. (See pp. 23 through 25, and 30.)

The United States also affirmed its willingness to finance, through the Export-Import Bank, appropriate nuclear projects in countries meeting U.S. non-proliferation requirements, with preference given to Treaty parties, and it provided conditioned negative security

assurances to non-nuclear weapon states party to the Treaty or to a similar nonproliferation binding commitment. (See pp. 27 and 28.)

A nuclear weapon free zone could be considered such a commitment and, in certain regions of the world, could complement the Treaty as a means of preventing the spread of nuclear weapons. Such zones have been proposed for a number of populated regions but only one has been established, by the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco). Serious difficulties have generally frustrated attempts to establish zones in other areas. The United States favors their creation in principle but will not consider supporting the establishment of a specific zone until the nations in the region concerned initiate negotiations themselves. (See ch. 5.)

The United States has ratified Protocol II of the Treaty of Tlatelolco under which the nuclear weapon states undertake to generally respect the denuclearized status of the zone. It has signed but not ratified Protocol I which calls upon nations outside the zone to apply the denuclearization provisions of the treaty to territories in the zone for which they have international responsibility.

The Senate Foreign Relations Committee held hearings in 1978 regarding ratification of the protocol. The Committee has subsequently requested the administration to provide a particular memorandum which it believes might have affected support for the protocol within the executive branch. The administration has not furnished the memorandum, and the Committee has taken no further action toward ratification. (See pp. 44 and 45.)

Since the 1978 Special Session the United States has taken steps to amend regulations to facilitate the licensing of certain nuclear and dual-use item exports to countries with good nonproliferation credentials. The President has approved Senate Joint Resolution 89 (P.L. 96-280, June 18, 1980) which permits exports of power reactor fuel in excess of

ceilings specified in U.S. agreements for peaceful nuclear cooperation with Treaty states. (See pp. 28 and 29.)

CONCLUSIONS AND RECOMMENDATION

The avenues available to the United States in the pursuit of universal adherence to the Treaty are limited. However, GAO believes the approach taken by the United States in promoting Treaty adherence is reasonable. (See pp. 30 through 32.)

Senate consent to the U.S.-IAEA safeguards agreement should enhance the U.S. position at the 1980 Review Conference and assist U.S. efforts to encourage non-Treaty states to accept Treaty safeguards.

It is difficult to measure the effectiveness of the entire range of U.S. efforts to attract more countries to the Treaty. However, an average of about 5 countries a year have become parties over the past 10 years. U.S. efforts could be contributing to those decisions.

The United States offered to increase by \$1 million the amount of technical assistance provided annually through the IAEA for the benefit of Treaty parties without first determining whether the pre-existing program of Treaty-linked contributions had in fact encouraged any nation to become a party.

GAO recommends that the Secretary of State determine, to the extent practicable, whether voluntary contributions provided through the IAEA technical assistance programs by the United States are achieving intended objectives and whether the funding levels for these contributions are appropriately established.

If assessments were to show that the technical assistance programs are effective in encouraging Treaty adherence, the United States could possibly consider designating a larger share of its IAEA voluntary contributions for the exclusive use of party states. This could be

accomplished by reallocating portions of the U.S. cash contribution to the IAEA's operational budget or the U.S.-financed fellowship program, since neither is designated for the benefit of Treaty parties.

AGENCY COMMENTS AND OUR EVALUATION

The Arms Control and Disarmament Agency said GAO's report provides a generally good summary of the relevant issues and U.S. activities.

The Department of State said that it had no problem with GAO's recommendation that an assessment be made to determine whether the Treaty-preference programs are effective and appropriately funded. However, the Department expressed concern over the suggestion that the United States consider designating a larger share of its voluntary cash contributions to the IAEA for the exclusive use of Treaty parties if the assessments GAO proposed were to show that the technical assistance programs are effective in encouraging Treaty adherence.

State said that the full justification for U.S. voluntary contributions is founded on other considerations and interests, many of which antedate the Treaty.

GAO recognizes that the voluntary cash contributions to the IAEA technical assistance program may serve other U.S. interests besides attracting new Treaty parties. However, given the importance both the Congress and the executive branch attach to the Treaty as a means of controlling nuclear proliferation, GAO believes that the reallocation of a portion of the U.S. cash contributions for the exclusive use of Treaty parties should be considered, along with other options, if current funding levels are deemed inadequate.

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ABBREVIATIONS

ACDA	Arms Control and Disarmament Agency
ENDC	Eighteen Nation Disarmament Committee
IAEA	International Atomic Energy Agency
NATO	North Atlantic Treaty Organization
NPT	Non-Proliferation Treaty
NNPA	Nuclear Non-Proliferation Act of 1978
SALT	Strategic Arms Limitation Talks
UK	United Kingdom
U.N.	United Nations

CHAPTER 1

INTRODUCTION

Since the introduction of the atomic era to the world in the form of a bomb and the accompanying realization that nuclear energy could also be used for the benefit of mankind, the world has been engaged in efforts to halt the development of bombs and further the peaceful uses of nuclear energy. After almost a quarter century of international debate over various proposals, the Treaty on the Non-Proliferation of Nuclear Weapons, usually referred to as the Non-Proliferation Treaty (NPT), entered into force in March 1970.

The first formal international proposal, the Baruch Plan, to control the spread of nuclear weapons was made by the United States to the U.N. Atomic Energy Commission in June 1946. Under that proposal, the world's nuclear resources and facilities would have been placed under the ownership, operation, and control of an international atomic development authority to ensure that those resources and facilities would be used for peaceful purposes only. All nuclear weapons would have been destroyed after systems for effectively controlling atomic energy and enforcing levied sanctions were in operation. Also, there would have been no veto in the U.N. Security Council over penalties fixed for violations of certain of the authority's rules.

The Soviet Union repudiated the Baruch Plan and proposed one under which the priorities for atomic weapon destruction and control measures would be reversed; destruction of atomic weapons would be the first step, and installation of a nuclear control system would follow.

The matter was debated in the United Nations for almost 2 more years, but the wide United States/Soviet differences on the veto question and the priorities for nuclear weapons destruction and an international control system virtually eliminated any chances of success.

In December 1953, President Eisenhower proposed an international "Atoms for Peace" program under which the peaceful potential of nuclear energy would be developed and shared among nations via an international atomic energy agency which would be set up under the aegis of the United Nations. The proposed agency came into existence in July 1957 with the entry into force of the International Atomic Energy Agency (IAEA) statute. However, the new Agency was not given the extensive authority for controlling the spread

of nuclear energy that the Baruch Plan had envisioned. Also, its creation was not premised on the destruction of existing atomic weapons, either before or after installation of the control system.

Within 20 years after the end of World War II, four other nations had developed nuclear weapons: the Soviet Union in 1949, the United Kingdom in 1952, France in 1960, and the People's Republic of China in 1964. A decade later, in May 1974, India exploded a nuclear device, thereby increasing to six the number of countries with known nuclear explosive capability.

As more countries became beneficiaries of expanding peaceful nuclear programs, particularly nuclear electrical power operations, concerns intensified over resultant accumulations of weapons-potential materials. The continuing accumulations of chemically separable plutonium--a fissionable byproduct of power reactor operations which can be used as the principal ingredient of a nuclear weapon--generate constant fears about the threat posed by the separation of the plutonium and its possible unauthorized diversions.

EFFORTS TO CURTAIL SPREAD OF NUCLEAR WEAPONS

In October 1958, the Irish delegation to the U.N. General Assembly made its first effort to curtail the proliferation of nuclear weapons. It introduced a resolution calling for the establishment of an ad hoc committee to study the dangers inherent in the further dissemination of nuclear weapons and recommended that the next General Assembly session take steps to avert those dangers.

The Irish submitted similar resolutions in 1959, 1960, and 1961. The 1961 resolution called on all states, particularly the nuclear weapons states, 1/ to conclude an international agreement providing that (1) the nuclear states would undertake to refrain from relinquishing their control over nuclear weapons and from transmitting the information necessary for their manufacture to other states, and (2) other states would undertake not to manufacture or otherwise acquire control of such weapons. The General Assembly approved the resolution unanimously.

1/At that time, there were four nuclear weapon states--the United States, United Kingdom, Soviet Union, and France.

Not much was accomplished in the United Nations during the next several years toward establishing a nuclear non-proliferation regime per se; efforts were directed mainly toward overall total disarmament.

On August 17, 1965, the United States submitted to the Eighteen Nation Disarmament Committee (ENDC) a draft treaty aimed at preventing the spread of nuclear weapons. The substantive provisions of the proposed treaty provided that:

1. Each nuclear state (a) would not transfer any nuclear weapons into the national control of any non-nuclear state, either directly or indirectly, and (b) would not assist any non-nuclear state in the manufacture of nuclear weapons.

2. Each non-nuclear state (a) would not manufacture nuclear weapons, (b) would not seek or receive the transfer of such weapons into its national control, either directly or indirectly, (c) would not take any other action which would increase the total number of states having independent power to use nuclear weapons, and (d) would not seek, grant, or accept assistance in the manufacture of nuclear weapons.

3. Each party to the treaty would cooperate in facilitating the application of International Atomic Energy Agency safeguards on all peaceful nuclear activities.

The Soviet Union, however, opposed the proposed treaty, viewing it as providing West Germany with access to nuclear weapons through military alliance with the Western Powers.

About a month later, eight nonaligned nations 1/ joined in a memorandum declaring that a treaty on nonproliferation of nuclear weapons would not be an end in itself but only a means to an end and that measures to prohibit the spread of nuclear weapons should be coupled with or followed by tangible steps to halt the nuclear arms race and to limit, reduce, and eliminate the stocks of nuclear weapons and the means of their delivery.

In September 1965, the Soviet Union submitted its own draft nonproliferation treaty to the U.N. General Assembly. Its provisions were generally similar to those of the U.S. draft submitted the preceding month, but were directed more

1/Brazil, Burma, Ethiopia, India, Mexico, Nigeria, Sweden, and the United Arab Republic.

clearly toward the Soviet objective of denying West Germany access to nuclear weapons through the creation of a North Atlantic Treaty Organization (NATO) multilateral or Atlantic nuclear force.

The U.N. General Assembly adopted Resolution 2028(XX) on November 19, 1965, calling on the ENDC to urgently consider the question of nonproliferation and to reconvene as soon as possible to negotiate an international treaty to prevent the proliferation of nuclear weapons, based on the following five principles.

1. The treaty should be void of any loopholes which might permit nuclear or non-nuclear powers to proliferate, directly or indirectly, nuclear weapons in any form.
2. The treaty should embody an acceptable balance of mutual responsibilities and obligations of the nuclear and non-nuclear powers.
3. The treaty should be a step toward the achievement of general and complete disarmament and, more particularly, nuclear disarmament.
4. There should be acceptable and workable provisions to ensure the effectiveness of the treaty.
5. Nothing in the treaty should adversely affect the right of any group of states to conclude regional treaties in order to ensure the total absence of nuclear weapons in their respective territories.

These principles, particularly items 2 and 3, ultimately proved to be the basis of numerous non-nuclear countries' refusals to ratify the treaty that was eventually adopted.

Soviet preoccupation with its fears of West German access to nuclear weapons via the NATO alliance continued through 1966 and into 1967. In March of that year the United States submitted a number of amendments to its draft treaty, intended, among other things, to clarify the term "control of nuclear weapons" and thereby reassure the Soviets that control of the NATO nuclear trigger would not be transferred to any non-nuclear weapon state. However, Soviet suspicions concerning West German access were not allayed.

As a result of discussions in the General Assembly in 1966, the nonproliferation treaty deadlock was broken on

August 24, 1967, when the United States and the Soviet Union separately submitted identical drafts of a nonproliferation treaty to the ENDC, thus replacing the drafts submitted in August and September 1965.

The identical drafts did not contain an Article III, on international safeguards, because the ENDC cochairmen were still working on a safeguards formula acceptable to all states willing to support the treaty.

Within a week, Sweden submitted a draft Article III calling for imposition of IAEA safeguards on all international transfers of source and special fissionable material or of equipment or material especially designed or prepared for processing, use, or production of special fissionable material. Also, non-weapon states would have been required to accept full IAEA safeguards on all nuclear energy activities; however, weapon states would undertake only to "co-operate in facilitating the gradual application" of IAEA safeguards on only their peaceful nuclear energy activities.

Brazil and India objected strongly to the treaty drafts, claiming that they discriminated against non-nuclear weapon states and generally did not conform with the principles of Resolution 2028(XX). Mexico offered several substantive amendments.

On January 18, 1968, the United States and the Soviet Union again submitted identical revised drafts of the treaty, including an Article III requiring non-nuclear weapon states to accept IAEA safeguards on all source or special fissionable materials in all peaceful nuclear activities within territories under their jurisdiction or control.

New substantive articles V, VI, and VII were inserted. Article V, aimed at nuclear weapon states, obligated them to make available to non-weapon states the potential benefits of peaceful nuclear explosions at costs as low as possible and excluding charges for research and development. Article VI called on all states to pursue good-faith negotiations on general and complete disarmament (including nuclear). Article VII guaranteed the right of any group of states to conclude nuclear weapon-free zone treaties. Other, less substantive changes were also made.

Although some non-nuclear weapon states, notably India and Brazil, insisted that the nuclear weapon states more firmly commit themselves to effective nuclear disarmament, it was made clear at ENDC deliberations that it was not legally feasible to

include a provision obligating the nuclear weapon states to reach an agreement on disarmament.

On March 11, 1968, the United States and the Soviet Union submitted, for the first time, a joint new draft treaty to the ENDC.

THE NON-PROLIFERATION TREATY

The draft treaty was submitted to the U.N. General Assembly on April 24, 1968. By Resolution 2373 (XXII) of June 12, 1968, the Assembly commended the Treaty on the Non-Proliferation of Nuclear Weapons to the world's governments and requested the depositary governments (the United States, United Kingdom, and Soviet Union) to open the Treaty for ratification at the earliest possible date.

The resolution was approved by a 95 to 4 vote, with 21 abstentions. Albania, Cuba, Tanzania, and Zambia cast the four negative votes. The 21 abstaining countries were:

Algeria	France	Portugal
Argentina	Gabon	Rwanda
Brazil	Guinea	Saudia Arabia
Burma	India	Sierra Leone
Burundi	Malawi	Spain
Central African Republic	Mali	Uganda
Congo (Brazzaville)	Mauritania	
	Niger	

The Treaty was opened for signature on July 1, 1968, and signed on that date by 62 states, including the 3 designated depositary states. Under Paragraph 3 of Article IX, the Treaty was to enter into force upon ratification and deposit of ratification instruments by the 3 depositary governments and 40 other states. This occurred on March 5, 1970, when the United States deposited its instrument. By July 1, 1980, 114 nations had become parties to the Treaty (see app. I); 5 of the original signatory states had not yet ratified, and 46 other countries had not signed the Treaty (see app. II).

The greatest number of states became parties to the Treaty during its initial years, 1968 through 1970, when 65 states ratified, and during 1975 when 11 nations became parties shortly before and during the 1975 NPT Review Conference. Since 1975, 17 nations have become parties (see app. III), including 7 during 1979--Indonesia, Sri Lanka, Bangladesh, Tuvalu, Cape Verde Islands, St. Lucia, and the People's

Democratic Republic of Yemen--and two in the first half of 1980--Barbados and Turkey.

Principal provisions

The objectives of the NPT are to:

- Prevent the spread of nuclear weapons by prohibiting (1) nuclear weapon states 1/ from (a) transferring to any state nuclear weapons or other nuclear explosive devices or control over such weapons or devices, directly or indirectly, and (b) assisting, encouraging, or inducing any non-nuclear weapon states to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices, and (2) non-nuclear weapon states from (a) receiving nuclear weapons or nuclear explosive devices or control over them, either directly or indirectly, and (b) manufacturing, acquiring, or seeking to obtain assistance in their manufacture (Articles I and II).
- Provide assurance, through international (IAEA) safeguards, that the peaceful nuclear activities of non-nuclear weapon states will not be used to divert nuclear materials for the making of nuclear weapons (Article III).
- Promote the peaceful uses of nuclear energy through full cooperation among states and making available the potential benefits of any peaceful application of nuclear explosion technology to non-nuclear weapon states under appropriate international observation (Articles IV and V).

1/The NPT defines a nuclear weapon state as "one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to January 1, 1967." All other nations are considered non-nuclear weapon states. Thus, the United States, Soviet Union, United Kingdom, France, and the People's Republic of China are considered nuclear weapon states. India is not, since its first and only nuclear test took place in 1974.

- Commit the parties to the Treaty to pursue good-faith negotiations toward comprehensive arms control and nuclear disarmament measures (Article VI).
- Permit the formation of nuclear weapon-free zones (Article VII).
- Provide for a conference after 5 years to review the operation of the Treaty and for further conferences every 5 years upon approval by a majority of the Treaty parties (Article VIII).
- Allow any party to withdraw from the Treaty if events jeopardize its supreme interests, upon giving 3 months advance notice and a statement of the events it regards as having jeopardized its supreme interests (Article X).
- Provide for a conference to be convened in 1995 to decide whether the Treaty shall continue in force indefinitely or be extended for a fixed period (Article X).

A complete text of the Treaty is included as appendix IV.

Continuing need

The spread of nuclear technology cannot be completely halted. National desires for acquiring nuclear capability are especially strong in the developing countries which are attracted to nuclear power as a source of energy, the most essential ingredient of their economic and industrial development. Also, some nuclear supplier states are eager to fill the wants of the developing state markets in order to sustain their nuclear export industries. In addition; NPT party supplier states want to demonstrate fulfillment of their obligations under Article IV of the Treaty to share nuclear technology with the developing non-nuclear weapon state parties.

Once technological capability becomes more widespread, national decisions to develop or to not develop nuclear weapons will be based primarily on political considerations, although economic factors may also affect such decisions. Then, more than ever, the world will need an influential force to discourage national governments from deciding to develop and/or produce nuclear weapons. The NPT might have to be that force because it is currently the only universal voluntary

accord designed to restrain countries from developing and manufacturing nuclear weapons.

Therefore, recognizing the grave threat to the security interests of the United States posed by the proliferation of nuclear explosive devices and of the capability to manufacture or otherwise acquire them, the Congress enacted the Nuclear Non-Proliferation Act of 1978 (92 Stat. 120) to provide for more efficient and effective control over nuclear materials, equipment, and technology intended for use in peaceful nuclear activities. One major policy objective of the Act is to strongly encourage nations which are not party to the Nuclear Non-Proliferation Treaty to become parties at the earliest date.

METHODOLOGY AND SCOPE OF REVIEW

This report provides information concerning U.S. efforts to promote wider adherence to the Nuclear Non-Proliferation Treaty and discusses the objections that nonparty countries have to the Treaty. Because nuclear weapon-free zones could complement the NPT in inhibiting proliferation, we included an overview of such zones and U.S. policy toward them.

The objectives of the review were to determine why almost one-third of the countries in the world have not become party to the NPT and what the United States has done to encourage these nations to come under the Treaty. In particular, we sought to address the renewed U.S. efforts to promote NPT adherence called for in the Nuclear Non-Proliferation Act of 1978. No attempt was made to assess the Treaty itself or its effectiveness in controlling the spread of nuclear explosive capabilities.

To meet our objectives we interviewed officials from the Department of State and the Arms Control and Disarmament Agency (ACDA) and reviewed their pertinent documents and files. From these sources we determined the nature, extent, and context of U.S. efforts and developed country-specific information regarding many non-NPT states. We also obtained information about selected NPT states to determine their present views on the Treaty. To supplement these sources and develop a historical perspective, we reviewed records pertinent to the evolution of the Treaty, the 1975 Review Conference, and the 1978 U.N. Special Session on Disarmament.

To acquire firsthand information regarding foreign attitudes, we met with embassy officials of India and France; visited Japan, Belgium, France, the United Kingdom, West

Germany, the Netherlands, and Austria to discuss NPT-related issues with government officials; and obtained the views of officials from the IAEA and the European Atomic Energy Community as well as those of U.S. representatives to South Korea and Spain.

CHAPTER 2

CRITICISMS OF TREATY OBLIGATIONS

Many non-NPT states have expressed criticisms of the Treaty itself, and some are concerned, as are several NPT states, about the nuclear weapon states' sincerity in meeting their obligations under the Treaty. These criticisms and concerns fall into three basic categories.

--Assertions of discrimination against non-nuclear weapon states.

--National security issues.

--Impact on peaceful nuclear activities.

These specific concerns, together with other factors inhibiting wider NPT adherence, are discussed below. An analysis of the positions of 10 non-NPT nations are included in appendix V.

ASSERTIONS OF DISCRIMINATION

Brazil, Argentina, India, and the People's Republic of China assert that the Treaty discriminates against non-nuclear weapon states. Although several states have charged that the Treaty embodies an imbalance of obligations between nuclear weapon state and non-nuclear weapon state parties, these four nonparty states have adopted a more extreme position. They consider the NPT completely unacceptable.

According to these nations, the NPT permits nuclear weapon states to perpetuate their power and status by maintaining control over nuclear energy. For example, in denouncing the Treaty's "discriminatory character," Brazil asserts that the NPT "seeks to legitimize a distribution of power which is unacceptable, because it results from the stage at which states found themselves at the date of its signature, as regards the application of nuclear weapon technology." Argentina states that it rejected the "clearly discriminatory" NPT because "it legitimizes a division of the world into those who are to be given a completely free hand in the nuclear field and those who are to be subject to restrictions."

India and China have made similar allegations. India has characterized the NPT's division between nuclear weapon and non-nuclear weapon states as "invidious," and Indian officials have stated that the Treaty treats non-nuclear weapon states as if they were the subjects of the privileged nuclear weapon

states. China has labeled the NPT a "hoax," concocted by the superpowers in order to keep non-nuclear weapon states in a subordinate position. Although China has moderated the tone of its anti-NPT stance in recent years, it has shown no inclination to adhere to the Treaty.

These nations hold that the NPT discriminates against the non-nuclear weapon states in two important areas. First, they point out that although Article II requires non-nuclear weapon states to relinquish the option to develop or acquire nuclear weapons, Article VI requires NPT parties only "to pursue negotiations in good faith" toward halting the arms race and reducing nuclear weapon stockpiles. Consequently, they believe that the NPT does not control the problem of growing superpower nuclear arsenals. To bolster their argument, they claim that the nuclear weapon superpowers, the United States and the Soviet Union, have accomplished very little toward meeting the disarmament objectives of Article VI, having in fact enlarged their nuclear weapon stockpiles.

The second area of discrimination involves Article III, which requires only the non-nuclear weapon states to place all their nuclear facilities under international safeguards. Article III, in India's words, provides the nuclear weapon states with "freedom for commercial exploitation of nuclear know-how." China has charged that the NPT gives the nuclear weapon states an unwarranted degree of "control" over the peaceful programs of non-nuclear weapon states. Brazil asserts that "the true sense" of nonproliferation does not mean the banning of the "dissemination of nuclear technology for the benefit of Man" by "discriminatory restrictions."

NATIONAL SECURITY ISSUES

Articles I and II of the NPT effectively rule out the option of acquiring nuclear weapons by non-nuclear weapon state parties. Some states are unwilling to relinquish the nuclear weapons option because of national security concerns.

Regional tensions

Some nonparty states are reluctant to adhere because of regional tensions. Israel, despite its expressed support for the Treaty, has not adhered. Important Israeli officials have stated that Israel will not become a party because it does not trust Arab NPT parties to abide by the Treaty in respect to Israel. Egypt, which signed the NPT in 1968 but never ratified it, has promised to become a full party "the moment" Israel adheres.

Tension-related problems are obstructing NPT adherence efforts in South Asia also. India, which exploded a nuclear device in 1974, is viewed by Pakistan as a major threat to its security. Pakistan has offered to become an NPT party if India would too, but India remains adamantly opposed to assuming the obligations imposed by the Treaty.

According to the Department of State, situations not dissimilar in nature to these exist in other parts of the globe.

Security assurances

Fears of specific potential adversary states are not the only national security concerns that dissuade some countries from joining the NPT. A number of non-nuclear weapon states have sought general assurances that they would not be the targets of nuclear attacks by nuclear weapon states.

South Africa and Spain were especially vocal during Treaty discussions in the ENDC about the absence of security-assurance provisions from the Treaty. In June 1968, U.N. Security Council Resolution No. 255 provided limited assurances under which the United States, United Kingdom, and Soviet Union

- recognized that nuclear aggression or the threat of it against a non-nuclear weapon state "would create a situation" in which the Security Council would have to act;
- welcomed the intention of "certain states" that they would aid threatened non-nuclear weapon states party to the NPT, in accordance with the U.N. charter; and
- reaffirmed the inherent right of individual or collective self-defense if attacked.

But the resolution did not provide the firm security assurances sought by the non-nuclear weapon states and thus fell short of their expectations.

Non-NPT states are not the only ones concerned about the nuclear-weapon states' refusals to provide acceptable security assurances. The issue surfaced during the 1975 NPT Review Conference (see ch. 4) at which 10 NPT states submitted a proposal that would have established a system of security assurances. The non-nuclear weapon states failed to win the support of the nuclear weapon states, and the proposal was not adopted.

Disarmament

Under Article VI, each Treaty party undertakes to pursue negotiations in good faith toward achieving general and complete nuclear disarmament. The lack of progress toward achieving nuclear disarmament, as perceived by the non-nuclear weapon states, has been a basis for complaint by various NPT party states; they see a wide disparity between the nuclear disarmament obligations of the nuclear weapon states and obligations of the non-nuclear weapon states.

The non-nuclear weapon states are displeased because, in exchange for their own firm relinquishment of the nuclear option, they obtained a substantially lesser commitment from the nuclear weapon states to make only an effort to disarm. Many non-nuclear weapon state parties view this disparity in commitments as another form of discrimination.

France, a nuclear weapon state, has used the nuclear disarmament issue as its principal basis for not joining the Treaty. During the NPT discussions at the meeting of the U.N. General Assembly's First Committee in November 1968, France's position was that nuclear disarmament

- does not mean simply preventing the spread of nuclear weapons;
- does not mean the taking of partial measures, the only effect of which would be to confirm the nuclear monopoly of a few states; and
- is more than simply a matter of agreement among already excessively armed powers to limit the growth of their armaments.

In France's view, the only solution to the threat posed by the existence of nuclear weapons is the complete stoppage of their manufacture and the complete destruction of their stockpiles.

At the 1975 NPT Review Conference, Yugoslavia expressed its dissatisfaction with the lack of progress toward nuclear disarmament by saying that it "found itself obliged to reexamine its attitude towards the Treaty and to draw the corresponding conclusions." That statement could be interpreted as a threat by the Yugoslavs to withdraw from the Treaty.

IMPACT ON PEACEFUL NUCLEAR ACTIVITIES

Articles III, IV, and V of the NPT collectively provide for the sharing of nuclear materials, equipment, and technology for peaceful purposes under safeguarded conditions to prevent the diversion of nuclear materials for development or manufacture of nuclear weapons.

Safeguards requirements

Article III provides that non-nuclear weapon state parties must have in force an agreement with the IAEA under which full-scope safeguards are to be applied. "Full-scope" means that safeguards are applied on all source or special fissionable material in all present and future peaceful nuclear activities within the territory of such state, under its jurisdiction, or carried out under its control anywhere. Nuclear supplier states party to the Treaty may not provide source or special fissionable material or 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 is subject to IAEA safeguards.

The requirement for IAEA safeguards has been and still is a principal basis for objection to the NPT. Among the objections of some is a concern that the safeguards requirement could limit their nuclear export markets. The hard-line anti-NPT nations claim discrimination on this issue also, because the nuclear weapon states are not obliged to accept the safeguards.

Other nonparties have expressed concern that Article III might give nuclear weapon state parties undue advantages. In 1968, South Africa denounced Article III as "vague," "obscure," lacking in clear definitions, and leading to serious "inroads into the sovereignty of non-nuclear weapon states." The South African representative asked what guarantees existed that

- the economic and technological development of the peaceful uses of nuclear energy would not be hampered by "these international controls;"
- the "control arrangements" would not be used to interfere in the economic and commercial aspects of nuclear energy and nuclear materials; and
- the "control arrangements" would not be used for industrial espionage.

South Africa also claimed that because non-nuclear weapon states would be required to open their nuclear activities to international scrutiny, they would lose many of the economic and commercial advantages gained through technological advances in "innocent" activities.

During NPT discussions in 1968, Spain declared that the Treaty should require the nuclear weapon states as well as non-nuclear weapon states to place their peaceful nuclear facilities under safeguards.

To allay expressed fears that safeguards would either jeopardize industrial secrets or increase facility costs, the United States (see pp. 25 through 27) and the United Kingdom offered to place their peaceful nuclear facilities under IAEA safeguards. The two offers contributed to the decisions of West Germany and Japan to sign and ratify the Treaty.

In a statement accompanying its ratification of the Treaty, West Germany maintained that the imposition of safeguards must not disadvantage its own nuclear industry's international competitive position and emphasized the "vital importance" it attached to the U.S. and U.K. offers. This remained the West German position as it awaited U.S. ratification of the safeguards agreement.

Dissatisfaction with the safeguards requirement was well demonstrated at the 1975 NPT Review Conference. Although the Conference concluded in its final document that the required safeguards had not impeded peaceful nuclear activities, some non-nuclear weapon state parties asserted that they were being subjected to safeguards that non-NPT party states escaped.

In the belief that the NPT could be strengthened and further adherence to it enhanced, non-nuclear weapon state parties demanded that the same safeguards be imposed on non-NPT parties that are imposed on NPT parties. As a result, the final declaration of the Conference called for standardized and universalized IAEA safeguards.

Peaceful nuclear cooperation

Article IV protects the rights of non-nuclear weapon state parties to participate in the benefits of the peaceful uses of nuclear energy. It states that nothing in the NPT affects the inalienable right of all parties to "develop research, production, and use of nuclear energy for peaceful purposes without discrimination and in conformity with Articles I and II * * *." All parties are to share in the

"fullest possible exchange" of materials, equipment, and information related to peaceful uses of nuclear energy. Parties "in a position to do so" are to cooperate with others in developing peaceful uses, especially in the territories of the non-nuclear weapon state parties.

Some non-nuclear weapon state parties and nonparties have complained that Article IV's promises are not being kept. As early as 1968 South Africa, in asserting that Article IV would prove inadequate, stated:

"In return for the restrictions and impositions which we as non-nuclear weapon States are required to accept and which we would normally accept willingly, we are offered promises by the nuclear-weapon States of technical co-operation in the further development of the applications of nuclear energy for peaceful purposes. Promises seem hardly adequate. Experience has shown that technical information and material required for peaceful purposes are sometimes withheld, even when specific agreements make their provision contractually obligatory."

In 1977, South Africa remarked that its consideration of NPT adherence was influenced also by the way in which the "powers concerned" lived up to Article IV. It expressed doubt that the United States and the IAEA would insure that Article IV would be fulfilled.

Argentina has also maintained that Article IV is not effective. In 1978, it stated before the U.N. General Assembly that "the promises of technological assistance for nuclear development for peaceful purposes were also not followed by the results expected as is shown by the records and documents of the nonproliferation Treaty Review Conference held in 1975."

Argentina's reference to the 1975 Review Conference is an apt one, because several non-nuclear weapon state parties at the Conference indicated that they were less than satisfied with existing levels of nuclear cooperation. They called for increased cooperation and for the granting of preferential treatment for NPT parties, noting that Article IV was, in effect, their "compensation" for giving up the nuclear weapons option. Some stated that they had gained little by adhering to the NPT. Mexico, Nigeria, and the Philippines proposed a draft resolution that would have (1) given preferential treatment to developing non-nuclear weapon state parties in nuclear cooperation and (2) established special funds, largely financed

by nuclear weapon state parties, to provide technical assistance and financing for the peaceful uses of nuclear energy in developing non-nuclear weapon states. The Conference failed to adopt the proposal. Yugoslavia, in announcing that it would "reexamine its attitude towards the Treaty," claimed that the nuclear weapon state parties had failed to provide any "substantial assistance."

Article V addresses the issue of nuclear explosives used for peaceful purposes and provides that any potential benefits be shared with non-nuclear weapon states under international procedures and at a cost to be set as low as possible.

In 1968, both Brazil and India indicated that they were not pleased with Article V. India stated that nations should be free to develop and use peaceful nuclear explosives. Some non-nuclear weapon state parties at the 1975 NPT Review Conference urged that negotiation of the international procedures for sharing peaceful nuclear explosives benefits be quickly undertaken. (Article V states that such negotiations should begin "as soon as possible" following the entry into force of the NPT, which occurred in 1970.) Mexico, Yugoslavia, Ghana, Nigeria, Peru, Romania, and the Philippines sponsored an unsuccessful resolution to that effect.

OTHER FACTORS

Not all nonparties' positions on the NPT are based on the above issues. In some cases, consideration of the NPT has been put off for other reasons. It may be felt by a nonparty that there are other, more pressing, issues that must be considered first. There may be a lack of government personnel with the background in nuclear matters needed to consider the Treaty. The Treaty may seem irrelevant to nations lacking any interest in nuclear issues. Occasionally, bureaucratic inefficiency or time-consuming constitutional procedures contribute to delays in securing the NPT adherence of some states.

CHAPTER 3

U.S. INITIATIVES AND INCENTIVES

The United States is engaged in a continuing effort, through diplomatic initiatives and offering of various incentives, to encourage nonparty countries to come under the Non-Proliferation Treaty; however, the approaches available are limited. In fact, the United States is not actively promoting the NPT in some countries because of their strongly negative stance toward the NPT or because U.S. influence is minimal or concentrated on other high-priority interests.

Despite these obstacles, gradual progress toward obtaining additional parties is indicated by the fact that an average of five countries per year have become Treaty parties between the end of 1979 and 1970, the year the Treaty entered into force. Although some aspects of the U.S. incentive effort need closer monitoring, the overall U.S. approach to promoting the Treaty appears reasonable.

U.S. efforts to encourage adherence to the NPT are spearheaded by the Arms Control and Disarmament Agency, working closely with the Department of State. ACDA's role is to devise strategies and rationale for promoting the Treaty, with emphasis on long-term broad NPT matters. ACDA monitors U.S. promotion efforts, prepares instructions, and coordinates them with the Department of State before they are sent to the embassies. State conducts the discussions directed toward encouraging countries to adhere to the NPT through its Bureaus of Oceans and International Environmental and Scientific Affairs and Politico-Military Affairs. The two Bureaus coordinate their efforts with each other, with the appropriate regional and country offices, and with ACDA. U.S. ambassadors and their staffs at overseas posts respond to requests for information, suggest approaches and alternatives, carry on discussions with other governments, and execute instructions from the Department of State. Also, teams of technical specialists from other Federal agencies are sometimes dispatched when needed.

U.S. efforts fall into two basic categories:

- diplomatic initiatives, directly in the form of bilateral approaches and indirectly through other countries; and
- various incentives, offered publicly and directed toward nonparty states generally.

DIPLOMATIC INITIATIVES

Since the enactment of the Nuclear Non-Proliferation Act (NNPA) in 1978, the United States has approached about 30 countries on the matter of becoming party to the NPT. It has also explored the prospects of approaching several others, but decided that the current diplomatic climate was not conducive to NPT discussions.

The United States avoids assuming a high profile in encouraging NPT adherence, because it believes that a strong, high-visibility effort would be counterproductive and because the Treaty is an international, rather than an American effort.

Several factors are considered in determining whether a particular nonparty state should be approached about NPT adherence, including (1) the actual and potential nuclear capabilities of the country, (2) the priorities of U.S. interests in the country and/or region, and (3) the degree of U.S. influence with the country. But countries with little or no nuclear capability or potential are not ignored, as adherence by just one additional state increases by two the difference between the number of parties and nonparties and thereby serves to further isolate the nonparty states.

On the other hand, some key states with substantial nuclear capability are not being approached currently because of their longstanding and continuing opposition to the Treaty and/or U.S. lack of influence with these states. India, for example, has demonstrated nuclear explosive capabilities but has also taken a strong stance against the Treaty. As a result, the United States believes that an effort to persuade India to adhere would be fruitless and therefore is not currently attempting to do so. Similarly, Brazil and Argentina have voiced strong objections to the NPT, and the United States is not currently pursuing adherence with them.

Changes in the international political environment can force a reordering of diplomatic objectives and interrupt or postpone NPT promotion efforts. In late 1978 and early 1979, during the Egypt-Israeli peace treaty negotiations, the United States suspended its efforts to persuade those two countries to become parties to the Treaty; efforts were resumed in May 1979 with U.S. approaches to both Egypt and Israel on the question. Also, despite the recent normalization of relations with the People's Republic of China, the United States has chosen to pursue the many bilateral issues that require immediate attention rather than press for Chinese adherence to the Treaty.

Direct diplomacy

The United States generally looks for and tries to take timely advantage of conditions favorable to discussions on NPT adherence. When the opportunity for such an approach presents itself, the United States may employ one or more of several general strategies to seek a specific country's adherence.

One strategy, a low-key, direct diplomatic effort, can involve (1) merely giving country officials basic information concerning the NPT and its implications, (2) emphasizing NPT's importance as a device for checking the nuclear-proliferation threat, and (3) pointing out the impact that the country's decision to become a party to the Treaty might make and the importance the United States attaches to it. As part of this approach, the United States tries to keep nonparty awareness of the NPT and U.S. interest in it high while leaving the countries to consider adherence at their own pace. A more forceful approach could be counterproductive in that the country might believe it is being pressured into adherence.

Occasionally, high-ranking U.S. officials become involved in promoting NPT adherence by specific countries. These contacts can emphasize the importance the United States attaches to the particular country becoming party to the NPT. The State Department notes that Indonesia's decision to ratify the NPT came after years of low-key diplomatic effort climaxed by a personal appeal by Vice President Mondale. President Carter made a similar appeal to President Jayewardene of Sri Lanka in 1978. Following this and other U.S. approaches, Sri Lanka became an NPT party in March 1979. In doing so, Sri Lanka noted the linkage between arms control and nonproliferation.

Negotiation of cooperative agreements

U.S. nuclear export legislation does not require NPT adherence as a condition for U.S. nuclear cooperation, although Section 401 of the NNPA of 1978 (42 U.S.C. 2153(a)(2)) requires non-nuclear weapon states, in new agreements for cooperation, to agree to place IAEA safeguards on all nuclear materials in all peaceful nuclear activities. Nevertheless, the administration strives for NPT adherence by U.S. cooperating parties.

This policy was first enunciated in the President's April 27, 1977, message to the Congress in which he outlined his administration's nuclear policy and made it clear to all

potential recipients "that our first preference, and continuing objective, is universal adherence to the Non-Proliferation Treaty." Consequently, ACDA and the State Department consider a country's NPT status a major factor in their evaluation of a country's application for nuclear cooperation and also in determining the negotiation priority its proposed agreement will be given. According to the State Department, applicant nations are told that NPT adherence would facilitate congressional approval of a proposed agreement for cooperation.

The United States currently has agreements for cooperation with five nonparty states--Argentina, Brazil, India, South Africa, and Spain. Under the NNPA, however, the United States must seek to renegotiate all agreements for cooperation in order to embody stricter nonproliferation provisions. These include safeguards on (1) all special nuclear materials and equipment transferred under such agreements and (2) all special nuclear material used in or produced through the use of such nuclear materials and equipment, so long as the material or equipment remains under the jurisdiction or control of the cooperating party, irrespective of the duration of other provisions in the agreement or whether the agreement is terminated or suspended for any reason.

In addition, as a condition of continued U.S. nuclear supply, a cooperating non-nuclear weapon country is required to maintain IAEA safeguards on all nuclear materials in all peaceful nuclear activities within its territory, under its jurisdiction, or carried out under its control. This latter provision is directed at non-NPT countries; the NPT non-nuclear weapon states are bound by the Treaty to accept full-scope IAEA safeguards. The State Department believes that it may be difficult to overcome India's and South Africa's objections to full-scope safeguards.

The effectiveness of the U.S. strategy concerning agreements for nuclear cooperation varies according to the degree of a nonparty state's interest in obtaining U.S. nuclear cooperation and the intensity of its stance for or against the NPT. The State Department and ACDA believe that this strategy has contributed, in specific cases, to decisions to ratify the Treaty.

Coordination with other NPT parties

The United States has actively sought the assistance of other NPT parties in its diplomatic efforts to encourage NPT adherence. This is in keeping with the State Department's

belief that the NPT should not be seen as an exclusively American doctrine. Aside from identifying the Treaty as a multilateral effort, this tactic makes use of any influence other NPT parties may have with nonparty states. This is of importance in countries where U.S. influence is relatively small. NPT parties that have approached selected non party countries include Canada, Australia, Japan, Sweden, the Netherlands, the Soviet Union, and the United Kingdom. The Department of State notes that this tactic has had some success.

GENERAL INCENTIVES

In addition to its diplomatic efforts, the United States offers incentives which attempt to address the concerns of many non-nuclear weapon states and encourage NPT adherence. These include:

- Technical assistance to non-nuclear weapon NPT states.
- The offer to place U.S. peaceful nuclear facilities under IAEA safeguards.
- Negative security assurances to non-nuclear weapon states.
- New criteria and procedures for licensing certain exports to countries with good nonproliferation credentials.
- Lifting of ceilings on power reactor fuel supplies where ceilings are specified in U.S. agreements for cooperation with NPT parties.

U.S. technical assistance

The 1975 NPT Review Conference recommended that developed NPT party states, in deciding whether to provide equipment, services, and technology for the peaceful uses of nuclear energy, give weight to the prospective recipient country's NPT status. It also recommended that developed states provide increased and supplemental voluntary aid in the nuclear field, either bilaterally or through a multilateral channel, such as the IAEA. These recommendations were adopted by the Conference following the failure of a more ambitious proposal by several non-nuclear weapon NPT states.

The United States had already taken steps to implement these recommendations when, in 1974, it directed that NPT parties be given preference in future distributions of the \$50,000

worth of special nuclear material it donates annually through the IAEA. However, in more direct response to the Conference, the United States announced in 1975 that it would give preference to NPT parties in allotting its annual voluntary in-kind contributions to the IAEA technical assistance program. According to the Department of State, the United States provides equipment grants and expert services through the IAEA technical assistance program as an incentive for NPT adherence. The funding for such technical assistance has been increased from \$300,000 in 1975 to about \$1,000,000 over each of the past several years which, the Department of State noted, has in fact been given exclusively to NPT parties due to high demand.

The United States has also offered fellowships through the IAEA to be allocated with preference to NPT parties. However, a State Department official noted that in practice both parties and nonparties have benefited from the U.S. fellowships which in 1979 amounted to about \$1.5 million.

At the 1978 U.N. Special Session on Disarmament, the United States announced that it would ask the Congress to fund two additional NPT-related assistance programs, both to be administered by the IAEA. The first would provide up to \$1 million annually for 5 years and would supply technical assistance exclusively for NPT parties. The second would devote \$5 million over a 5-year period to supply 20-percent enriched uranium for research reactors and would be given out with preference for developing nations party to the NPT.

Although both are intended to encourage NPT adherence, the principal objective of the latter program is to convert research reactors to low-enriched uranium from highly enriched uranium, thus further reducing the risk of weapons proliferation. 1/ Funding for these programs was to have begun in fiscal year 1980, but the Department of State has informed us that, due to budgetary constraints, only a small portion of the announced funding level has been budgeted for fiscal years 1980 and 1981.

In commenting on our draft report, ACDA advised that the technical assistance programs announced at the 1978 Special

1/At the Special Session the United States also announced that it would ask the Congress to fund a program to assist the operators of research reactors converting from highly enriched uranium to low-enriched uranium. However, this program was not linked to NPT adherence.

Session were the result of an interagency clearance process, but Agency officials were unable to tell us during our review how the \$1 million a year figure was derived. They stated that a major factor in setting the funding levels was the capacity of the recipient states to absorb the assistance.

Also, they acknowledged that a formal study of the pre-existing technical assistance program's effectiveness toward attracting countries to the NPT was not made to determine either whether the new technical assistance program should be offered at all or whether the amount funded was appropriate. In commenting on our draft report, ACDA said that although it is impossible to measure quantitatively the correlation between NPT adherence and increased technical assistance, some countries specifically adhere to the NPT with the promise of increased technical assistance in mind.

The limiting of technical in-kind assistance financed with voluntary U.S. contributions to NPT parties is ensured by the fact that the United States reserves the right to designate the recipient countries. However, the same is not true for IAEA technical assistance financed out of the Agency's regular and operational budgets, to which the United States also contributes.

The United States is also encouraging other nations to initiate similar voluntary programs. Presently, Sweden, Canada, and the Soviet Union give at least preference to NPT parties in their technical assistance contributions in-kind to the IAEA.

In addition to providing technical assistance to NPT parties, the United States, at the 1978 U.N. Special Session on Disarmament, reaffirmed its willingness to finance, through the Export-Import Bank, "appropriate" nuclear projects in countries which meet U.S. nonproliferation requirements, with preference given to NPT parties.

The U.S.-IAEA safeguards agreement

Under Article III of the NPT, each non-nuclear weapon NPT state is required to negotiate an agreement with the IAEA to place all source and special nuclear material in all peaceful nuclear activities under IAEA safeguards (often referred to as "full-scope safeguards"). Nuclear weapon states are not required to do so, and this led some non-nuclear weapon states to complain of unequal treatment or of potential risks to their nuclear industries.

To demonstrate that NPT safeguards would not place the non-nuclear weapon NPT states at a commercial disadvantage, because of either the cost of safeguards or the risk of industrial espionage, the United States in 1967 offered to permit the application of such safeguards to its own peaceful nuclear activities, excluding only those of direct national security significance.

The United States-IAEA safeguards agreement was negotiated in 1976 and approved by the Agency's Board of Governors in September the same year. However, conclusion of the agreement was planned to follow the occurrence of certain events, including NPT adherence by a number of industrialized non-nuclear weapon states and conclusion of safeguards agreements, as required by the Treaty, between those countries and the IAEA. The last of these events occurred in December 1977 when the Japan-IAEA agreement entered into force. The President submitted the agreement to the Senate for its advice and consent to ratification in February 1978.

When the U.S. offer was made, the Government assured the nuclear power and related industries that their interests would be taken into account during the agreement consideration process. These interests were made known to the Senate Foreign Relations Committee during hearings on the agreement in June 1979. Ratification of the agreement was favored in principle by all witnesses and in statements provided for the record. Testimony and statements were obtained from industry representatives and groups as well as from the executive branch. However, concern was raised regarding:

- The legal relationship of the IAEA and U.S. agencies, the Nuclear Regulatory Commission and its licensees, and non-licensed Department of Energy contractors.
- The criteria for determining which facilities would be listed as eligible for IAEA safeguards.
- How restricted data and national security information would be protected.
- Protection of commercially sensitive technology and proprietary information.

At a hearing held in December 1979, also before the Senate Foreign Relations Committee, a member of the Senate testified in favor of the agreement on condition that legislation be enacted to provide for its implementation. The Senator was

concerned that entry into force of the agreement without accompanying legislation to resolve the aforementioned issues would be "fraught with such substantial legal and practical risks that the * * * [agreement] might become counterproductive to U.S. nonproliferation policy and other vital national interests." The executive branch and the NRC opposed this view, (1) stating that adequate legal authority for implementation exists and therefore new legislation was unnecessary, and (2) citing statutory provisions which, in their view adequately provided for implementation.

On July 2, 1980, the Senate gave its consent to the agreement, subject to five specific understandings intended to satisfy the concerns expressed during the June and December 1979 hearings. Under Article 24 of the agreement it will enter into force on the date the Agency receives written notice from the United States that U.S. statutory and constitutional requirements for entry into force have been met.

Although neither State nor ACDA claims that the agreement will induce any particular country to join the NPT, ACDA believes that it should enhance the U.S. position at the 1980 NPT Review Conference and help U.S. efforts to encourage nonparty states to accept Treaty safeguards.

The United Kingdom, also an NPT nuclear weapon state, has a safeguards agreement in force with the IAEA. The Soviet Union, the only other NPT nuclear weapon state, has refused to subject any of its nuclear facilities to IAEA safeguards, despite urging by the United States.

Negative security assurances

Some non-nuclear weapon states have charged that the nuclear weapon states have not given adequate assurances that nuclear weapons would not be used against them. At the 1975 NPT Review Conference, several NPT non-nuclear weapon states proposed a resolution calling for very firm commitments from the nuclear weapon states, but it was not adopted. The United States did not support the resolution.

At the 1978 U.N. Special Session on Disarmament, the United States, under a new administration, stated that:

"The United States will not use nuclear weapons against any non-nuclear weapon State party to the Treaty on the Non-Proliferation of Nuclear Weapons or any comparable internationally binding commitment not to acquire nuclear explosive

devices, except in the case of an attack on the United States, its territories or armed forces, or its allies, by such a State allied to a nuclear weapon State, or associated with a nuclear weapon State in carrying out or sustaining the attack."

The statement is the firmest security assurance commitment made by the United States to NPT non-nuclear weapon states. Its impact on encouraging further adherence to the Treaty cannot be measured at this time; it could serve to defuse some criticism of the United States at the 1980 NPT Review Conference.

Export licensing

The United States has recently implemented and is currently developing criteria and procedures to facilitate the licensing of certain nuclear and dual-use item exports to countries with good nonproliferation credentials, including their NPT status.

In May 1979, the Federal Regulation (15 CFR 373) was amended to authorize the Department of Commerce to license exports of medium-range computers (dual-use items), without prior review by the Department of Energy or the Interagency Subgroup on Nuclear Export Coordination that had been required in the past. The countries specified in the revised regulation as eligible for the preference include 81 non-Communist NPT parties and Colombia; Colombia became eligible for the preferential status because of its full commitment to the Treaty of Tlatelolco.

We were told that the United States is considering further changes to its export regulations to benefit countries with good nonproliferation credentials.

Lifting of fuel supply ceilings for power reactors

In a more recent development the President approved Senate Joint Resolution 89 (Public Law 96-280, June 18, 1980) which permits exports of power reactor fuel in excess of ceilings specified in U.S. agreements for peaceful nuclear cooperation with NPT parties.

The Department of State was concerned that the specified ceilings might prompt some countries to look to non-U.S. sources for nuclear fuel supplies and nuclear power plants;

thus the United States could lose consent rights over reprocessing and retransfers of spent fuel. The Department believes the new law will resolve this problem for certain countries and, of equal importance, will support the U.S. policy of encouraging NPT adherence and providing benefits to Treaty parties.

FACTORS INHIBITING U.S. EFFORTS

Several factors inhibit the U.S. effort to promote universal NPT adherence and should be recognized as part of any evaluation of that effort.

First, the United States no longer has a monopoly on nuclear technology and supplies with which to effectively pressure many countries to come under the Treaty. Any unilateral U.S. attempt to promote NPT adherence by denying exports to non-NPT countries could be hampered by the lack of consensus on nuclear export policies among the supplier states. The reluctant nonparties would not be precluded from acquiring the nuclear products they want because other countries, which also have advanced nuclear export industries, have already moved to fill those markets. The most notable example is West Germany's 1975 accord with Brazil, a strong NPT opponent, to provide a complete nuclear fuel cycle. West Germany is also involved with Switzerland in selling nuclear technology to Argentina, a non-NPT party, despite that country's refusal to accept full-scope international safeguards.

Secondly, in some countries and regions and on some issues, the United States has other interests of higher priority than promotion of NPT adherence; accordingly, it could be expected to promote those other interests rather than NPT adherence. For example, in the SALT process U.S. national security considerations are paramount and, in that context, complaints regarding NPT Article VI obligations must be subordinated. Similarly, the granting of negative security assurances demanded by some countries could conflict with U.S. commitments under security alliances, such as NATO.

Finally, as more countries come under the Treaty, the hard-core opponents represent a higher proportion of the nonparties. Consequently, creating conditions and granting incentives to attract nonparties becomes increasingly difficult.

CONCLUSIONS

The avenues available to the United States in the pursuit of universal adherence to the Treaty are limited. However, the United States is making a concerted effort to promote NPT adherence. It has adopted policies intended to address some of the criticisms and concerns that have been expressed regarding the Treaty and has used diplomatic channels to encourage specific nations to adhere. The overall approach followed by the administration appears reasonable in light of inhibiting factors.

Senate consent to the U.S.-IAEA safeguards agreement should enhance the U.S. position at the 1980 NPT Review Conference and assist U.S. efforts to encourage non-NPT states to accept Treaty safeguards.

It is difficult to measure the effectiveness of the entire range of U.S. efforts to attract more countries to the NPT. Although a country's decision to come under the Treaty might not necessarily be directly attributable to those efforts unless the country itself acknowledges it, the fact remains that an average of about 5 countries a year have become parties over the past 10 years. U.S. efforts could be contributing to those decisions.

However, the United States should make an attempt to assess the effectiveness of some of its initiatives. Incentives have been provided with no effort to determine whether they have been successful. For example, at the 1978 U.N. Special Session on Disarmament, the United States offered to increase by \$1 million the amount of technical assistance provided annually through the IAEA for the benefit of NPT parties without first determining whether the pre-existing program of NPT-linked contributions had in fact encouraged any nation to become an NPT party.

If assessments were to show that the technical assistance programs are effective in encouraging NPT adherence, the United States could possibly consider designating a larger share of its IAEA voluntary contributions for the exclusive use of NPT party states. This could be accomplished by reallocating portions of the U.S. cash contribution to the IAEA's operational budget or the U.S.-financed fellowship program, since neither is primarily designated for the benefit of NPT parties. In 1979 the voluntary U.S. cash contribution and the fellowship program amounted to over \$3.5 million.

RECOMMENDATION TO THE SECRETARY OF STATE

In view of the importance both the Congress and the executive branch attach to the NPT as a means of controlling nuclear proliferation, we recommend that the Secretary of State determine, to the extent practicable, whether voluntary contributions provided through the IAEA technical assistance programs by the United States as incentives to induce nations to become party to the NPT are achieving intended objectives and whether the funding levels for these contributions are appropriately established.

AGENCY COMMENTS AND OUR EVALUATION

The Arms Control and Disarmament Agency said our report provides a generally good summary of the relevant issues and U.S. activities.

The Department of State advised that it had no problem with our recommendation that an assessment be made to determine whether the NPT-preference programs are effective and appropriately funded. However, the Department expressed concern over our suggestion that the United States consider designating a larger share of its voluntary cash contributions to the IAEA for the exclusive use of NPT party states if the assessments we proposed were to show that the technical assistance programs are effective in encouraging NPT adherence.

State said that although the United States has sought to make some programs serve as incentives toward NPT adherence, the full justification for U.S. voluntary contributions is founded on other considerations and interests, many of which antedate the NPT. State further noted that the IAEA technical assistance program is financed by voluntary cash contributions toward an annual target which may not be restricted as to use by the donor and on whose use the Agency places no restrictions relative to the NPT status of the recipient member state.

The Department also advised that when the U.S. programs announced at the U.N. Special Session on Disarmament were still being considered, it was the clear consensus of the interested U.S. agencies and the U.S. Mission to the IAEA that any benefit from them in support of the NPT would be vitiated to the extent that they would be financed by a reduction in the U.S. cash contribution toward the annual target. It was State's opinion that any reallocations between the cash and in-kind portions of the U.S. contributions to the IAEA would be equally vitiating.

We recognize that the voluntary cash contributions to the IAEA technical assistance program may serve other U.S. interests besides attracting new NPT parties. However, given the importance both the Congress and the executive branch attach to the NPT as a means of controlling nuclear proliferation, we believe that the reallocation of a portion of the U.S. cash contributions for the exclusive use of NPT parties should be considered, along with other options, if current funding levels are deemed inadequate. Depending on the results of the recommended assessment of the current programs by the Department, funding requirements and sources can be established on a more realistic basis to attain the desired goals.

CHAPTER 4

NPT REVIEW CONFERENCES

The Non-Proliferation Treaty provided for a Conference of Treaty parties to be held 5 years after the Treaty entered into force to assure that its provisions were being realized. The initial Review Conference was held in 1975 and was used by the non-nuclear weapon state parties as a forum to strongly express their concerns regarding the fulfillment of Treaty obligations by the nuclear weapon state parties. They submitted several proposals calling upon the nuclear weapon state parties to take specific steps to allay these concerns, particularly in the area of arms control and disarmament.

The Treaty also specified that further review conferences could be held at 5-year intervals, and a second conference has been scheduled for August 1980. Although the United States has taken some steps since 1975 to allay the concerns of the non-nuclear weapon state parties, many of the complaints expressed in 1975 could be repeated at the 1980 Conference.

1975 REVIEW CONFERENCE

The May 1975 Conference was attended by 58 of the 96 party states as full participants and by Iraq as an observer at its own request. Seven states, 1/ which had signed but not ratified the Treaty at the time, participated in the deliberations of the Conference without taking part in the decision process. Seven other states, 2/ neither parties nor signatories of the Treaty, attended as observers. In addition, 33 international and nongovernmental organizations, including the United Nations and the International Atomic Energy Agency, were represented.

The fact that full participation in the Conference, particularly in the decision process, was limited to NPT parties apparently induced some nonparty states to become Treaty parties shortly before the Conference began. Sierra Leone and Western Samoa acceded to the Treaty in February and March of 1975, respectively, and South Korea ratified in April.

1/Egypt, Japan, Panama, Switzerland, Trinidad and Tobago, Turkey, and Venezuela.

2/Algeria, Argentina, Brazil, Cuba, Israel, South Africa, and Spain.

Belgium, West Germany, Italy, Luxembourg, and the Netherlands deposited their instruments of ratification on May 2, 1975. Gambia, Rwanda, and Libya became parties while the Conference was in progress.

During the Conference the non-nuclear weapon states strongly and almost unanimously asserted that although they had fulfilled their obligations under the Treaty, the nuclear weapon states had not done so to the satisfaction of the non-nuclear weapon states.

A number of states called for more substantial cooperation from the nuclear industrialized states in the exchange of nuclear materials, equipment, and technology under Article IV of the Treaty. Some, in fact, viewed Article IV as one of the NPT's most important articles.

Mexico and Romania, among others, were especially strong in criticizing lack of progress toward nuclear disarmament, called for by Article VI.

Because they had relinquished the option of developing nuclear weapons by their adherence to the NPT, a number of states called for security assurances from the nuclear weapon states and a total ban on nuclear weapons testing.

Because of these and other dissatisfactions with the nuclear weapon states' implementation of the Treaty, the non-nuclear weapon states submitted a number of proposals designed to extract firmer commitments from the nuclear weapon states, as follows.

--19 countries 1/ proposed that the Depositary Governments of the Treaty (the United States, United Kingdom, and Soviet Union) undertake to (1) suspend all underground nuclear weapon tests for 10 years as soon as the number of NPT party states reached 100 and (2) extend this moratorium by 3 years each time that five additional states became NPT parties. The proposal would enter into force when any two Depositary States ratified it and deposited their instruments with the U.N. Secretary General.

1/Ghana, Mexico, Morocco, Nigeria, Peru, Romania, Sudan, Yugoslavia, and Zaire initially--later joined by Ecuador, Honduras, Jamaica, Lebanon, Liberia, Philippines, Nepal, Nicaragua, Syria, and Bolivia.

--18 countries 1/ called upon the United States and the Soviet Union to (1) reduce by 50 percent the ceiling of 2,400 nuclear strategic delivery vehicles contemplated for each side under the Vladivostok accords, (2) reduce by 50 percent the 1,320 strategic ballistic missile launchers which, under those accords, each side may equip with multiple independently targetable warheads, and (3) after the reductions were accomplished, further reduce by 10 percent the 1,200 remaining delivery vehicles and the 660 remaining ballistic missiles that may be equipped with multiple independently targetable warheads each time 10 additional states become parties to the NPT.2/

--10 countries 3/ proposed the establishment under the Treaty of a system of security assurances, under which the Depositary Governments would (1) never and under no circumstances use or threaten to use nuclear weapons against any NPT non-nuclear weapon states whose territories are completely free of nuclear weapons and to refrain from first use of nuclear weapons against any other NPT non-nuclear weapon states, (2) encourage the establishment of nuclear weapon-free zones and respect the statute of any nuclear weapon-free zone established, and (3) immediately assist any NPT non-nuclear weapon state which becomes a victim of a nuclear attack or threat, if requested by the victim state. This proposal was subject to ratification by the three Depositary States.

Other proposals called for (1) substantial increases in transfers of nuclear materials, equipment, and technology by the nuclear industrialized states to non-nuclear weapon states,

1/Same as in footnote p. 34, excluding Philippines.

2/Pursuant to subsequent negotiations the 1,320 limit on multiple independently targetable warhead missile launchers agreed to at Vladivostok was reduced to 1,200 with the 1,320 limit including heavy bombers equipped for long range cruise missiles.

3/Ecuador, Ghana, Mexico, Nigeria, Peru, Romania, Sudan, and Zaire initially, later joined by Yugoslavia and Bolivia.

with preference and concessional terms to developing countries, in fulfillment of their obligations under Article IV, (2) withdrawal of nuclear weapons and delivery systems from the territories of NPT non-nuclear weapon states, and (3) immediate action to conclude an international agreement ensuring that the benefits of peaceful nuclear explosions are made available to NPT non-nuclear weapon states.

The Conference did not adopt any of the proposals and, because of Conference Rule 28(2), the proposals were not voted on. (Rule 28(2) urged that agreement on substantive matters be reached by consensus rather than by vote.)

The Soviet Union expressed full understanding of the non-nuclear weapon states concern about nuclear weapons testing, but said that it could not approve the proposal banning such tests because it "did nothing to serve the cause of nonproliferation." At a later meeting, the Soviets based their rejection on the grounds that the non-NPT nuclear weapon states, France and the People's Republic of China, would not also be bound by the ban.

The United States rejected the test ban proposal on the basis that suspension of underground nuclear tests should not be determined by the number of states under the Treaty but by an international, comprehensive, adequately verifiable test ban treaty.

The Soviet Union, referring to its cooperation with non-nuclear states in the development of peaceful uses of nuclear energy under Article IV, pointed out the (1) increased resources it allocated to the IAEA's technical assistance programs, (2) agreements it had concluded with other states on the peaceful uses of nuclear energy, and (3) considerable amount of equipment and apparatus it had made available, mainly to developing countries, through the IAEA.

The United States similarly cited the nature and extent of its generous sharing of nuclear materials, equipment, services and technology, including

- uranium enrichment arrangements for some 150 power reactors in non-nuclear weapon states;
- exports of 35 nuclear reactors since 1970; and
- increased aid to developing countries, with particular reference to technical assistance contributions through the IAEA.

The position of the United States on the rights and obligations of NPT parties concerning transfers of nuclear materials, equipment, services, and technology under Article IV is that the principal objective of the Treaty is to halt nuclear weapons proliferation. The nuclear weapon states' obligations under Article IV to share materials, equipment, and technology with non-nuclear weapon states are subordinate to that objective. The United States believes that the supplier country should and must discriminate among prospective purchaser states to ensure, to the extent practicable, that the materials, equipment, services, and technology will not be diverted to nuclear weapons development.

The Soviets said they had an ongoing scientific research program on nuclear explosions for peaceful purposes (Article V), and were participating actively, especially through the IAEA, in preparing to provide non-nuclear countries with related services. They also said that in cooperation with the United States they had begun preparing for peaceful nuclear explosions and had reviewed technical and theoretical aspects of such explosions in bilateral talks with the United States.

The United States said that it had conducted a great deal of research on experimental use of nuclear explosions for peaceful purposes but that the technology had not yet given rise to practical applications or commercial benefits. The United States said also that if and when benefits became feasible, it would make them available as called for in the Treaty.

The Soviets asserted that appreciable progress toward nuclear disarmament had been made and important international agreements had been entered into force, specifically the Seabed Arms Control Treaty, the Biological Weapons Convention, and the 1972 and 1973 agreements between the United States and the Soviet Union that resulted from the SALT I negotiations. Also referred to were the negotiations on mutual balanced force reductions of armed forces and armaments in Central Europe underway in Vienna at the time.

In discussing the efforts made to achieve nuclear disarmament as called for by Article VI, the United States cited the:

- United States-Soviet Union agreement on measures to reduce the risk of outbreak of nuclear war, entered into force September 1971.
- United States-Soviet Union treaty on the limitation of anti-ballistic missile systems, entered into force October 1972.

--United States-Soviet Union interim agreement to limit strategic offensive launchers, entered into force October 1972.

--United States-Soviet Union treaty limiting underground nuclear weapon tests, signed in July 1974.

--Vladivostok accord of November 1974, which culminated after more than 4 years of negotiations in the text of the SALT II treaty.

On the Article VI issue, the United States did not consider the Conference a proper forum for strategic nuclear arms reduction. The Conference was called under Article VIII(3) to review the NPT's own operation over its initial 5 years. It was intended to be a one-month multilateral session mainly to air views, satisfactory or other, about how the Treaty provisions were being implemented, with no negotiations envisioned. Nuclear disarmament, on the other hand, was a vastly more complex bilateral issue between the United States and the Soviet Union which was being negotiated via SALT, a long-term, step-by-step process.

Some observers saw the 1975 Conference as a failure, mainly because of the nuclear weapon states' refusal to adopt any of the major proposals. However, ACDA asserted that the Conference

- helped to attract important new parties to the Treaty;
- suggested measures to promote fuller safeguards coverage and efficiency;
- urged adoption of common nuclear export requirements;
- supported measures to improve physical protection of nuclear materials;
- called for special consideration of the needs of the non-nuclear weapon state parties;
- recognized potential advantages of regional or multinational fuel-cycle centers; and
- took a cautious approach toward peaceful nuclear explosives.

Since the Conference, the United States has taken steps to meet some of the objections voiced by non-nuclear weapon states. These include the security assurances for NPT parties proclaimed at the United Nations in 1978 and the present policy of giving preference to NPT parties in allocating technical assistance in-kind contributions to the IAEA.

PLANS FOR 1980 REVIEW CONFERENCE

In their final declaration of the 1975 Review Conference, the participating NPT states proposed that a second conference be convened in 1980. This was subsequently scheduled for August 1980.

ACDA officials discussed certain aspects of the U.S. strategy for the 1980 Conference with us but considered the information to be sensitive and of a classified nature. However, an ACDA representative, at public hearings in July 1979 before the House Committee on Foreign Affairs, did cite the following issues which would likely dominate the 1980 Review Conference.

- Progress in curbing vertical proliferation, including progress toward banning nuclear weapon tests.
- Access to the benefits of nuclear technology for peaceful purposes.
- Questions relating to the security of the NPT non-nuclear weapon states.

The executive branch looked hopefully to the occurrence of certain events to enhance the chances for success of the 1980 Conference.

- Ratification of the SALT II treaty and progress on a comprehensive test ban treaty, which would be significant accomplishments toward nullifying non-nuclear weapon states' charges that nuclear weapon states are foot-dragging on nuclear disarmament.
- Approval of the U.S.-IAEA safeguards agreement, which would enhance the credibility of U.S. assertions that placing IAEA safeguards on peaceful nuclear facilities would not adversely affect a country's economy or jeopardize its industrial secrets.

The hoped-for ratification of the SALT II treaty was dealt a setback with the Soviet invasion of Afghanistan in December 1979 and the attendant deterioration in United States-Soviet relations. The President has asked the Congress to defer action on SALT II pending development of a U.S. response to the invasion. However, the latter hope was realized on July 2, 1980, when the Senate consented to ratification of the U.S.-IAEA safeguards agreement.

CONCLUSIONS

In light of the extensive demands made by the NPT non-nuclear weapon states at the 1975 NPT Review Conference, the measures taken in response by the NPT nuclear weapon states do not seem to be sufficiently substantive to meet those demands. The setback to SALT II could induce NPT non-nuclear weapon states to repeat their charges that the nuclear weapon states are moving too slowly toward nuclear disarmament.

Moreover, although the United States has (1) taken steps to facilitate licensing of exports to NPT parties and to increase technical assistance to NPT non-nuclear weapon states as gestures of more complete fulfillment of NPT Article IV obligations and (2) announced conditioned negative security assurances to allay their security fears, NPT non-nuclear weapon states might not consider those measures as being sufficient. It is possible therefore that many of the criticisms expressed at the 1975 Conference could be repeated at the 1980 Conference.

CHAPTER 5

NUCLEAR WEAPON-FREE ZONES

Establishment of nuclear weapon-free zones in various parts of the world offers a potentially useful mechanism for achieving nonproliferation objectives. This is especially desirable in areas where one or more major states are unwilling to become NPT parties but may be willing to consider alternative arrangements. Zone arrangements also offer a potential for regional cooperation in peaceful uses of nuclear energy (including regional nuclear fuel-cycle centers) and for further regional action in such other fields as conventional arms control.

On the other hand, nuclear weapon-free zones could pose serious problems for U.S. security interests in regions where (1) U.S. nuclear weapons are deployed as elements of mutual defense relationships, (2) zone arrangements would restrict U.S. requirements for transit, including port calls and overflight, or (3) zones would purport to establish special regimes covering the high seas.

The United States, balancing the potential value of nuclear weapon-free zones against their possible implications for its security interests, has consistently considered that the establishment of zones in appropriate regions of the world could complement the Treaty on the Non-Proliferation of Nuclear Weapons as a means of preventing the spread of nuclear weapons. However, the executive branch believes that until a zone arrangement has moved from the deliberative state into actual negotiations there is little the United States can do because it adheres to the premise that the initiative for a zone must come from the states in the region concerned. Consequently, the United States does not actively encourage the establishment of specific zones, although it generally favors their formation in principle.

In assessing any particular proposal, the United States takes into account the extent to which the proposal satisfies conditions considered essential to a zone's effectiveness based on the following criteria.

- The initiative for creating the zone should come from the states in the region concerned.
- All states whose participation is deemed important should participate in the zone.

- The establishment of a zone should not disturb existing security arrangements to the detriment of regional and international security.
- The zone arrangement should provide for adequate verification of compliance with the zone's provisions.
- The zone arrangement should effectively prohibit its parties from developing any nuclear explosive device, for whatever purpose.
- The zone arrangement should not seek to impose restrictions on the exercise by other states of rights recognized under international law, particularly the principle of freedom of navigation on the high seas, in international airspace, and in straits used for international navigation and the right of innocent passage through territorial seas.
- The establishment of a zone should not affect the existing rights of its parties under international law to grant or deny transit privileges, including port calls and overflight, to other states.

TREATY FOR THE PROHIBITION OF
NUCLEAR WEAPONS IN LATIN AMERICA

A number of nuclear weapon-free zones have been established, but only one, the Treaty for the Prohibition of Nuclear Weapons in Latin America (also called the Treaty of Tlatelolco), covers a populated area--nearly 200 million people over an area of more than 7.5 million square miles. Besides the basic treaty among the Latin American countries themselves, two additional protocols deal with matters of concern to non-Latin American countries.

Obligations of the treaty parties

The basic obligations of the treaty parties are contained in Article I which provides that:

- "(1) The Contracting Parties hereby undertake to use exclusively for peaceful purposes the nuclear material and facilities which are under their jurisdiction, and to prohibit and prevent in their respective territories:

"(a) The testing, use, manufacture, production or acquisition by any means whatsoever of any nuclear weapons, by the Parties themselves, directly or indirectly, on behalf of anyone else or in any other way, and

"(b) The receipt, storage, installation, deployment and any form of possession of any nuclear weapons, directly or indirectly, by the Parties themselves, by anyone on their behalf or in any other way.

"(2) The Contracting Parties also undertake to refrain from engaging in, encouraging or authorizing directly or indirectly, or in any way participating in the testing, use, manufacture, production, possession or control of any nuclear weapon."

To verify compliance with these obligations, the treaty provides for the establishment of a control system. As part of the system, each treaty party undertakes to negotiate multi-lateral or bilateral agreements with the IAEA for application of IAEA safeguards to its nuclear activities. The treaty also established an international organization, known as the "Agency for the Prohibition of Nuclear Weapons in Latin America," which is responsible for holding periodic or extraordinary consultations among party states on matters relating to the purposes, measures, and procedures set forth in the treaty and to the supervision of compliance with obligations imposed by the treaty.

The treaty's Article 28 is unique in that it provides that, subject to each state's right to waive, it shall enter into force when all of the following conditions have been met.

--All Latin American Republics and all other sovereign states in the zone have deposited their instruments of ratification.

--Additional Protocol I has been signed and ratified by all states outside the zone having international responsibility for territories in the zone.

--Additional Protocol II has been signed and ratified by each of the nuclear weapon states.

--Each of the party states has concluded bilateral or multilateral safeguards agreements with the IAEA.

Additional protocols

Protocol I calls upon nations outside the zone to apply the denuclearization provisions of the Treaty to territories in the zone for which they have international responsibility. The United States, United Kingdom, Netherlands, and France have such territories.

Under Protocol II, the nuclear weapon states undertake to (1) respect the denuclearized status of the zone, (2) not contribute to acts involving violations of treaty parties' obligations, and (3) not use or threaten to use nuclear weapons against parties to the treaty.

Only two countries, the Netherlands and the United Kingdom, have ratified and are bound by Protocol I; however, France has signed and announced its intention to ratify it. The United States signed the Protocol in May 1977 and sent it to the Senate for ratification in May 1978. At subsequent hearings before the Senate Foreign Relations Committee, the effect of the Protocol on U.S. national security interests was discussed. The Committee has since requested a certain memorandum from the administration which it believes might have affected support for the Protocol within the executive branch. The executive branch has not furnished the memorandum, and the Committee has taken no further action toward ratifying the Protocol.

Protocol II has been signed and ratified by the five nuclear weapon states and is therefore in force. In ratifying Protocol II, the United States deposited the following principal understandings and declarations with its instrument of ratification.

- The definition of territory in Article 3 of the treaty must be compatible with international law and not affect the international status of international claims.
- The treaty does not affect the right of each treaty party to grant or deny nonparty states transit and transport privileges.

--The United States considers the technology for producing explosive devices for peaceful purposes as indistinguishable from that of producing nuclear weapons and regards the treaty's prohibitions as applying to all nuclear explosive devices.^{1/} However, the treaty would not preclude the United States, as a nuclear weapon state, from making nuclear explosive services for peaceful purposes available under appropriate international arrangements in accordance with Article V of the NPT.

Ratification and entry into force

The treaty is presently in force for 22 states; 21 of which have signed and ratified and waived the full entry into force requirement of Article 28. The Bahamas succeeded to the treaty via the United Kingdom's ratification of Additional Protocol I. Two states, Brazil and Chile, have signed and ratified but have not waived the entry into force requirement. Argentina has signed the treaty and has announced its intention to ratify it. Cuba has not yet signed.

EFFORTS TO ESTABLISH ZONES IN OTHER POPULATED REGIONS

Nuclear weapon-free zones have been proposed for other populated areas, but none has advanced into the negotiation stage or resulted in a treaty draft. Certain proposed zones would have either disrupted existing U.S. security commitments in the region or created a military balance in favor of the Soviet Union. In other instances, concerns about neighboring states' nuclear weapons potential or capability have impeded progress. Only one of the proposed zones is perceived as having a chance of success, but not in the foreseeable future.

The first substantive proposal was Poland's Rapacki Plan of 1957 for Central Europe. The United States believed that the establishment of the proposed zone would give the

^{1/} The treaty is ambiguous on the peaceful nuclear explosives issue. Although Article 18 allows peaceful nuclear tests in accordance with the treaty's provisions, Article 1 bans the testing or acquisition of nuclear weapons, and Article 5 defines a nuclear weapon as any device which is capable of releasing nuclear energy in an uncontrolled manner and which is suitable for use as a weapon.

Soviet Union a substantial military advantage because of its overwhelming superiority in conventional forces if the nuclear weapons of the Western Powers were eliminated. Similarly, the Soviet Union's 1963 proposal for a Mediterranean zone was seen by the United States as a device to alter the military balance in that region at the expense of the United States and its allies.

Security interests were also a concern when Finland proposed a Nordic zone in 1963. This would have disrupted existing NATO commitments and other agreements considered essential to the security of the Scandinavian states. The Soviet nuclear arsenal on the Kola Peninsula also posed a problem, as did Finland's unique relationship with the Soviet Union.

Concern over the nuclear weapons potential or capability of neighboring states also has played an important role, not only in attempts to establish new zones but also in the reluctance of affected parties to participate. For example, in November 1974 Pakistan, apparently stimulated by India's detonation of a nuclear device, requested the U.N. General Assembly to discuss the establishment of a nuclear weapon-free zone in South Asia. However, we believe that prospects for such a zone arrangement have rapidly dimmed, due not only to India's opposition to the plan and its insistence that the People's Republic of China become party to any resulting agreement but also to the report that Pakistan is determined to develop its own nuclear capability.

Similar proposals in the United Nations to establish a Middle East zone have been impeded by the general impression that Israel has developed or is close to developing nuclear weapons and by the long history of the Israeli-Arab conflict in the region. The African states have also sponsored and adopted resolutions to make the continent a nuclear weapon-free zone since France exploded its first nuclear device in the Sahara in 1960. However, concern about South Africa's nuclear weapon potential and Egypt's involvement in Middle Eastern affairs appear to be principal deterrents to establishing the zone.

According to the Department of State, a zone arrangement in the South Pacific has the best chance of success of any proposed, but not in the immediate future. The U.N. General Assembly in 1975 endorsed the idea of a zone in that area and invited countries in the region to begin talks. Strong world support for the zone was indicated by the vote of 110 to zero (including the People's Republic of China) on the resolution,

even though 20 countries (including the United States, Soviet Union, France, and United Kingdom) abstained. The abstentions arose mainly because the resolution did not define the geographical limits of the zone and there was concern that an effort might be made to restrict freedom of navigation on the open seas.

NUCLEAR WEAPON-FREE ZONES ESTABLISHED OVER UNPOPULATED AREAS

There have been successful endeavors to establish nuclear weapon-free zones over certain unpopulated sections of the world to further arms control goals. The resulting treaties have successfully excluded the introduction of armaments into the regions.

The Antarctic Treaty

The Antarctic Treaty internationalized and demilitarized the Antarctic Continent and provided for its cooperative exploration and future use. Among its provisions, the treaty specifically prohibits any measure of a military nature, nuclear or conventional; nuclear explosions; and disposal of radioactive wastes on the continent. It also provides for the continuation of scientific cooperation and for the continent to be used only for peaceful purposes. The treaty established a system of control and verification by observers designated by the 12 contracting parties.

The treaty was signed on December 1, 1959, by 12 states, including the United States, United Kingdom, Soviet Union, and France. It entered into force on June 23, 1961, upon deposit of ratification instruments by Argentina, Australia, and Chile. Since ratification, seven other states have acceded to the treaty, but India and the People's Republic of China are not parties.

The Seabed and Ocean Floor Treaty

This treaty prohibits the placement of nuclear weapons and other weapons of mass destruction on the seabed and ocean floor and in the ocean subsoil thereof beyond the seabed zone. It gives the parties the right to verify, through observation, the activities of other treaty parties on the seabed and the ocean floor and in the subsoil beyond the seabed zone provided that such observation does not interfere with those activities.

The treaty was signed on February 11, 1971, by 67 states, including the 3 depositary governments--the United States,

United Kingdom, and Soviet Union. The treaty entered into force on May 18, 1972, after the deposit of ratification instruments by the depositary governments and 19 other countries.

Seven states, including India, have acceded to the treaty since it came into force. France and the People's Republic of China are neither parties nor signatories to the treaty.

The Outer Space Treaty

The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies (The Outer Space Treaty) is similar conceptually to the Antarctic Treaty in that it seeks to prevent a new form of competition and the possible damage that self-seeking exploitation might cause.

Article IV contains the substantive arms control provisions. Parties to the treaty pledge not to place into orbit around the earth or install on the moon or any other celestial body, or otherwise station in outer space, nuclear or any other weapons of mass destruction. The treaty also limits the use of the moon and other celestial bodies exclusively to peaceful purposes and expressly prohibits establishing military bases, installations, and fortifications; testing weapons of any kind; or conducting military maneuvers.

The treaty was signed by 62 states on January 27, 1967, including the three depositary states, the United States, United Kingdom, and Soviet Union. France signed later the same year along with 26 other states. The treaty entered into force on October 10, 1967, and France ratified on August 5, 1970. Of the 89 signatory states, 32, including India, have not yet ratified. The People's Republic of China has neither signed nor ratified.

CONCLUSIONS

The chances of establishing additional nuclear weapon-free zones over populated areas in the near future appear to be low, primarily because of the concerns of various nations regarding the possible impact of a zone on an existing security situation or the nuclear weapon potential or capability of neighboring states.

Because nuclear weapon-free zones cover limited portions of the globe, it might seem that they would be much simpler and easier to conclude, but this is not necessarily true. In

regions where international tensions or suspicions run high, reluctance of a single major state could block efforts to form a zone. India's objections to the proposed South Asian zone have stalled that effort. Similarly, longstanding tensions between Israel and its Arab neighbors render formation of a Middle Eastern zone unlikely for the foreseeable future.

In Latin America, Brazil, and Chile are not yet bound by the Treaty of Tlatelolco, although both have ratified it; neither has waived the requirement that all eligible countries take the necessary steps to bring the treaty fully into force. Ratification of the treaty by Cuba and Argentina and of Protocol I by France and the United States would be among the steps required to bind Brazil and Chile to the treaty obligations. Therefore, U.S. ratification of Protocol I is strongly favored by executive branch officials who believe it would further U.S. nonproliferation goals.

Definition of zone boundaries on the basis of some rational principle also presents problems, especially on the Europe-Asia-Africa tricontinent which is practically a single land mass. A Middle Eastern zone, for example, could logically include all of Africa and the non-nuclear weapon states in Europe and Asia unless some other boundaries were established arbitrarily.

Nations interested in establishing a regional nuclear weapon-free zone must overcome these difficulties themselves and initiate actual negotiations before the United States would consider becoming involved. Although it supports the formation of nuclear weapon-free zones in principle, the United States adheres to the premise that the initiative for their establishment must come from the states in the region concerned. Therefore, it would not consider supporting the formation of a specific zone until negotiations between the involved nations had begun.

In view of the difficulties in establishing further nuclear weapon-free zones, the NPT is likely to remain the world's primary political instrument for controlling the proliferation of nuclear weapons.

NPT STATESAS OF JULY 1, 1980

Afghanistan	Iran
Australia	Iraq
Austria	Ireland
The Bahamas	Italy <u>2/</u>
Bangladesh	Ivory Coast
Barbados	Jamaica
Belgium	Japan
Benin	Jordan
Bolivia	Kampuchea
Botswana	Kenya
Bulgaria	Republic of Korea
Burundi	Laos
Cameroon	Lebanon
Canada	Lesotho
Cape Verde	Liberia
Central African Republic	Libya
Chad	Liechtenstein <u>3/</u>
China (Taiwan)	Luxembourg
Congo (Brazzaville)	Madagascar
Costa Rica	Malaysia
Cyprus	Maldives
Czechoslovakia	Mali
Denmark	Malta
Dominican Republic	Mauritius
Ecuador	Mexico
El Salvador	Mongolia
Ethiopia	Morocco
Fiji	Nepal
Finland	Netherlands <u>4/</u>
Gabon	New Zealand
The Gambia	Nicaragua
German Democratic Republic	Nigeria
Federal Republic Of Germany <u>1/</u> & <u>2/</u>	Norway
Ghana	Panama
Greece	Paraguay
Grenada	Peru
Guatemala	Philippines
Guinea-Bissau	Poland
Haiti	Portugal
Holy See <u>3/</u>	Romania
Honduras	Rwanda
Hungary	St. Lucia
Iceland	San Marino
Indonesia <u>3/</u>	Senegal
	Sierra Leone
	Singapore
	Somalia

APPENDIX I

Sri Lanka
Sudan
Surinam
Swaziland
Sweden
Switzerland 2/
Syria
Thailand
Togo
Tongo
Tunisia
Turkey 2/
Tuvalu
Union of Soviet
Socialist Republics

1/ Applicable to Land Berlin.

2/ With statement.

3/ With declaration.

4/ Extended to Netherlands Antilles.

5/ Extended to Antigua, Brunei, St. Christopher-Nevis-Anguilla, and territories under the territorial sovereignty of the United Kingdom. Declared not to be applicable to Southern Rhodesia until the United Kingdom informs the other depositary Governments that it is in a position to insure that the obligations imposed by the treaty in respect of that territory can be fully implemented.

APPENDIX I

United Kingdom 2/ & 5/
United States
Upper Volta
Uruguay
Venezuela
Western Samoa
People's Democratic
Republic of Yemen
Yugoslavia 3/
Zaire

NON-NPT STATESAS OF JULY 1, 1980

Albania	Guinea	Saudi Arabia
Algeria	Guyana	Seychelles
Andorra	India (note f)	Solomon Islands
Angola	Israel	South Africa
Argentina	North Korea	Spain
Bahrain	Kiribati	St. Kitts
Bhutan	Kuwait (note a)	St. Vincent and the Grenadines
Brazil (note b)	Malawi	Tanzania
Burma	Mauritania	Trinidad and Tobago (notes a & d)
Chile (note b)	Monaco	Uganda
China (People's Republic) (note c)	Mozambique	United Arab Emirates
Colombia (notes a & d)	Nauru	Vietnam
Comoros	Niger	Yemen Arab Republic (note a)
Cuba	Oman	Zambia
Dominica	Pakistan	
Djibouti	Papua New Guinea	
Egypt (note a)	Qatar	
Equatorial Guinea	Sao Tome and Principe	
France (note e)		

a/ Signatories which have not ratified the Treaty.

b/ Party to the Treaty for the Prohibition of Nuclear Weapons in Latin America, but has not waived the treaty requirement that all eligible countries become parties before the zone can come into effect.

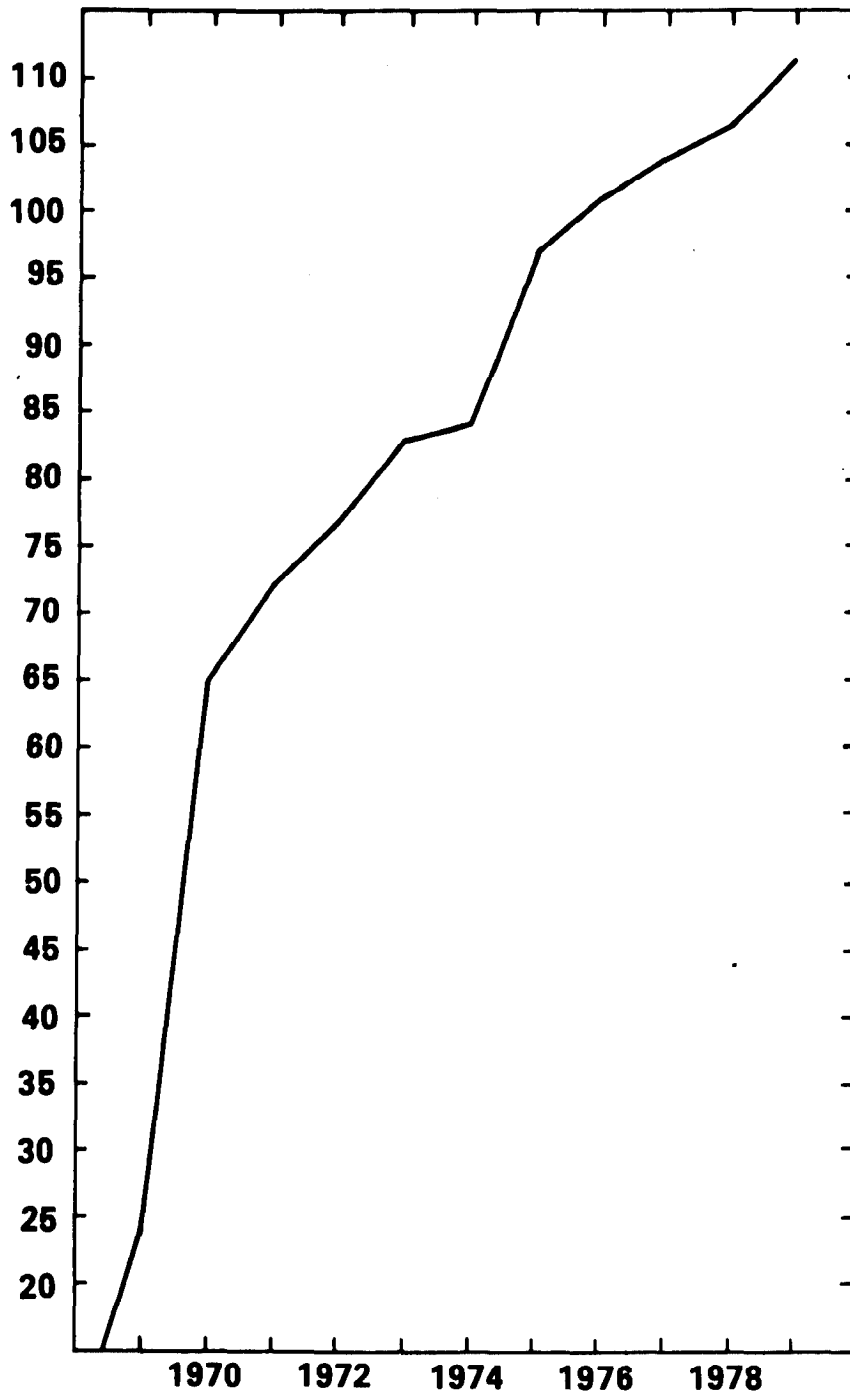
c/ Nuclear weapon state.

d/ Party to the Treaty for the Prohibition of Nuclear Weapons in Latin America.

e/ Nuclear weapon state (France stated that it would in any event behave as if it were a party).

f/ Although India has exploded a nuclear device, it is not considered a nuclear weapon state.

TOTAL NUMBER OF NPT PARTY STATES BY YEAR 1969-1979



TREATY ON THE NON-PROLIFERATION
OF NUCLEAR WEAPONS

Signed at Washington, London, Moscow July 1, 1968

U.S. ratification deposited March 8, 1970

Entered into force March 8, 1970

The States concluding this Treaty, hereinafter referred to as the "Parties to the Treaty".

Considering the devastation that would be visited upon all mankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war and to take measures to safeguard the security of peoples,

Believing that the proliferation of nuclear weapons would seriously enhance the danger of nuclear war,

In conformity with resolutions of the United Nations General Assembly calling for the conclusion of an agreement on the prevention of wider dissemination of nuclear weapons,

Undertaking to cooperate in facilitating the application of International Atomic Energy Agency safeguards on peaceful nuclear activities,

Expressing their support for research, development and other efforts to further the application, within the framework of the International Atomic Energy Agency safeguards system, of the principle of safeguarding effectively the flow of source and special fissionable materials by use of instruments and other techniques at certain strategic points,

Affirming the principle that the benefits of peaceful applications of nuclear technology, including any technological by-products which may be derived by nuclear-weapon States from the development of nuclear explosive devices, should be available for peaceful purposes to all Parties to the Treaty, whether nuclear-weapon or non-nuclear-weapon States,

Convinced that, in furtherance of this principle, all Parties to the Treaty are entitled to participate in the fullest possible exchange of scientific information for, and to contribute alone or in cooperation with other States to, the further development of the applications of atomic energy for peaceful purposes,

Declaring their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to undertake effective measures in the direction of nuclear disarmament,

Urging the cooperation of all States in the attainment of this objective,

Recalling the determination expressed by the Parties to the 1963 Treaty banning nuclear weapon tests in the atmosphere in outer space and under water in its Preamble to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to this end,

Desiring to further the easing of international tension and the strengthening of trust between States in order to facilitate the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons and the means of their delivery pursuant to a treaty on general and complete disarmament under strict and effective international control.

Recalling that, in accordance with the Charter of the United Nations, States must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations, and that the establishment and maintenance of international peace and security are to be promoted with the least diversion for armaments of the world's human and economic resources,

Have agreed as follows:

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.

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.

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 principal 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 of the Treaty.

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.

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.

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 non-discriminatory 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 VI

Each of the Parties to the 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.

Article VII

Nothing in this Treaty affects the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories.

Article VIII

1. Any Party to the Treaty may propose amendments to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Governments which shall circulate it to all Parties to the Treaty. Thereupon, if requested to do so by one-third or more of the Parties to the Treaty, the Depositary Governments shall convene a conference, to which they shall invite all the Parties to the Treaty, to consider such an amendment.

2. Any amendment to this Treaty must be approved by a majority of the votes of all the Parties to the Treaty, including the votes of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. The amendment shall enter into force for each Party that deposits its instrument of ratification of the amendment upon the deposit of such instruments of ratification by a majority of all the Parties, including the instruments of ratification of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. Thereafter, it shall enter into force for any other Party upon the deposit of its instrument of ratification of the amendment.

3. 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.

Article IX

1. This Treaty shall be open to all States for signature. Any State which does not sign the Treaty before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics, which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force after its ratification by the States, the Governments of which are designated Depositaries of the Treaty, and forty other States signatory to this Treaty and the deposit of their instruments of ratification. For the purposes of this Treaty, a nuclear-weapon State is one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to January 1, 1967.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or of accession, the date of the entry into force of this Treaty, and the date of receipt of any requests for convening a conference or other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to article 102 of the Charter of the United Nations.

Article X

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.

2. 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.

Article XI

This Treaty, the English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

PROFILES OF SELECTEDNON-NPT STATESARGENTINA

Argentina has an ambitious domestic nuclear program. It is party to the Antarctic and Outer Space treaties, and it has signed but not ratified the Seabed Treaty. It has also signed but not ratified the Treaty of Tlatelolco, although it has publicly committed itself to ratification.

Argentina asserts that the NPT discriminates against non-nuclear weapon states by imposing more substantial obligations on them than on the nuclear weapon states. Argentina views NPT Article VI as ineffective because it does not impose clear-cut disarmament obligations on the nuclear weapon states. Also, it has charged that the promises of technical assistance for peaceful uses of nuclear energy under Article IV have not been kept.

Argentina is interested in becoming self-sufficient in all phases of the nuclear fuel cycle. It has recently decided to purchase a heavy-water reactor from West Germany and a large heavy-water production plant from Switzerland. Argentina is also interested in acquiring the technology to fabricate high-density, low-enriched uranium fuel elements, not only for its own research reactors but also for experimental reactors it hopes to build and sell to other Latin American countries.

The United States and Argentina have had a bilateral agreement since 1969 governing overall nuclear cooperation. Because the United States considers NPT adherence by Argentina unlikely, the United States, according to the Department of State, has informed Argentina that expanded U.S. cooperation would be facilitated by Argentine ratification of the Tlatelolco Treaty and conclusion of a full-scope safeguards agreement with the IAEA.

BRAZIL

Brazil is a key NPT nonparty state. As one of the dominant powers in Latin America, ratification by Brazil could induce other major Latin American nonparty states to follow.

Brazil's opposition to the NPT has been well publicized over the years. It perceives the Treaty as inherently discriminating against non-nuclear weapon states in that it permanently relegates them to "have-not" status in nuclear technology while imposing no binding substantive commitments on the

nuclear weapon states. The NPT, according to Brazil, seeks to legitimize an unacceptable distribution of power between nuclear and non-nuclear weapon states by

- requiring IAEA "control" over the peaceful nuclear activities of the non-nuclear weapon states only;
- failing to control the continuing growth of existing nuclear arsenals; and
- not providing an efficient system of protection for non-nuclear weapon states.

Brazil has signed and ratified the Treaty of Tlatelolco, but it has not waived Article 28 which states in effect that the treaty shall enter into force when all states in the zone ratify it and other conditions are met. However, Brazil holds that by signing the Treaty of Tlatelolco it has committed itself "not to perform any act which defeats the objectives" of the treaty, and Brazilian officials have stated that Brazil feels bound by the treaty.

Brazil is a full party to the Antarctic Treaty, the Limited Test Ban Treaty, and the Outer Space Treaty, and has signed but not ratified the Seabed Treaty.

Its June 1975 accord with West Germany, under which Brazil plans to buy as many as eight enriched-uranium power reactors of 1,200 to 1,300 megawatt capacity each plus a uranium enrichment plant, a fuel fabrication plant, and a plutonium processing plant, focused attention on its nuclear ambitions. However, all of Brazil's nuclear facilities are under IAEA safeguards, and we were told that the facilities and reactors to be built under the West German accord would also be placed under safeguards.

The Department of State acknowledges that Brazil is unwilling to adhere to the NPT and that U.S. efforts to encourage it to do so would be fruitless. Therefore the United States has directed its efforts toward the full implementation of the Treaty of Tlatelolco by Brazil.

While the United States and Brazil have a 30-year agreement for nuclear cooperation which was intended to run until September 19, 2002, the Department of State asserts that the United States has advised Brazil that further cooperation between the two nations would be facilitated if Brazil were to waive the provisions for the entry into force of the Treaty of Tlatelolco.

CHINA

The People's Republic of China is a nuclear weapon state reportedly possessing hundreds of nuclear weapons but having limited delivery capability vis-a-vis the United States and the Soviet Union. It also has been one of the harshest critics of the NPT. During 1967 and 1968, China used strident terms to characterize the NPT as a "hoax" designed to:

" * * * lull the people's vigilance so that * * * [the United States and the Soviet Union] can have a free hand to vigorously carry out their nuclear blackmail and nuclear threat, control and bully other countries, sabotage the revolutionary movement of the people of the world and realize their fond hope of being the overlords of the world."

In January 1968, an article in the Peking Review described the joint United States-Soviet draft NPT as:

" * * * a landmark of the stepped-up counter-revolutionary global collusion between U.S. imperialism and the Soviet revisionist clique in conditions where the international situation is becoming more and more unfavorable to them."

China still opposes the NPT, characterizing it as a ploy to ensure continuation of the superpowers' "monopoly" of nuclear weapons, but the tone of its objections has moderated in recent years.

At one time China issued statements indicating an apparently cavalier attitude toward the proliferation of nuclear weapon capability. In a 1963 statement it asserted that proliferation does not necessarily increase the danger of nuclear war and that possession of nuclear weapons by socialist countries actually helps peace. China attributed its nuclear weapon development solely to its own defense needs in the face of the U.S. and Soviet nuclear arsenals.

Although China is technically capable of helping other states to acquire nuclear weapons and delivery systems, the United States has no indications that it has done so. Upon announcing its first nuclear explosion in 1964, China did claim that possession of nuclear weapons by those who oppose the United States and its partners would help to stem nuclear proliferation. However, China carefully qualified that stand in 1965 by stating that Afro-Asian nations should develop nuclear weapons "themselves," since it did not consider the

question of Chinese assistance in nuclear weapons development to be "realistic." In a 1975 interview by a former U.S. diplomat, a Deputy Premier of China said that despite not being "nervous" about proliferation the Chinese are against it and China itself would not proliferate nuclear weaponry. Other officials have subsequently confirmed that assurance, and news media reports have indicated that China refused Libya's request to purchase a nuclear weapon.

China has pledged that it will never be the first to use nuclear weapons. None of the other nuclear weapon states has made such a promise. However, China is a very limited participant in other international nonproliferation and arms control efforts. Although it has ratified Protocol II of the Treaty of Tlatelolco, it is not a party to any of the other four treaties restricting the use or deployment of nuclear weapons--Limited Test Ban Treaty of 1963, Seabed Treaty, Antarctic Treaty, or the Outer Space Treaty. However, in February 1980, China participated for the first time in the work of the U.N. Committee on Disarmament.

According to the Department of State, China's adherence to the NPT was not broached during the discussions on normalization of United States-China relations. The multilateral NPT was not considered germane to the bilateral normalization talks. The State Department believes that, although China is not contributing to the proliferation of nuclear weapons, it remains opposed to the Treaty; accordingly, other matters have been given a higher priority than the NPT.

Arms control issues and the NPT were raised with the Chinese in January 1980 during Defense Secretary Brown's and ACDA Director Seignious' visits to China and during the Chinese Vice Foreign Minister's visit to Washington in March. It is unlikely, however, that the People's Republic of China will adhere to the NPT in the foreseeable future, as this would require the reversal of a longstanding emphatic policy opposing the Treaty and its basic concepts.

FRANCE

France is a nuclear weapon state. When the Treaty was opened for signature in 1968, France declined to sign because its leaders viewed both the NPT and the Limited Test Ban Treaty of 1963 as having little practical importance; neither treaty required the superpowers to reduce or to stop increasing their nuclear stockpiles.

The French asserted that the only solution to the nuclear weapons threat would be to ban weapons production and destroy existing nuclear arsenals; the real objective, according to France, is the complete "disappearance" of nuclear weapons.

In announcing its decision not to sign the NPT, France also said, however, that it would "behave in the future in this field exactly as the States adhering to the Treaty." That position was reaffirmed at the United Nations in 1973 when France also said that it would not encourage any undertaking that might lead to weapons proliferation.

France justifies its development of nuclear weapons as a response to its own security needs, but it has also said that it would "rejoice" if it could renounce them.

At the 1973 U.N. discussions, France restated its readiness to participate in all efforts to arrive at effective disarmament but not in efforts to adopt partial measures, apparently a reference to the French position that the NPT did not exact a sufficiently firm nuclear disarmament commitment from the nuclear weapon states.

Parties to the Treaty have not actively sought France's adherence; they have accepted the reality of the situation, concluding that it would be pointless to pursue a currently unattainable goal. Considering France's statement that it will act like a Treaty party even though it will not join, the U.S. State Department similarly pursues other non-NPT interests in its dealings with France.

France has not promoted the development of nuclear weapons by other countries, but neither has it publicly encouraged other states to join the NPT. French policy on exports of sensitive technology parallels that of the United States, and French support of the London Suppliers Group and the International Nuclear Fuel Cycle Evaluation reflects France's positive stance toward the effort to halt weapons proliferation.

France has signed and ratified Protocol II of the Treaty of Tlatelolco; it has only signed Protocol I but has announced its intention to ratify it. It is party to the Antarctic and Outer Space treaties but not the Limited Test Ban and the Seabed treaties.

INDIA

India is a large, influential third world nation with a well-developed nuclear industry. It has consistently opposed

nearly every substantive provision of the NPT and has characterized it as "patently discriminatory." In criticizing the Treaty, Indian officials have made the following assertions.

- Nuclear weapon states have virtually no obligations under the NPT and are treated as a privileged class, while non-nuclear weapon states have only obligations and are treated as subjects.
- The Treaty focuses heavily on international proliferation but offers no control over the proliferation of nuclear weapons within the arsenals of the nuclear weapon states.
- Safeguards requirements of the NPT are discriminatory; all nuclear facilities of all nations, including nuclear weapon states, should be placed under international safeguards.
- The NPT gives the nuclear weapon states a monopoly of power and freedom in the commercial exploitation of nuclear technology.

India's peaceful nuclear program was begun in the 1940s and is now highly advanced. It is striving for complete nuclear self-sufficiency. In May 1974 India detonated a nuclear explosive device and so became the first nation to demonstrate a new nuclear explosive capability since the NPT entered into force. Thus India thwarted a principal objective of the Treaty, i.e., to keep the number of states with nuclear explosive capability at five. However, it is not recognized under the NPT as a nuclear weapon state, which is defined as one which manufactured and exploded a nuclear weapon or other nuclear explosive device prior to January 1, 1967. Further, India said that it does not want to be known as a nuclear weapon state, claiming that its detonation was a peaceful one.

State Department and ACDA officials informed us that the prospects for Indian NPT adherence are so bleak that the Treaty is not part of U.S. nonproliferation strategy in India. U.S. efforts are directed instead toward encouraging India to accept full-scope safeguards. However, India has been unwilling to accept full-scope safeguards which it characterizes as "discriminatory," and this question has become a major issue in U.S.-India relations. India's former Prime Minister Desai said that India would accept full-scope safeguards only if and when

all nuclear powers open all their facilities to full-scope safeguards, and this position was reaffirmed by the Deputy Chief of Mission and the First Secretary (Political Affairs) of India's Embassy in Washington.^{1/}

The United States has tried to discuss full-scope safeguards with India through a proposed joint safeguards panel of international experts, but attempts to establish the panel were unsuccessful. India's present government, under Prime Minister Indira Gandhi, still refuses to accept full-scope safeguards. After a statutory grace period and subject to Presidential discretion, the Nuclear Non-Proliferation Act of 1978 requires a cessation of U.S. nuclear exports to any country that refuses to accept full-scope safeguards. Therefore, should India persist in its refusal to accept full-scope safeguards, further U.S. nuclear trade with India could be in doubt.

ISRAEL and EGYPT

Israel and Egypt illustrate the effect that regional security problems can have on prospects for wider NPT adherence. Although each has expressed support for the NPT and its principles, neither is a party. This is primarily due to the tensions of the Middle East (which have resulted in four Arab-Israeli wars in less than 30 years) rather than to the Treaty itself. Accordingly, the United States, during the negotiation of the Israeli-Egyptian peace treaty, temporarily suspended its efforts to encourage their adherence. However, those efforts have since been resumed.

Israel voted for the NPT in the United Nations in 1968 and has since stated that it supports the principle of the Treaty. Israel has not become a party, apparently because of profound distrust of its neighbors. In 1976, Israel's Prime Minister told a group of visiting U.S. Senators that certain Arab NPT parties had said that their adherence did not apply to their

^{1/}Under the NPT the nuclear weapon states are exempted from the full-scope safeguards requirements, but in December 1967 the United States offered to place its peaceful nuclear facilities under IAEA safeguards to demonstrate to the world that such safeguards would not interfere with the peaceful nuclear activities of any country. India belittles that offer, however, because U.S. national security facilities are not included.

the Arab parties could be trusted to abide by the Treaty. Israeli officials also indicated a lack of confidence in the IAEA, which is responsible for administering the safeguards required by the NPT, in part due to the presence of the Soviet Union at the IAEA.

Although it is not inclined to sign the NPT, Israel has taken two positive steps toward limiting nuclear proliferation. First it has promised that it will never be the first to introduce nuclear weapons into the Middle East. Second, it has frequently stated that it wishes to enter into direct negotiations with its Arab neighbors to begin setting up a Middle East nuclear weapon-free zone. As envisioned by Israel, the negotiations would lead to the conclusion of "a formal, contractual, multilateral convention between all the States of the region, on the lines of a * * * nuclear weapon free zone in Latin America."

However, it is unlikely that all of Israel's Arab neighbors would consent to enter into direct negotiations with it. Nonetheless, the principle of direct negotiations appears to be central to Israel's conception of a nuclear weapon-free Middle East. In 1974 Israel refused to support a Middle East nuclear weapon-free zone resolution, sponsored in the United Nations by Iran and Egypt, because the resolution involved a preliminary process of consultations between the U.N. Secretary General and the states in the region. It continues to advocate its formula for a Middle East nuclear weapon-free zone, including direct negotiations.

Israel's position on the NPT and proposed nuclear weapon-free zones is important for two reasons. First, believing that it is fighting for existence, Israel finds itself at the center of Middle East tensions. A number of Arab nonparties will not adhere if Israel does not. Furthermore, Israel is an advanced nation in nuclear terms. In 1974 the U.S. Central Intelligence Agency noted that "we believe that Israel already has produced nuclear weapons." Israel operates its research reactor at Dimona as a national security facility. Dimona, devoid of any international safeguards, is believed to be capable of producing six kilograms of plutonium a year. Until 1969 the United States was allowed informal ad hoc inspections of Dimona but no Americans have been admitted in the past 10 years.

Egypt signed the NPT on July 1, 1968, but has not ratified it. Egypt maintains that it is willing to become an NPT party without reservations "the moment" Israel accedes to the Treaty. According to a State Department official, Egypt's position is based solely on regional political considerations related to

Israel. Egypt is apparently uninterested in acquiring nuclear weapons and lacks the nuclear programs and capabilities to build such weapons in the near future. According to the State Department, the Egyptians are willing to comply with the spirit of the NPT but, because of political considerations, their position on adherence has not changed. Egypt has supported the concept of a nuclear weapon-free zone in the Middle East. It co-sponsored the 1974 U.N. resolution calling for such a zone and would accept a nuclear weapon-free zone if Israel did.

During the negotiation of the Israeli-Egyptian peace treaty in late 1978 and early 1979, the United States suspended its efforts to encourage Israeli and Egyptian NPT adherence. Following the March 1979 signing of the peace accord, the United States resumed its efforts. According to the Department of State, the United States encouraged both nations in May 1979 to become NPT parties when it presented them with identical drafts of proposed bilateral agreements for civil nuclear cooperation with the United States. These agreements would require safeguards on all nuclear facilities in Israel and Egypt. The United States and Egypt are presently discussing the draft of their agreement, but Israel is not prepared at this time to enter into negotiation of such an agreement with the United States.

NIGER

Niger is a West African non-nuclear weapon state. It ranks fifth in both world uranium production and known uranium reserves, having about 7.4 percent of the world's reasonably assured uranium reserves. An otherwise poor nation, Niger looks to its uranium exports as the principal source of foreign exchange essential for its economic development.

Niger is concerned that its export earnings could be significantly cut if it became an NPT party. This concern is apparently based on its reading of Article III(2), which requires that IAEA safeguards be placed on source or fissionable material (such as uranium) exported by NPT parties to non-nuclear weapon states. Although Niger has not expressed any other problems with the principles of the Treaty, it remains concerned that its uranium exports could be disrupted if it became a party.

The United States as a rule views the exporting of uranium without IAEA safeguards as a serious proliferation risk. Because Niger's stated policy is to require IAEA safeguards on its uranium exports, the United States does not consider Niger's export policy to be a proliferation risk.

Nevertheless the United States would like to see Niger formalize its nuclear safeguards policy by adhering to the NPT.

The United States developed the following rationale in its effort to encourage Niger to adhere.

- Adherence would not threaten Niger's uranium exports in any way, as evidenced by the experiences of other uranium-exporting states that have become NPT parties. Most uranium purchasers have already accepted safeguards under the NPT or are exempted because they are nuclear weapon states.
- Niger could give further substance to its responsible safeguards policy by becoming an NPT party.
- The NPT is the best hope of controlling nuclear proliferation, which threatens all nations, and Niger could contribute significantly to nonproliferation efforts by adhering.
- The United States attaches a great deal of importance to Niger's adherence because of Niger's uranium exports.

However, in June 1979 Niger's President declared that, given his country's voluntary acceptance of IAEA safeguards and its past condemnation of nuclear weapons, Niger did not understand and was disturbed by "these anguished appeals" for Niger's accession to the Treaty. He asserted that the countries making the appeals knew that Niger's primary concern was development. The President stated that, "if necessary" Niger will sign the NPT "when the time comes."

PAKISTAN

Pakistan is a non-nuclear weapon state. In 1968 Pakistan's reaction to a draft of the NPT was generally favorable. It probably opposed nuclear proliferation at that time because it feared that India, with an advanced nuclear program, would develop nuclear weapons. However, after India consistently voiced strong objections to the NPT, Pakistan conditioned its willingness to adhere on India's doing the same. Pakistan's position remains unchanged, and it has offered publicly to adhere if India would do so.

Pakistan is concerned about its national integrity. Although Pakistan and India have gone to war in the past,

relations between them have improved in recent years. However, remaining deep-rooted psychological and historical factors inhibit a full normalization of relations. U.S. officials characterized as a "difficult task" pre-1974 efforts to obtain Pakistani adherence. India's May 1974 detonation of a nuclear device may have transformed this "difficult task" into an impossible one. Department of State officials believe that at present there is little chance of Pakistan's becoming an NPT party.

India's detonation probably induced Pakistan to develop a nuclear explosive capability of its own. In April 1979 the Department of State, after considering information concerning certain component acquisitions by Pakistan, concluded that Pakistan was constructing uranium enrichment facilities related to an effort to develop a nuclear explosive capability. Because these facilities were neither under international safeguards nor under multilateral management, the Department of State was obligated under U.S. law to cut off most U.S. assistance to Pakistan.^{1/} The United States is continuing high-level discussions to try to dissuade Pakistan from developing nuclear explosive capability.

SOUTH AFRICA

South Africa is a non-nuclear weapon state and an important producer of uranium. It voted in favor of the draft treaty at the United Nations in 1968 but only after raising several objections to the text. At that time South Africa was particularly concerned with the expanded safeguards obligations that Treaty parties would assume under what it called the "vague" and "obscure" language of Article III. South Africa said the NPT did not guarantee that the new safeguards would not be used to interfere with the commercial aspects of nuclear power or to facilitate industrial espionage. Since then, South Africa has continued to express concern that application of IAEA full-scope safeguards on its nuclear facilities could result in theft of its secret uranium enrichment technology.

^{1/}The International Security and Arms Export Control Act of 1976 and the International Assistance Act of 1977 amended the Foreign Assistance Act of 1961 by denying certain types of assistance to countries that deliver or receive uranium enrichment equipment without placing it under available multilateral management and full-scope IAEA safeguards. Due to recent events in the region, the United States has considered resuming assistance to Pakistan, but has not yet done so.

South Africa has also questioned the adequacy of international nuclear cooperation provided for under Article IV, claiming that such cooperation, even when specified in contracts between countries, could be withheld. In 1977, South Africa's Prime Minister said that South Africa's decision on the Treaty would be influenced by the way "the Powers concerned" lived up to their commitments under bilateral agreements with South Africa and under Article IV of the Treaty in general. Charging both the United States and the IAEA with failure to honor various commitments, the Prime Minister asserted that "discriminatory actions" against South Africa in nuclear cooperation would have to be "sorted out" in any discussions with the United States regarding South Africa and the NPT.

South Africa has a significant nuclear industry; in 1977 it had 20 percent of the world's uranium resources and produced 13 percent of the world's uranium. It has a pilot uranium enrichment facility, reportedly of its own design, which is being upgraded to production scale. It also has a U.S.-supplied research reactor and plans to put power reactors into operation in the near future. Some experts say that South Africa could develop nuclear explosive devices if it so desired.

In August 1977 the United States, Soviet Union and France expressed concern over reports that South Africa was preparing to test a nuclear explosive device. The U.S. Government asked South Africa if it intended to do so. It denied that a nuclear test had been planned and asserted that it did not have, and did not intend to develop, nuclear explosive devices.

The United States has said that South African acquisition of nuclear weapons would be a matter of gravest concern and a serious blow to the security situation in Africa and the overall nonproliferation effort.

The United States and South Africa have an agreement for nuclear cooperation that will expire in 2007, but the United States has not authorized any nuclear exports since 1975. According to the Department of State, the United States has told South Africa that resumption of cooperation would depend on its adherence to the NPT and implementation of an appropriate full-scope safeguards agreement.

The United States is reluctant to terminate its dialogue on nuclear matters with South Africa; in response to demands by certain African states that it renounce future cooperation with South Africa, the United States said that such a break would further diminish chances of obtaining South African acceptance of effective international safeguards.



UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

Washington, D.C. 20451

GENERAL COUNSEL

June 26, 1980

Dear Mr. Fasick:

Thank you for inviting ACDA to comment on the GAO draft report to Congress entitled "United States' Efforts to Encourage Nations to Become Party to the Nuclear Non-Proliferation Treaty." In our view, this report provides a generally good summary of the relevant issues and of US activities in this field.

One minor criticism we would note concerns the discussion of the US initiatives introduced at the 1978 Special Session on Disarmament (SSOD). The draft implies that these initiatives were announced without a prior determination as to whether the proposed expansion was warranted.

We would like to assure you that these programs were the results of a thorough interagency clearance process. While it is impossible to measure quantitatively the correlation between NPT adherence and increased technical assistance, some countries (notably Bangladesh) specifically adhered to the NPT with the promise of increased technical assistance in mind. Moreover, the SSOD programs serve several other US objectives besides attracting additional NPT parties, such as responding to recommendations made at the 1975 NPT Review Conference concerning increased technical assistance for NPT parties, and supporting US efforts to reduce the use of highly enriched uranium (a weapons-useable material) in research reactor fuel. As the number of NPT parties increases

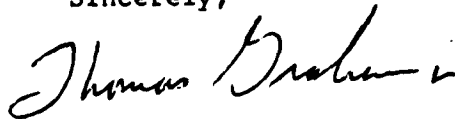
Mr. J. K. Fasick
Director, International Division
U.S. General Accounting Office
Washington, D.C. 20548

and the number of non-parties decreases, NPT preference programs will become increasingly important for maintaining a strong NPT regime. Unfortunately, because of existing budgetary restraints, the SSOD initiatives have not been fully implemented.

With respect to the discussion in the report concerning the voluntary offer, it should be noted that when the offer was made in 1967, US implementation was conditioned on the acceptance by other nations of the safeguards regime envisaged by the NPT. Also, you will want to update the report to reflect the vote taken by the Committee on June 24 to report the treaty implementing the offer favorably to the full Senate.

We also have some changes to correct minor factual errors and some editorial suggestions. I suggest that the authors of the report contact Mr. Frank Buchholz on 632-0927 or Mr. Harry R. Marshall on 632-1866 to discuss these points.

Sincerely,

A handwritten signature in cursive script that reads "Thomas Graham, Jr." with a small flourish at the end.

Thomas Graham, Jr.

GAO DRAFT REPORT: "UNITED STATES EFFORTS TO ENCOURAGE
NATIONS TO BECOME PARTY TO THE NUCLEAR NON-PROLIFERATION
TREATY"

This responds to the request for the Department of State's review of GAO's draft report on "United States Efforts to Encourage Nations to Become Party to the Nuclear Non-Proliferation Treaty" (Code 465340) transmitted under Mr. Fasick's letter to the Secretary of State of June 9, 1980.

Overall we believe this is a very commendable report on an important subject. We understand that officers of the Department have already provided several comments of a technical or clarifying nature directly to the GAO staff concerned with the report and that these comments will be reflected in the final version. We further suggest that, if it has not already done so, GAO may wish to solicit the views of the Department of Energy on those matters dealt with in the report, in particular the administration of assistance programs through the IAEA, which are within the Department of Energy's competence.

The Department takes issue, however, with one portion of the draft report. Our concerns focus on the draft's consideration of the role of U.S. voluntary contributions through the IAEA as incentives for adherence to the NPT. This is discussed primarily in the section headed "U.S. Technical Assistance" (beginning on p. 33). The GAO conclusion and recommendation in this regard (pp. 30-32) state that:

"If assessments were to show that the technical assistance programs are effective in encouraging NPT adherence, the United States could possibly consider designating a larger share of its IAEA voluntary contributions for the exclusive use of NPT party states. This could be accomplished through reallocating portions of the U.S. cash contribution to the IAEA's operational budget or the U.S.-financed fellowship program, since neither appears to be primarily designated for the benefit of NPT parties...

"...we recommend that the Secretary of State determine whether voluntary contributions provided through the IAEA technical assistance programs by the United States as incentives to induce nations to become party to the NPT are achieving intended objectives and whether the funding levels for these contributions are appropriately established."

GAO note: Page references have been changed to reflect this report.

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To the extent that the recommendation seeks to review whether the NPT-preference programs are effective and appropriately funded, we have no problem. To the extent that it suggests that U.S. voluntary contributions to the IAEA could be restructured with this objective in mind, however, we see some serious drawbacks that are not considered in the draft report.

We understand that in preparing this aspect of the report GAO intended to focus the review as closely as possible on issues or programs explicitly linked to the NPT status of the recipient country. But the discussion does not, in our view, give a balanced picture of the extent to which U.S. voluntary contributions to the IAEA are designed to serve a number of other important purposes as well as providing incentives for NPT adherence. While the U.S. has sought to make some programs serve as such incentives, the full justification for U.S. voluntary contributions is in most cases founded in other considerations and interests, many of which antedate the NPT itself.

Since the IAEA was established in 1957, with impetus largely from the U.S., we have had a strong continuing interest in enhancing the Agency's status as the competent international technical body in nuclear matters and in increasing incentives for developing countries to participate in the full range of IAEA programs and activities. We have thus looked to the Agency as a principal channel for U.S. assistance abroad in peaceful uses of nuclear energy. There has been a continuing difficult balance, in this respect, between the Agency's safeguards and other responsibilities. Many developing countries, including those party to the NPT, argue that their national priorities are better served by devoting more of the Agency's resources directly to promotion and development of nuclear energy.

The effectiveness of the Agency safeguards program, which lies at the heart of the NPT, depends directly and immediately upon an IAEA membership which includes not only NPT parties but many non-parties as well, including some of the most vocal opponents of the NPT. Adequate support by the U.S. and other major donors for Agency technical assistance to developing countries, whether or not party to the NPT, has been vital since the Agency's inception to maintain a balance in its overall program which encourages the continued acceptability of its safeguards activities and adequate budgetary support for them. This has become increasingly important as the demands upon the Agency's total resources for the safeguards program have grown, particularly through its implementation of the safeguards required by the NPT.

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We would note that the IAEA technical assistance program is financed in the first instance by voluntary cash contributions toward an annual target, which may not be restricted as to use by the donor and on whose use the Agency places no restrictions relating to the NPT status of the recipient member state (although, as a practical matter, some three-quarters of such assistance is received by Agency members which are also party to the NPT). The U.S. annually makes such a cash contribution (\$2,125,000 in CY 1979 of a total of somewhat over \$8-million pledged by all members), as do virtually all other Agency members, based on a share of the annual target roughly equivalent to its percentage share of the Agency's Regular (ie. assessed) Budget. This aspect of the Agency's program is considered by developing member states as one of the most immediate importance to them.

U.S. or other donor assistance intended preferentially or exclusively for NPT parties is additional to these cash contributions. It is normally provided through voluntary gifts-in-kind for this or other specific projects, countries or purposes in the form of equipment, services of experts or fellowships for study in the donor country, or occasionally by cash contributions to special funds in trust for similar purposes or other special gifts. The latter include the gift made annually for many years by the U.S. of nuclear material valued at \$50,000. The donor may determine the purpose to be served by such assistance by its decisions as to the specific countries or projects for which the assistance is offered.

In recent years, the U.S. has offered such gifts-in-kind preferentially to NPT parties, thus adding incentive for NPT adherence and benefit to NPT parties as objectives for this particular type of assistance. U.S. initiatives announced at the UN Special Session on Disarmament included assistance which, when funded, will fall into the category of special gifts-in-kind; some of this assistance will be offered preferentially, or exclusively, to benefit NPT parties. We have encouraged other states to establish similar programs of assistance beyond their unrestricted cash contributions. Presently, Sweden, Canada and the USSR exercise preference for NPT parties, among other considerations, in making offers of certain gifts in kind which they provide along with their cash contributions.

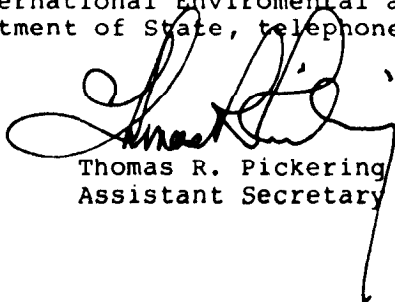
Determinations regarding the "mix" of U.S. support of various types of assistance through the IAEA are based upon a wide variety of objectives which we seek to achieve or support. These include not only encouraging adherence to the NPT by non-parties and encouraging states already party to remain supportive of the NPT regime, but also enhancing the role of the IAEA itself; maintaining the viability of effective IAEA safeguards implementation; pursuing other U.S. non-proliferation objectives (such as reducing quantities of highly-enriched uranium used as research reactor fuel); supporting other

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U.S. objectives outside of non-proliferation (such as nuclear safety and environmental protection); supporting U.S. influence in the nuclear field through maintaining an active and effective U.S. presence on the world nuclear scene; and supporting overall U.S. foreign policy objectives toward the UN family and toward other nations on a bilateral or regional basis. Recognizing that the draft report's scope is restricted to the subject of U.S. efforts to encourage NPT adherence, the Department considers it important that it also take account of the fact that decisions as to the adequacy or relative priority of assistance programs through the IAEA must be made based on criteria which go well beyond the more limited tradeoff of IAEA assistance to encourage NPT adherence.

In consideration of the foregoing, the Department would suggest that the presentation and conclusions (pp.32-40) of the draft report be modified to reflect the broader considerations discussed previously with the GAO staff and reiterated herein. The Department keeps U.S. contributions to the IAEA of all types and for all purposes under continual review, taking account of relevant U.S. interests which they serve. We will continue to recommend reallocation of support as circumstances and the relative priority of policy objectives may make possible or desirable. During consideration of the U.S. programs announced at the UN Special Session on Disarmament, however, it was the clear consensus of the interested U.S. agencies and the U.S. Mission to the IAEA that any benefit from them in support for the NPT would be vitiated to the extent that they were financed as a result of a reduction in the U.S. cash contribution toward the annual target. We believe this would be equally true of any suggested reallocation between the cash and in-kind portions of our ongoing contributions to the IAEA.

We appreciate the opportunity to present these comments and suggestions regarding the draft GAO report. We presume that, to the extent such comments may be accepted by GAO and result in modification of the draft text, the summary will be correspondingly modified. If you have any further questions regarding these comments, or other matters in which the Department may be of assistance to you in completing this report, please contact directly Mr. Michael Guhin, Director, Office of Non-Proliferation and Export Policy, Bureau of Oceans and International Environmental and Scientific Affairs (OES/NEP), Department of State, telephone 632-7036.



Thomas R. Pickering
Assistant Secretary

GAO note: This memorandum was provided to GAO by the Department of State, Bureau of Oceans and International Environmental and Scientific Affairs, on July 9, 1980.

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