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(79)

VISIT OF MR. KOSYGIN TO LONDONFEBRUARY 1967

Annex C.

NON-PROLIFERATION AND NATO NUCLEAR
ARRANGEMENTS~~(Under the Foreign Office)~~Talking Points handed to the Soviet DelegationNon-Proliferation

The Americans have told us of the results of the bilateral Russian-American talks over the past three months and we have fully supported them in the discussions which are going on in NATO.

We hope that these will reach a positive conclusion and that the Soviet Government and their allies will also be able to agree.

2. I believe that the language which has been discussed does everything possible to meet the legitimate concerns of the Soviet Government about what they call "access to nuclear weapons" by a non-nuclear state or states, individually or collectively.

3. In particular it would deal with the theoretical possibility which had been left open in the original United States draft, of one of the nuclear states abandoning its control to an association in which the majority of members were non-nuclear States. As we interpret the text it would also rule out the transfer of nuclear weapons (including ownership) or of control over them to a new multilateral or other entity, apart from cases in which a new state succeeded to the nuclear status of one or more of its constituent states.

4. As for what is left open, we accept the argument that this should not be stated in the treaty but we think that we must make clear our belief that the proposed language would not prohibit consultation and planning on nuclear matters in NATO or the machinery established for this purpose.

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5. Nor would this language disturb existing bilateral arrangements for the deployment of nuclear weapons within allied territory, as these arrangements do not involve any transfer of warheads up to the point where a decision to go to war is made, after which point the treaty would no longer be controlling.

6. Finally we take the view that the proposed language would not prohibit the consolidation of states and therefore cannot bar the possibility of the creation of new sovereign states, including federal states, which could acquire by succession the status of one or more of their original constituents.

7. I realise of course that we cannot expect the Soviet Union to say in public that they approve of these arrangements; nor would we gratuitously make our interpretations public. What we do ask is that we should not allow mutual doubts and suspicions about the nature of the Eastern and Western alliances to stand in the way of the conclusion of the agreement which is now almost within our reach.

8. In the hope that this is agreed we must now plan the way ahead. How do the Soviet Government view the tactical situation which will arise if an agreed draft treaty can be tabled at Geneva? In particular how do they think we can best reassure the non-nuclear states that their wishes and interests will be safeguarded by the treaty?

9. We assume that the Soviet Union regard, as we do, the proposed five-year review conference as being an adequate assurance to the non-nuclears that the military nuclear powers are serious about the need for action on nuclear disarmament.

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Mr. O'Neill

Seen by Mr. H. H. H. H.

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F. H. H. H.

NATO NUCLEAR SHARING ARRANGEMENTS
AND THE NON-PROLIFERATION TREATY

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The discussions between the Soviet Union and the United States which resulted in agreement on the present Articles I and II of the treaty took place between November 1966 and January 1967. At the same time the United States put to the Soviet Union interpretations of these Articles to cover the following points:-

- (i) the proposed draft would not disturb existing bilateral arrangements;
- (ii) the draft would have no bearing on the decisions of the NATO allies to go to war, or on the permanent NATO Committee for Nuclear Planning and Consultation;
- (iii) the treaty would not bar states from having a veto over the launching of nuclear weapons from their territory;
- (iv) it would not rule out the establishment at some future date of a multilateral Atlantic Entity; and
- (v) it would not ban succession by a federal European state to the nuclear status of one of its former components.

Flag A 5. 6. The Americans put these interpretations in an aide memoire which they gave to us and other members of NATO on 4 January, 1967.

3. The Americans also told us that the Soviet Union, while not agreeing to its interpretations, had indicated that they would acquiesce in them.

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6. We decided, however, that we should nevertheless put these interpretations to the Soviet Union ourselves in order to be able to judge their reaction directly. The brief for the Prime Minister's talks with Mr. Kossygin during the latter's visit to London in February 1967 therefore included the interpretations relating to consultation and planning in NATO; existing bilateral arrangements; the assumption that in the case of war "all bets were off"; and the "European option" for a federal state. The Ministry of Defence had cleared this brief and they of course had copies of it as well.

7. The Prime Minister read this passage in his brief to Mr. Kossygin, who commented that we had clearly been kept fully informed of the details of the Soviet-American discussions. It was also agreed that we should give the Soviet Union a piece of paper containing these points, in order to avoid all possibility of mistake. Mr. Street accordingly wrote to the Counsellor at the Soviet Embassy in the same words as those used in the brief. There was no further Soviet response. We have not yet been able to trace the papers relating to these latter exchanges, which may be entered with Northern Department.

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I am therefore relying on Mr. Stuart's memory of the occasion, which is fairly clear.

6. In the light of the above facts, it is not really open to the Ministry of Defence to say that they were not consulted about the implications of Articles I and II of the treaty, or that we have not done our best to ensure that the Soviet Union will acquiesce in satisfactory interpretations.

R. C. Hope-Jones

(R. C. Hope-Jones)
30 January, 1968

MINISTRY OF DEFENCE

MAIN BUILDING, WHITEHALL, LONDON, S.W.1

TELEPHONE 01-930 7022

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MINISTER OF STATE
FOREIGN OFFICE



1. Mr. *Malley*
2. Lord *Hood*
3. R.E.D.

Advance copies to
R.E.D. and W.O.D.
Copy also sent to Private
Secretary. *DM 1/11*

NON-PROLIFERATION TREATY AND
SECURITY GUARANTEE

Following yesterday's meeting of the Defence and Overseas Policy Committee I think it would be helpful to you, and to the Law Officers, if I set down some of the considerations and questions that need to be examined.

2. So far as defence and the security of Europe we concerned, the essence of the matter is that the Americans have stated in public that they have some 7,000 nuclear weapons deployed in Europe. The arrangements covering these weapons are bilateral between the United States and each country concerned, but a large number are intended for delivery by European countries, including Britain. So far as we know, all European members of NATO other than Norway, Portugal, Iceland and Luxembourg, have launching vehicles on their territory. Denmark has launching vehicles but does not have nuclear warheads on her territory in peace time. In the case of weapons for delivery by a European country, once the US President has agreed to release these weapons, they would be physically handed over to the European country concerned for delivery by aircraft, rocket, artillery or other means.

3. NATO strategy has always been dependent upon the maintenance of peace by the existence of credible deterrent forces, conventional and nuclear. It is now being reviewed on instructions of the NATO Council to ensure that the forces available provide a flexible response capable of meeting conventional aggression by conventional action for sufficient time to enable consultation and negotiation to take place before a decision need be taken to initiate the use of nuclear weapons. The NATO Council has recently set up a Nuclear Defence Affairs Committee and a Nuclear Planning Group, one of whose purposes is to give the non-nuclear members of NATO more influence on how a decision to use nuclear weapons would be taken. Some NATO Governments have made it clear that they would not wish to be precluded from exercising a measure of control (positive or negative) over the decision to use nuclear weapons.

4. If the NPT

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4. If the NPT were held to be inconsistent either with existing plans to transfer nuclear weapons to other countries in case of war, or with the possibility of collective arrangements for their control in time of peace, two essential elements in NATO's current approach to the defence of Europe would be at risk.

5. I know that a number of the questions that arise from possible interpretations of Articles I and II of the Non-Proliferation Treaty have been discussed not only in Geneva but also within NATO. But in essence these interpretations rest on views which the United States, or ourselves, have expressed to the Soviet Union and which the Soviet Union received without substantive comment. We have not succeeded in persuading the Soviet Union to endorse our interpretation explicitly either in private or in public. The hope has been that the Soviet Union would either acquiesce, or at least stay silent, on the points at issue and, of course, that they would not carry any doubts of their own to the point of refusing to sign any Treaty. The Prime Minister's exchange with Mr. Kosygin on aspects of the problem on 12th February 1967 illustrates the obscurity of the Soviet position.

6. I do not believe that the matter can be left so vague and uncertain. There are four areas where more precision is desirable:-

a. Before the Non-Proliferation Treaty is signed it is essential that there should be general agreement between the signatory Powers on the precise significance of the terms of Articles I and II. This applies as much to our European partners in NATO as to the Americans, French and ourselves. In particular it must be determined whether an undertaking "not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or devices directly or indirectly" could fairly be construed as inconsistent with current NATO strategy whereby U.S. nuclear weapons are held under U.S. custodial arrangements in the territory of European NATO Allies for use under the control of other countries when they are released on the authority of SACEUR through the normal NATO procedures. Otherwise the Russians might argue that the NATO Allies were overtly preparing to breach the Treaty at the time of the signature. We need to discuss with the United States Government and with NATO the form of a declaration that these articles are consistent with current NATO strategy and, in particular, that they do not affect the current nuclear arrangements within the Alliance.

b. We need

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b. We need to know whether the Nuclear Proliferation Treaty has any effect on the possibility of sharing the decision to use nuclear weapons, with particular reference to the work of the Nuclear Planning Group which has been tending to direct itself towards this problem of decision-making in time of crisis rather than to the situation which could apply after nuclear weapons have been used.

c. The current interpretation of Articles I and II seems to rule out any possibility, at any time in the future, of any significant change in the present nuclear position. In particular there seems to be no scope for new arrangements involving, for example, part-ownership or part control of warheads by non-nuclear states even within an alliance. I think we should obtain the opinion of the Law Officers on this issue and consider in the light of their opinion whether a further declaration is required to leave open the option of a change in current nuclear arrangements. In particular we need a firm view as to whether it is possible, at any future time, for us to internationalise further - with specific reference to Europe - our own nuclear weapons.

d. We need to know whether it will be possible for the United States to make any further nuclear weapons available to European countries in the future under the present dual control or similar arrangements.

7. The resolution of these legal and political issues could be vital not only to our own security but also to our future relations with Europe. The Germans and Italians in particular have always had reservations about the acceptance of a Non-Proliferation Treaty which would rule out for ever the option of a European deterrent in any circumstances whatsoever. Given all this background it seems to me essential that we should not only have a clear view of the legal implications but also be sure that our final position is formulated after full consultation with our European partners.

8. I have sent copies of this minute to the Prime Minister, other members of the DOPC and the Attorney General and Sir Burke Trend.

DWH.

31st January, 1968.

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H. O'Neill

H/L

SECRETARY OF STATE

NON PROLIFERATION TREATY

I had a talk with Denis Healey this afternoon and he expressed himself as being concerned as to the consequences of this Treaty on our security, and in particular on the proper working of NATO. He confessed to having no ulterior motive and certainly had no intention of raising difficulties when you were away. It just happened that the meeting was called on that day. He admitted that it would have been better to have had a prior word with us and regrets that he neglected to do so. He is prepared now to accept the opinion of the Law Officers, and I feel was not convinced when I explained to him that it was unlikely that the Law Officers could come down with a clear opinion since so many questions of interpretation were involved. You will have seen the minute which he has circulated, and he agreed that I should circulate a minute in reply and that this would be the basis of the case to be put to the Law Officers. In addition, his Department are preparing a series of questions which they wish to submit and, while I fear that they may be silly, I doubt if we can take objection to their making such submissions. The Department is preparing similar comments for us.

2. It now appears that the D.O.P.C. is to consider this on Tuesday next, 13 February. It is therefore urgent for the Law Officers to give their opinion since it will have to be circulated by me not later than Friday. I propose, therefore, to put our submission to them tomorrow.

3. I attach a draft of the minute I propose to circulate in reply to that of Denis Healey and hope you will agree that I do this tomorrow in view of the time difficulties.

Fred Mulley
 (Fred Mulley)
 5 February, 1968

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Sir B. Peck

c.c. Mr. Day;
 Mr. O'Neill;
 Mr. Freeland;
 Mr. Barnes.



Now included
 in O7D paper
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NON-PROLIFERATIONProblem

The next meeting of the Defence and Oversea Policy Committee on Wednesday, 14 February, will consider once again the questions on Non-Proliferation which were raised at the last meeting. The Law Officers have given their opinion in favour of the view of the Treaty which has always been taken by the Foreign Office. We now need to get the discussions back on course again towards an endorsement of the Treaty draft and agreement that, subject to unexpected developments and minor amendments, we should sign the Treaty when the time comes.

Recommendation

That the Minister of State should circulate a paper to the Defence and Oversea Policy Committee on the lines of the attached draft.

...

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At the last meeting of the Defence and Overseas Policy Committee (OPD(68) 2nd meeting), arising out of the Minister of State's Memorandum to the Committee on Non-Proliferation (OPD(68)6), the Secretary of State for Defence raised the question of the relation of the draft Non-Proliferation Treaty to NATO strategy and to our general European posture. As a result the Committee requested the Minister of State, in consultation with the Defence Secretary, to seek the opinion of the Law Officers on:-

- (i) the compatibility of Articles I and II of the draft Non-Proliferation Treaty with present NATO strategy;
- (ii) how best, by a declaration at the time of signature of the Non-Proliferation Treaty or by other means, we might safeguard ourselves against possible allegations by the Soviet Union that NATO was preparing to breach the Treaty;
- (iii) the effects of Articles I and II in their present form of our right to transfer nuclear weapons to the United States if we wished to do so.

In consequence the Defence Secretary and the Minister of State exchanged minutes, setting out their respective views.

Thereafter the Foreign Office Legal Advisers submitted the relevant papers to the Attorney-General for the opinion of the Law Officers. The first of these papers explained and /commented

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commented on the questions asked by the Defence and Overseas Policy Committee, the second was a short Foreign Office paper on NATO strategy. Annexed to the first paper was a list of Ministry of Defence questions which set out their detailed concerns.

... As a result the Law Officers have today informed us of their opinion (set out in the attached draft OFD paper), which endorses the Minister of State's minute and answers the questions of the Defence and Overseas Policy Committee in a way that is generally favourable to the Foreign Office view. The Ministry of Defence have said that despite this they still want detailed answers to their detailed questions. These the Law Officers have not yet been able to provide, owing to shortness of time. They have, however, promised to provide them, if possible, before the next meeting of the Defence and Overseas Policy Committee. There is no reason to suppose that they will depart from the effect of their general advice. They may, however, say that, of the detailed though hypothetical options set out in the Ministry of Defence's paper, those which are clearly in conflict with the Interpretations given to the Soviet Union would have to be discarded if we signed the Treaty.

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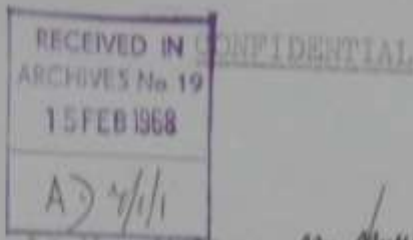
R. C. Hope-Jones

(R. C. Hope-Jones)

8 February, 1968

ATOMIC ENERGY AND DISARMAMENT DEPARTMENT,
FOREIGN OFFICE.

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A.E.D.D. to enter.

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Mr. Smith has

written

see Brief

P.S. to Mr. Mulley

Mr. Mulley.

Non Proliferation Treaty

The Foreign Secretary and Defence Secretary discussed Non Proliferation yesterday. They agreed that we must await the Law Officer's opinion. Mr. Healey said he was most anxious that we should consider now the terms of a public interpretation of the Treaty which/ be made at the time of signature / would and endorsed by NATO. The Foreign Secretary on the other hand thought that this was an issue that we should consider much nearer the time of signing. In any case the Americans had discussed their interpretation with the Russians as had we during the Kossygin visit in February, 1967.

D. J. D. Maitland

(D. J. D. Maitland)

9 February, 1968

C.S.
P.U.S.
Sir E. Peck
A.E. & D.D.

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Secretary of State

I agree with the terms of this draft OPD paper. You will be glad to see that the Attorney-General has effectively answered the Defence Secretary's doubts.

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2. The Ministry of Defence also prepared a detailed list of questions for the Law Officers over and above those mentioned in paragraph 6 of the Defence Secretary's minute of 31 January. This detailed list was forwarded to the Law Officers by our Legal Advisers. I am sure that we would be wise to ensure that the Law Officers provide individual answers to these questions before the Defence and Overseas Policy Committee meets next Wednesday. I have therefore asked the Attorney-General to let me have his replies to these questions first thing on Monday morning. We can then circulate these answers, together with the Ministry of Defence's questions, separately as a further annex to our OPD paper.

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Fred Mulley

(Fred Mulley)
9 February, 1968

Approved by S.D. who will

the paper to be circulated in his name -

J. M. J. M.
R/L

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ANNEX C

To:- SECRETARY OF STATE
FOR DEFENCE

NON-PROLIFERATION TREATY

I have considered the questions raised in your minute of 31st January. I have also seen the minute in reply from the Minister of State for Foreign Affairs. This deals with most of your misgivings and, so far as legal considerations are raised, I agree generally with what he says.

2. As to the specific questions you raise in paragraph 6 of your minute:-

- (a) I consider the present arrangements consistent with Article I of the Treaty as we and the United States interpret it. The Russians have at any rate acquiesced in this interpretation. If it were possible to get it, it would obviously be desirable to have Russian agreement on the record somehow, but it would appear that this will not be possible. We must probably rest on what we have, coupled perhaps with some suitable public declaration of interpretation by us, to be given at a time when it is not likely to prejudice the likelihood of Russian signature or ratification of the Treaty.
- (b) I am not entirely clear about the meaning of this question. So far as it relates to planning, it is answered by paragraph 18 of the Minister of State's minute. But the Treaty (and interpretations) would prevent the making of an arrangement whereby a majority of non-nuclear weapon States could commit nuclear weapons to use before a decision by a nuclear-weapon State to go to war.
- (c) Articles I and II as interpreted do rule out arrangements for part-ownership or part-control of nuclear weapons by non-nuclear States. Paragraphs 13, 14 and 15 of the Minister of State's minute set out the position except that I doubt whether Article X is likely to help in the circumstances stated. A State entering an arrangement for integration could hardly, as I understand it, allege that it was thereby "jeopardising the supreme interests of its country" and justify withdrawal on that ground. But there would be no need to rely on this. A State entering a Federation would not transfer the weapons. It would merge into the new Federation which would acquire them by succession.

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- (d) As the Minister of State says (paragraph 17) the Treaty will not prevent the United States from making new weapons available under the present dual control or similar arrangements.

I am sending a copy of this minute to the Minister of State for Foreign Affairs, who will annex it to the O.P.D. paper for Wednesday's meeting.

F.E.J.

9 February 1968

Law Officers' Department

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12 FEB 1968

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HEAD DEPARTMENT

TO SEE AND ENTER

20 Feb 1968

THIS DOCUMENT IS THE PROPERTY OF HER BRITANNIC MAJESTY'S GOVERNMENT)

OPD(68)11 (Addendum)
12 February, 1968

COPY NO. 7

CABINET

DEFENCE AND OVERSEA POLICY COMMITTEE

NON-PROLIFERATION AND SECURITY ASSURANCES

Memorandum by the Foreign Secretary

In addition to the exchange of minutes attached to the main paper, the Ministry of Defence have prepared a list of questions setting out their detailed concerns in this matter. These questions are attached herewith as Annex D to the main paper, together with a minute from the Attorney General in reply. This relates back to Annex C which has already been circulated.

G.B.

Foreign Office, S.W.1.
12 February, 1968.

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No. 7/A
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ANNEX DTHE DRAFT NON-PROLIFERATION TREATYA. Detailed questions by the Ministry of Defence

1. Could the undertaking "Not to transfer to any recipient whatsoever, nuclear weapons or other nuclear explosive devices in Article I of the Treaty be construed as inconsistent with current NATO strategy whereby US nuclear weapons are held under US custodial arrangements in the territory of European NATO Allies for use under control of other countries when they are released for use on the authority of US CINCEUR through the normal NATO procedures? The Russians might argue that the NATO Allies were overtly preparing to breach the Treaty at the time of signature.
2. Would the present custodial arrangements satisfy the "Control" requirements of Articles I and II?
3. Would Articles I and II still be satisfied if there was any loosening of custody in a period of tensions short of general war, e.g. during a deployment of aircraft with nuclear weapons, which might still be under the care of a Custodial Officer?
4. If in the future we wanted to change the organizational framework within which nuclear weapons are controlled in NATO, could we do this by any form of part ownership or part control by non nuclear Powers in time of peace, or is there no half way house between the present situation and, for example, a fully federated European State which could inherit the nuclear status of one of its component parts? We need a firm view as to whether it is possible, at any future time, for us to internationalize further - with specific reference to Europe - our own nuclear weapons.
5. Are we certain that a Federated State could legally inherit nuclear status in the way described?
6. How far would the Treaty leave us free to incorporate future advances in technology or changes in the intended use of weapons? For example:-
 - (i) Studies are proceeding in the Nuclear Planning Group which may well point to the necessity of instant decision on the use of nuclear weapons being made, perhaps in some cases in relatively remote locations. Would any sharing of the decision to use nuclear weapons or any pre-delegation of authority to use such weapons in circumstances short of a state of war be possible? And how would a state of war be defined? Would it rest on a formal declaration of hostilities?
 - (ii) If a non nuclear State made a financial contribution to the cost of manufacture of nuclear weapons which were then stationed on its territory according to its dispositions and which could not be moved without permission, but in respect of which it did not acquire the right to decide to use them until a state of war existed, would that be permissible under the Treaty?

/7. Would

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ROYAL COURTS OF JUSTICE,

LONDON.

Mr. Mulley has seen.
A.E.D.D. to enter.

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Done 12/11

MINISTER OF STATE FOR FOREIGN AFFAIRS

1. I have now considered the Ministry of Defence's "Questions for the Law Officers", which were annexed to Mr Freeland's letter of the 6th February to Sir William Dale of this Department.
2. My views on Questions 1, 2, 4-7 and 9 are, I think, covered by paragraph 2 of my Minute of the 9th February to the Secretary of State for Defence, of which I sent you a copy. As to Question 3, it is not clear to me what is meant by the phrase "loosening of custody" in this context. So long as control of the nuclear weapons is retained in the hands of the United States, preparations for war, including the deployment of aircraft with nuclear weapons aboard, would not constitute an infringement of Articles I and II. If the "loosening of custody" were to involve the transfer of the weapons or control over them to a non-nuclear State before the decision to go to war had finally been taken, this would amount to a breach of the Treaty.
3. I think that Question 8 is based on a misunderstanding of the "Interpretations". These say that the Treaty (i.e. not the Interpretations themselves) deal with what is prohibited and not with what is permitted. If the question is whether this is a reasonable view of the Treaty, my answer is Yes.
4. I am sending a copy of this Minute to the Secretary of State for Defence.

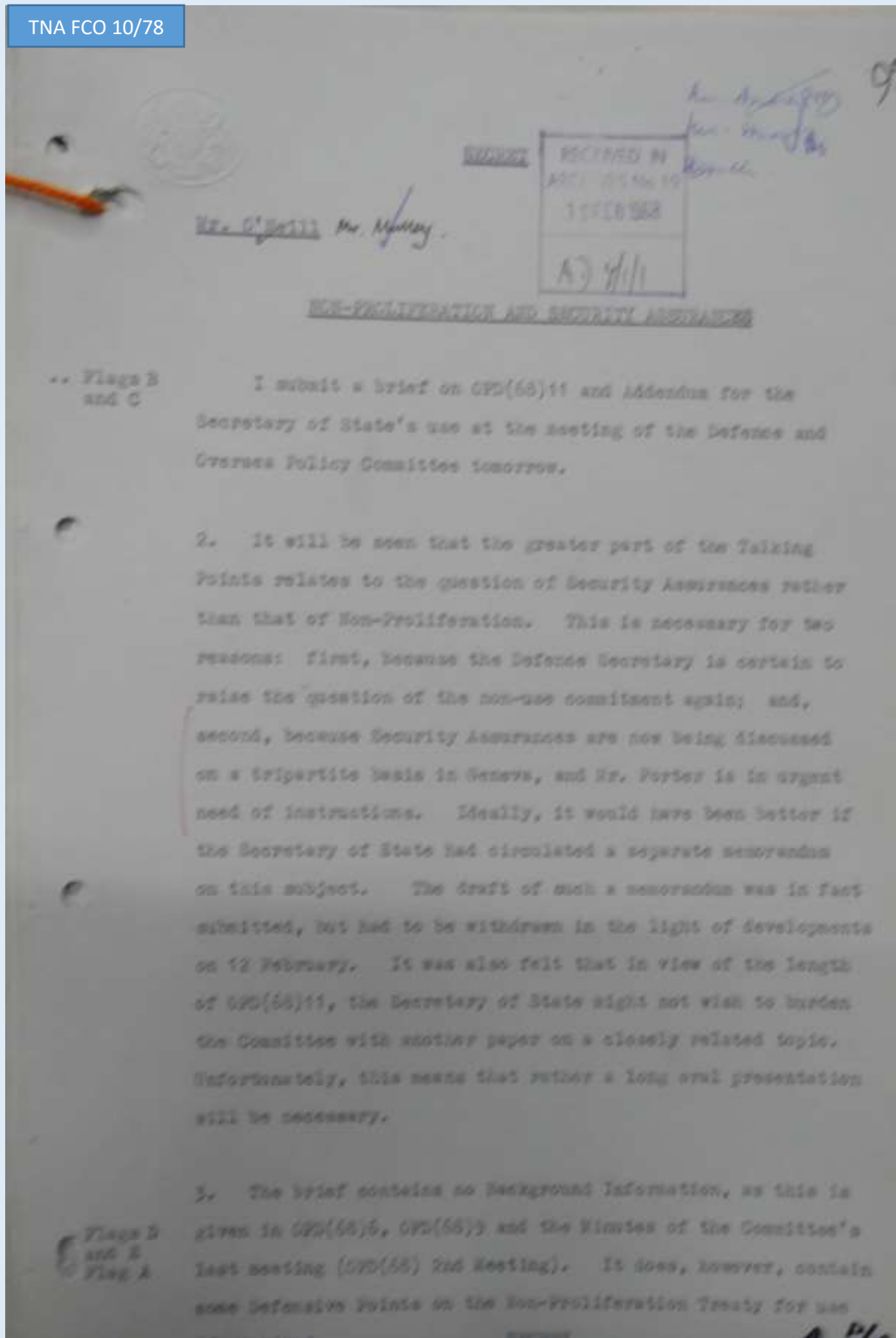
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7.E.J.

12th February, 1968.

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OPD paper 45(96)
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4. Reference may be made at the meeting to the views of the Chiefs of Staff. They have never given any written views on the Non-Proliferation Treaty. Their views on Security Assurances are given in COS 11/68, of which a copy is annexed.

Fly F

R. C. Hope-Jones

(R. C. Hope-Jones)
13 February, 1968.Secretary of State

I asked that the briefing should be done for you although I am invited to attend the meeting also and will be happy to deal with such aspects as you direct.

We should try and get the endorsements set out in the attached Recommendation.

Denis Healey spoke briefly to me in the House today and seemed quite relaxed. His major concern will be with the form and timing of our declaration explaining the Interpretation. It seems to me crucial that you should keep control of this and seek to time it, after signature, so can be agreed with the Americans and our other NATO allies.

c.c. Sir K. Peck;
Mr. Barnes;
Mr. Freeland;
Mr. Day.

Frederick Jones

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DEFENCE AND OVERSEA POLICY COMMITTEE

14 February, 1968

Non-Proliferation and Security Assurances

Problem

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1. The next meeting of the Defence and Oversea Policy Committee on 14 February is to consider once again the questions on non-proliferation which were referred to the Law Officers as the result of the last meeting (OPD(68) 2nd Meeting).
 2. The Law Officers have accepted the Foreign Office view that Articles I and II of the draft Non-Proliferation Treaty, and the Interpretations which have been given to the Soviet Union, are compatible with each other and with NATO strategy.
 3. The need is now to obtain clear Ministerial endorsement of the Non-Proliferation Treaty up to the point of signature.
 4. It is also necessary to apprise Ministers of the latest developments regarding Security Assurances and seek their approval of the line we should follow on this issue.

Recommendation

It is recommended that the Secretary of State should:-

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- (1) introduce his Memorandum OPD(68)11 and seek the Committee's endorsement of recommendations in paragraph 4 of the Memorandum;

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- (ii) bring the Committee up to date on the question of Security Assurances, and seek its approval of the recommendations suggested in paragraph 11 of the Talking Points.

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/ Talking Points

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Mr. O'Neill*Mr. Murray*NON-PROLIFERATION AND SECURITY ASSURANCES.. Flags B
and C

I submit a brief on OPD(68)11 and Addendum for the Secretary of State's use at the meeting of the Defence and Oversea Policy Committee tomorrow.

2. It will be seen that the greater part of the Talking Points relates to the question of Security Assurances rather than that of Non-Proliferation. This is necessary for two reasons: first, because the Defence Secretary is certain to raise the question of the non-use commitment again; and, second, because Security Assurances are now being discussed on a tripartite basis in Geneva, and Mr. Porter is in urgent need of instructions. Ideally, it would have been better if the Secretary of State had circulated a separate memorandum on this subject. The draft of such a memorandum was in fact submitted, but had to be withdrawn in the light of developments on 12 February. It was also felt that in view of the length of OPD(68)11, the Secretary of State might not wish to burden the Committee with another paper on a closely related topic. Unfortunately, this means that rather a long oral presentation will be necessary.

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3. The brief contains no Background Information, as this is given in OPD(68)6, OPD(68)9 and the Minutes of the Committee's last meeting (OPD(68) 2nd Meeting). It does, however, contain some Defensive Points on the Non-Proliferation Treaty for use if required.

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1. At the last meeting of this Committee which discussed OPD(68)6, my Minister of State was asked to refer certain questions to the Law Officers, in consultation with the Defence Secretary. This we have now done, and the results of these consultations are set out in OPD(68)11.
 2. The gist of the Law Officers' advice seems to me to be that Articles I and II of the draft Non-Proliferation Treaty and the Interpretations which we have given to the Soviet Union are compatible with each other and with NATO strategy.
 3. It is also relevant to remember that no NATO Government (leaving aside France) has objected to the substance of these interpretations, and that it was agreed in NATO that they were acceptable as a basis on which the Treaty could be tabled.
 4. To alter our whole policy on non-proliferation at this stage would be politically unthinkable. If NATO accepts that it is protected, then I see no need to contemplate such a reversal.
 5. I therefore think that we should take a decision now on the lines of the recommendations set out in my Memorandum. These do not carry us beyond signature and reserve the right to re-examine the whole question if new developments arise
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affecting our national interest. But at the same time they will permit us to give a clear endorsement of the substance of the present text while preserving flexibility in details.

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6. At its last meeting the Committee had before it two papers: one on non-proliferation and the other on security assurances. These two papers were considered together and, as far as security assurances are concerned, the Committee authorised the Minister of State, as an interim measure, to use his paper as the basis for continuing discussion in the Eighteen-Nation Disarmament Committee.

7. Since this paper was written, there have been several developments. The Russians have given the Americans counter-drafts of both the Security Council resolution and of the declaration in explanation of vote. They have also agreed that we should join in all further discussion of this question; and at the first tripartite meeting on 10 February in Geneva the American representative handed over a revision of their original drafts, designed to meet the Russians half-way. I need not trouble the Committee with the details of these various drafts, except to say that the Russians have accepted the basic United States formula, an undertaking "to provide or support immediate assistance to victims of nuclear aggression". The gap between the American and Russian position is now a narrow one, and I expect it to be bridged without much difficulty.

8. Agreement thus seems close on the wording of the positive assurances. Unfortunately, the same is not true of the non-use

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commitment. The Americans want this to be an undertaking not to use nuclear weapons against non-nuclear states unless these are engaged in an armed attack assisted by a nuclear-weapon state. The Russians have rejected this and put forward a version based on the Kосygin formula, under which the undertaking would be not to use nuclear weapons against non-nuclear states which have no nuclear weapons on their territory. But at the first tripartite meeting the Russians offered to drop their non-use formula, both from the Security Council resolution and from the declaration, if the Americans would drop their formula too.

9. The Committee agreed at its last meeting that if the Russians accepted the American version of the non-use commitment we should do likewise. But there is now virtually no possibility of agreement being reached on this basis; and I have to send instructions to our representative at Geneva on the line he is to take in the new situation at the next tripartite meeting - which will probably be held tomorrow. At the last meeting of the Committee the Defence Secretary said that the non-use commitment seemed likely to present many difficulties for NATO. Admittedly, our NATO Allies have known about the American proposal for the last ten weeks and they have not objected to it. They presumably take it for granted that if a member of the Warsaw Pact launched an armed attack on a member of NATO, the Alliance would always be able to claim, if it wanted to use nuclear weapons to repel the attack, that the aggressor was assisted by a nuclear power, the Soviet Union. Nevertheless, I take his point and have some sympathy with it.

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10. In view of the Defence Secretary's objections to the American proposal, and the urgent need to reach tripartite agreement on this issue, I am prepared to recommend that we should now press the Americans to accept the Russian offer to drop the non-use commitment, both from the Security Council resolution and the accompanying declaration. Nevertheless, we may find them reluctant to drop their proposal completely and unconditionally. When the Russians have put forward the Kossygin formula in the past, for example in the annual "Ban-the-Bomb" debates in the General Assembly, the Americans have always had to go on to the defensive. Though the Russians are prepared not to include their formula in the formal security assurances, they will certainly not drop it altogether - and now that the Americans have an answer to the Kossygin proposal they will want to use it when appropriate. Moreover, we may find that the non-nuclear states insist on the inclusion of a non-use commitment in the security assurances as part of their price for accepting the non-proliferation treaty. If so, one possible solution would be for the Americans and Russians to drop the non-use commitment from the Security Council resolution but to put forward their different versions of the commitment in their declarations. The Americans may want to urge this solution.

11. The Committee will probably not want to take final decisions at this stage to cover every contingency. I therefore invite my colleagues to agree that, as a first step, we should try to persuade the Americans to accept the Russian offer not to

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include any version of the non-use commitment in the security assurances; and if they are unwilling to accept the offer, to insist that they explain the position in the North Atlantic Council and seek the further views of the Allies. I would also ask my colleagues to note that, in the latter event, a further decision would be needed on the line we ourselves should then take in the North Atlantic Council. Such a decision would probably have to be taken at short notice, and in these circumstances I hope the Committee will agree that it could be left to the Prime Minister, the Defence Secretary and myself.

Defensive Points1. The Attitude of NATO Governments to the Interpretations

The Italian Government have recently said that the Interpretations should be reviewed, not because they are dissatisfied with the substance, but because they have pointed out, rightly, that it is no longer true to say that the Treaty deals only with what is prohibited, not with what is permitted. Some permissive Articles, e.g. on civil nuclear exchanges, have been introduced since the Interpretations were drafted. The statement is still, however, true of Articles I and II.

2. Establishing the Interpretations on the Public Record:

(The Defence Secretary has said that he is particularly concerned about this).

The Law Officers have said that the choice of the appropriate moment to make a public statement should be a matter for political decision. NATO have hitherto accepted the Americans' statement that they would put the Interpretations on record as part of the ratification process in the Senate, and there has been no pressure for an earlier statement. There are a number of reasons why we should plan on the same basis as the Americans. One of the most important of these reasons is that we do not

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want to give the Indians, and those who think like them, the chance of saying that we are deliberately creating "loopholes" for NATO. The United Nations resolution which the Indians have adopted as their bible, demands a treaty without "loopholes" and such a slogan would be useful to the opponents of the treaty before the band-waggon in its favour had begun to roll. Possible Soviet counteractions and the need to keep in step with the Americans are valid but lesser reasons for not hurrying into a statement at an unnecessarily early stage. Nevertheless I think we should continue to keep the appropriate moment for a declaration under review, and be prepared to discuss it, as appropriate, with our NATO allies.

3. Flexibility of the Interpretations

I think the Law Officers' opinion makes it clear that NATO arrangements are not frozen by the Interpretations provided that any changes meet the basic requirements of the non-proliferation treaty. Despite all the arguments about particular detailed arrangements, I think these basic requirements are both simple and defensible. As we made clear in our original draft Treaty, proliferation takes place when non-nuclear states either individually

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or collectively acquire the power to use nuclear weapons without the consent of a nuclear weapon state. I think this principle is retained in the present draft, and all existing and proposed arrangements can be measured against this standard.

4. Safeguards

NATO have accepted the safeguards Article that is now on the table as the best of the possible alternatives, and the Euratom countries have agreed that it leaves the way open for their main objective, which is I.A.E.A. verification of Euratom safeguards. It will be necessary at some stage to make this plain by way of a public statement, which might well be coordinated with our general statement of interpretations. We have already gone some way towards this in Mr. Mulley's statement to the Geneva Conference, on which the Italians commented that we had gone as far as we could without rocking the boat.

5. Further Changes

The Swedes have already proposed minor changes to the text which the Americans are in favour of accepting. These do not affect either the fundamental objectives of the treaty or Articles I and II and III (the safeguards Article) which the Americans have said are "graven in stone".

/6. The Way Ahead

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The discussions in the Geneva Conference must be wound up by 15 March by which time a complete report has to be submitted to the General Assembly in accordance with the resolution of the United Nations. The co-chairmen are working for a consensus in favour of the Treaty which would permit the Treaty to be opened for signature in the course of the resumed Session of the General Assembly in the spring.

Atomic Energy and Disarmament Department,
Foreign Office.

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COPY NO. 7

CABINET

Memorandum by the Foreign Secretary

- (i) the compatibility of Articles I and II of the draft non-proliferation treaty with present NATO strategy;
- (ii) how best, by a declaration at the time of signature of the non-proliferation treaty or by other means, we might safeguard ourselves against possible allegations by the Soviet Union that NATO was preparing to breach the treaty;
- (iii) the effects of Articles I and II in their present form on our right to transfer nuclear weapons to the United States if we wished to do so.

/of 6 February

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of 6 February to the Defence Secretary (Annex B). In relation to the questions posed by the Defence and Overseas Policy Committee, therefore, the Law Officers have expressed the following views:-

- (i) They consider that Articles I and II of the Non-Proliferation Treaty, taken together with the written Interpretations which have been given to the Soviet Union, are compatible with and accommodate present NATO strategy;
- (ii) They concede that, while the ideal course would be to achieve public Soviet approval of these Interpretations, this appears to be out of the question. A public declaration of these Interpretations by ourselves would therefore be the next best course. The occasion and the timing of such a declaration are matters for political judgment; but it would obviously be desirable to do this at a time which would not prejudice the chances of Soviet signature and ratification of the Treaty.
- (iii) They consider that the Non-Proliferation Treaty, as at present drafted, would prohibit the United Kingdom from transferring its nuclear weapons to the United States. It would not, however, prohibit the transfer of nuclear delivery vehicles, or any assistance by the United Kingdom to a nuclear weapon state, including the transfer of fissionable material taken from nuclear weapons, which fell short of the transfer of nuclear weapons or nuclear explosive devices as such.

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3. The Attorney-General has also prepared answers to the four points raised in paragraph 6 of the Defence Secretary's minute of 31 January (Annex A). These are attached as Annex C.

4. In the light of the Law Officers' advice, I invite the Defence and Overseas Policy Committee to agree:-

- (i) that Her Majesty's Government should endorse the draft Non-Proliferation Treaty tabled at Geneva on 16 January by the United States and Soviet co-chairmen and described in OPH(58)6;
- (ii) that we should continue our present efforts to secure the agreement of our NATO allies, of the Eighteen-Nation Disarmament Committee and of the United Nations, to a Non-Proliferation Treaty based on this text;
- (iii) that we should be free to propose or support minor amendments designed to clarify the text, to protect United Kingdom interests, or to win additional support for the Treaty, particularly from our NATO allies, without further reference to Ministers;
- (iv) that, subject to the above, the United Kingdom should sign the Treaty when it is opened for signature, unless important developments, which affect our national interest, intervene to make this undesirable; and
- (v) that we should, in accordance with the Law Officers' advice, at an appropriate moment make public our interpretations of the meaning of the Treaty.

G.B.

Foreign Office, S.W.1.
12 February, 1968.

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then
S. 45.

Lord Hood

Non-Proliferation

... As requested, I submit a paper on the Non-Proliferation Treaty for the information of the Secretary of State.

R. C. Hope-Jones

(R. C. Hope-Jones)
19 March, 1968

I suggest this might be
included in SW's book and reading

H. O'Neill
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. L. O'Neill
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c.c. Mr. O'Neill.

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CONFIDENTIALNON-PROLIFERATION: THE PRESENT POSITION

Flag A The Eighteen Nation Disarmament Committee ended its latest session on 15 March and submitted its Report on the Non-Proliferation Treaty Negotiations by that date, as called for in the United Nations General Assembly Resolution of last December. The text of the Treaty is contained in Annex A of the Report. On previous occasions the United States and Soviet co-Chairmen tabled separate but identical texts. This time they tabled a single text, but the Soviet delegate was still unwilling that the text should be placed in the body of the Report above the co-Chairmen's signatures, since that would have implied a joint draft Treaty. The views of the various governments on the Treaty were included in other annexes to the Report. Their comments are so numerous and diverse that they tend to cancel each other out and are unlikely to have much effect on the existing draft.

2. The text of the Treaty does not differ substantially from that tabled at the beginning of the last session on 18 January. The amendments accepted by the co-Chairmen are based on proposals put forward by the Swedish and United Kingdom delegates. Our representative at Geneva made a statement on 13 March expressing our general satisfaction with the present form of the Treaty.

3. The negotiations for an acceptable text of Article III on safeguards were the main difficulty throughout last year, and the compromise reached was not fully satisfactory to our European allies. Nevertheless, while still expressing reservations on the safeguards provisions and on some other aspects

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of the Treaty, it seems that our European allies, now that the text is on the table, are prepared to go along with it. This is probably true even of the Italians, whose criticisms have been the most persistent in recent weeks, and who may still propose further amendments at the General Assembly.

4. The major opposition to the Treaty has come from India. However, the latest speech of the Indian delegate at Geneva showed that the Indian Government have not yet taken a final decision and the prospects for Indian signature have improved over the past fortnight. The Brazilian delegate has continued to press for amendments that would allow non-nuclear states to carry out peaceful nuclear explosions, though it is generally recognised that this would make nonsense of the whole Treaty. Rumanian opposition to the Treaty has hardened noticeably of late, and it will be interesting to see how the Russians deal with this.

5. The three nuclear powers taking part in the disarmament negotiations have for some time recognised that there is a real need to give the non-nuclear countries that are parties to the Non-Proliferation Treaty some reassurance of their security, in return for their renunciation of the option of having their own nuclear weapons. Agreed proposals for these security assurances were presented to the Eighteen Nation Disarmament Committee by the United States, the Soviet Union and the United Kingdom on 7 March. They recommended that a solution should be found in the framework of the United Nations and not under the provisions of the Non-Proliferation Treaty itself.

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Their proposals took the form of a draft Security Council resolution (text attached) which is to be supported by identical declarations. Only the parties to the Non-Proliferation Treaty would benefit from the assurances, under which the three nuclear powers would state their intention to "provide or support immediate assistance, in accordance with the Charter" to any non-nuclear weapon state, party to the Non-Proliferation Treaty, that is subjected to an act or threat of aggression in which nuclear weapons are used; action through the Security Council is envisaged in such an event. The Americans and the Russians have given the Eighteen Nation Disarmament Committee an account of the declarations they have in mind (although this was not stated, these would in fact be identical). We said simply that our declaration would be on similar lines. Recommendations on this question will be made in due course to Ministers. It will almost certainly be recommended that our declaration be identical with those of the Americans and Russians.

6. The next step is for the Report with the draft Treaty to be considered by the resumed session of the United Nations General Assembly. This will probably be convened during the latter half of April. We had thought of 24 April as a possible date, but the new Russian representative in New York has suggested that an earlier date of 16 April might be more suitable. In our view at least four weeks will be needed for consideration of the Treaty text by the delegations there: however, the Russians seem to be thinking in terms of a shorter period. Their natural instinct is to steam-roller the Treaty through without much reference to non-nuclear views. When the Prime

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Minister last went to Moscow we included talking points in his brief suggesting that this would be tactically unwise, but in the event the handling of the debate in the General Assembly was apparently not discussed during the visit.

8. There are two dangers threatening the Non-Proliferation Treaty. The first arises from "the nuclear propulsion reactor loophole". It is our view that the Treaty leaves open the option for non-nuclear weapon states to acquire naval nuclear propulsion reactors and the associated fuel, which would not be banned as "nuclear weapons or other nuclear explosive devices" under Articles I and II nor safeguarded as "for peaceful purposes" under Article III. This loophole (which would become much more serious if technical developments made it possible for most industrialised countries to enrich their own uranium) was created by the Americans, and they have frequently confirmed to us that it was deliberate, in order to make the Treaty more acceptable to the Italians and other European states. ~~We have never known whether the Russians were aware of this loophole.~~ The Americans appear not to have drawn the Russians' attention to this loophole, and, surprising as it may seem, the Russians seem not to have noticed it for themselves. In fact, it would probably not have come into the open but for an article which appeared in a Los Angeles newspaper, thus putting journalists on the trail. Once this had happened it was necessary for the Americans and ourselves to confirm our interpretation of the Treaty on the record. We now await the Russian reaction. If they insist on amending the Treaty in order to close the /loophole

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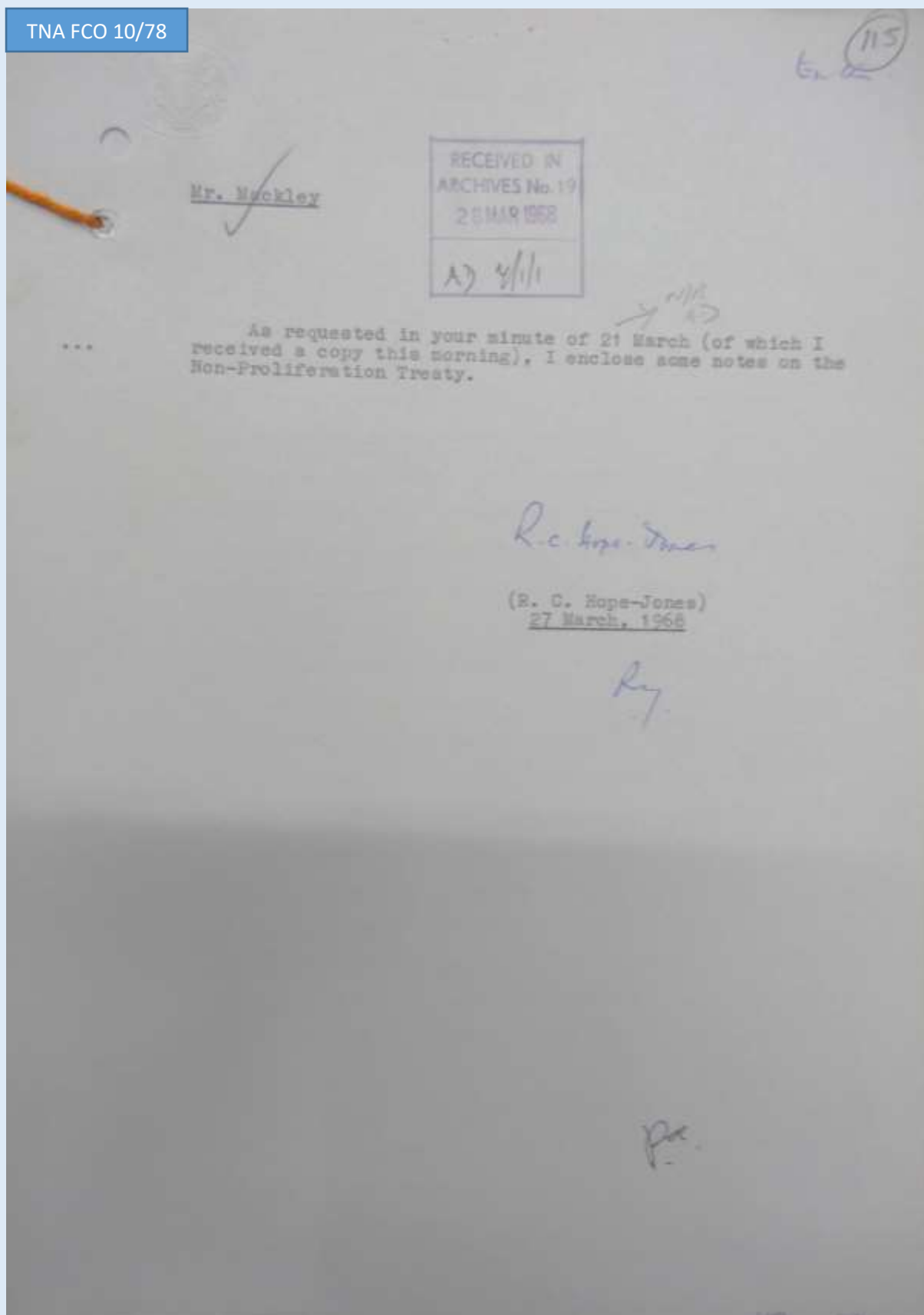
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loophole we shall be in real difficulty, as this could lead to a revolt against the Treaty by non-nuclear European countries who have been led to believe that propulsion reactors for military purposes would be permitted.

9. The second danger arises from the proposed conference of non-nuclear states on the Non-Proliferation Treaty. This was originally suggested by Pakistan, to be held last year. We were able to vote for it in the 1966 General Assembly, when the conference was put off until the Spring of this year, because we expected that by then the issue of the Non-Proliferation Treaty would have been decided one way or the other. However, when the tabling of the complete Treaty text was delayed last year by the negotiations on Article III, the date proposed for the conference of non-nuclear states was put back to August of this year. It was our hope that if progress was made on the Non-Proliferation Treaty, then the non-nuclear conference would be dropped, as serving no purpose. However, there are signs that certain states may be tempted to urge that a decision on the Treaty be postponed until after the conference has taken place. This would mean that the Treaty could not be finally approved until the Autumn session of the General Assembly. In our view, which is shared by the United States and the Soviet Union, it is of vital importance to maintain the momentum of recent months and carry the Treaty through to its final adoption this Spring. But excessive pressure from the nuclear powers to achieve this might rally the non-nuclears in support of further delay. We shall therefore have to give very careful thought to the tactics to be employed at this session of the General Assembly.

ATOMIC ENERGY AND DISARMAMENT DEPARTMENT,
FOREIGN OFFICE.
19 March, 1968.

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 SIGN BY *h. h. [illegible]*
 SECRETARY OF
 STATE

NATO AND THE NON-PROLIFERATION TREATY

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At its meeting on 14 February the Defence and Overseas Policy Committee agreed that at any appropriate moment we should make public our interpretation that Articles I and II of the Non-Proliferation Treaty were compatible with the present strategy of NATO, and invited the Foreign Secretary, in consultation with the Defence Secretary and the Law Officers, to keep under review the timing and form of this public declaration.

2. At the meeting, the Minister of Defence suggested that there might be advantage in discussing the form and timing of the declaration in the Nuclear Planning Group of NATO at its meeting in April. The Foreign Secretary sent a minute to the Minister of Defence on the 23rd of February, saying that, having considered this suggestion, he thought that this course would be mistaken, for the following reasons:-

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- (a) the Americans would not be willing to make up their minds about the timing of a declaration or even to discuss it usefully until they saw how the debate was going in the General Assembly (and this they would not know in April);
- (b) a discussion might give rise to some doubts about the Treaty among some members of the Nuclear Planning Group; news of any disagreement might affect the progress of Treaty negotiations;
- (c) the North Atlantic Council would be the right organ of NATO to consider the Treaty.

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3. In his minute of 6 March, the Minister of Defence accepted the Foreign Secretary's suggestion that we should first exchange views with the Americans and then initiate a discussion in the Council, but considered that it would not be possible to avoid a discussion on the substance of the Treaty as it affected the Nuclear Planning Group if it were raised; but if the Foreign Secretary thought otherwise suggested that he should at least intervene at an early stage to guide the discussion to the more technical aspects of the Treaty.

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4. In his minute of 22 March, the Secretary of State replied that neither we nor the Americans had reason to believe that the Treaty would be raised and expressed the hope that, if it were raised, the Minister of State for Defence would take the line that all members of NATO had accepted that collective nuclear planning in the Alliance would not be affected by the Treaty and that there was consequently nothing to discuss.

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5. The Minister of Defence, in his minute of 25 March, has accepted that this question may not be raised at the Nuclear Planning Group, but has pointed out that there is great interest in East European circles in the possible effects the Non-Proliferation Treaty may have on defence policies. As evidence of this he has adduced the attached extract from a monitoring report of 6 March, 1968. There are two passages in this Prague broadcast to which he may draw attention:-

- (a) The broadcast refers to the difference between the Soviet and the Rumanian attitude towards Article I of the Treaty, the "clause on guarantees that non-nuclear

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States will have no access to nuclear weapons of the forces of a great power which are on their territory". The background to this is that on 8 March the Rumanian Delegation to the E.N.D.C. tabled an amendment to Article III of the Treaty, proposing a further paragraph worded as follows:-

"The States party to the Treaty agree to establish through the Security Council an appropriate control to ensure that non-nuclear weapon States party to the Treaty on whose territory there are foreign military bases shall not acquire in any form whatsoever access to nuclear weapons indirectly through such bases."

If this amendment were adopted, it would of course be of major concern to NATO. But as all members of NATO know, the proposal is completely unrealistic and is opposed by the Soviet Union and the members of the Warsaw Pact other than Rumania. It is best ignored.

- (b) The broadcast also refers to alleged "changes which Soviet military doctrine have undergone", in the sense that the "creators of the Soviet strategic concept today no longer regard it as necessary to reply to an attack on one of the Socialist countries with a nuclear strike". We know nothing of any change in Soviet military doctrine, but if there has been change and this report reflects its tenor, then this is welcome evidence that Soviet strategy is adopting the NATO doctrine of the flexible response, and now accepts the possibility of a localised military engagement on the frontier in which the West used tactical nuclear weapons, without this leading to a thermo-nuclear holocaust. There can be no objection to the Nuclear Planning Group

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considering the implications of such a development in Soviet strategic thinking, but it has nothing whatever to do with the Non-Proliferation Treaty.

6. It is recommended that in speaking to the Minister of Defence the Secretary of State should make the following points:-

- (i) The Russians have tacitly accepted the U.S./NATO interpretations of Articles I and II of the Treaty, according to which:-
 - (a) present NATO arrangements do not involve any transfer in the control of nuclear weapons, and
 - (b) nuclear planning, as conducted by the Nuclear Planning Group, is permitted.
- (ii) This being so, the conclusion of the Non-Proliferation Treaty will have no effect on the work of the Nuclear Planning Group, and there is no aspect of the Treaty that the Nuclear Planning Group can profitably discuss.
- (iii) In so far as discussion of the Non-Proliferation Treaty might cause doubts to be raised about Articles I and II of the Treaty, which are now immutable, it is positively undesirable.
- (iv) If, in spite of the above, a discussion of the Non-Proliferation Treaty is initiated in the Nuclear Planning Group, our objective should be to kill the discussion as quickly as possible.

ATOMIC ENERGY AND DISARMAMENT DEPARTMENT,
FOREIGN OFFICE.
26 March, 1968.

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ATOMIC ENERGY AND
DISARMAMENT (GENERAL)

17 April, 1968

Section 1

COPY
REPLICATIONEIGHTEEN-NATION DISARMAMENT COMMITTEE, 18 JANUARY-
14 MARCH, 1968: NON-PROLIFERATION TREATY

Mr. Porter to Mr. Stewart. (Received 17 April)

SUMMARY

1. The ENDC met from the 18th of January to the 14th of March, on which date they transmitted a draft Non-Proliferation Treaty to the United Nations. The Co-Chairmen tabled revised texts on the 18th of January and the 11th of March. (Paragraphs 1-2.)

2. The Rumanians were highly critical of the text, the Germans and Italians less so. The extreme non-aligned positions were maintained. Amendments proposed by the Swedes and the United Kingdom were incorporated in the text of the 11th of March. (Paragraphs 3-5.)

3. The Co-Chairmen rejected all other amendments, including one of particular interest to the United Kingdom. (Paragraph 6.)

4. On the 7th of March the Americans, Russians and ourselves tabled a draft Security Council Resolution on security assurances and indicated the type of supporting Declarations we were prepared to give. We had agreed tripartitely not to include a non-use formula, though this might be revived at the General Assembly. (Paragraphs 7-8.)

5. The resumed session of the General Assembly will debate the Treaty from the 24th of April. There will be opposition but prospects of a successful outcome are reasonably good. (Paragraph 9.)

UKDEL to the 18-Nation
Disarmament Committee.
(Confidential) Geneva,
Sir, 10 April, 1968.

I have the honour to report that the Conference of the 18-Nation Disarmament Committee (ENDC) met from the 18th of January to the 14th of March, on which date they transmitted a draft Non-Proliferation Treaty to the United Nations. The text is annexed to this despatch.

2. The position at the beginning of the Christmas recess was described in my despatch of the 17th of January. At the end of the recess the Russians agreed to

a package which enabled the Co-Chairmen to table a complete draft Treaty text on the first day of the new session. This included for the first time the controversial Article III on safeguards, together with three new Articles based on Mexican amendments, two of which strengthened the obligations of nuclear weapon towards non-nuclear weapon parties in the field of civil nuclear energy while the third recognised the right of parties to establish regional nuclear-free zones. An important additional Russian concession was acceptance of the idea of permissive amendments to the Treaty and of limited duration. The General Assembly's request

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for a full report by the 15th of March gave the proceedings a sense of urgency. All delegations, except the Burmese, commented on the draft though less than half took up a definitive position. The Co-Chairmen tabled a further revised draft text on the 11th of March and this text, annexed to the ENDC's report, was sent to the United Nations three days later.

3. Of the *enfants terribles* of the two alliances, the Rumanian this session was by far the most active. Early in the debate he asked a series of loaded questions which were later quite effectively answered by the United States Co-Chairman. The Rumanians refused to come into line at the Warsaw Pact meeting in Sofia of the 6th and 7th of March and in the ENDC, just before the final draft text was tabled on the 11th of March, they proposed a number of amendments, one of which revived in a different form the problem of the control of nuclear weapons within alliances. On the other hand the principal Western critics of the Treaty, the Germans outside and the Italians inside the ENDC, expressed their misgivings in a lower key. The Germans seemed to accept the tabled text of Article III as the best they would get. They re-stated their position in a moderately-worded memorandum of the 8th of March, which avoided committing the Federal Government on adherence to the Treaty and was probably designed mainly for domestic consumption.

4. Once Article III had been tabled it was, like Articles I and II before it, treated by the majority of the committee as too delicately balanced between text and tacit interpretation to be susceptible of amendment. This situation may however be difficult to hold in the General Assembly in view of the Press publicity given on the last day of the ENDC session to the fact that under the Treaty unsafeguarded enriched nuclear material could be transferred to non-nuclear weapon States for use in nuclear marine propulsion reactors.

5. Be this as it may, during this session interest swung away from Article III. The familiar extreme non-aligned positions were maintained. The Brazilian did not budge on peaceful explosions: the Indian supported him and repeated, though with rather less personal vehemence than his predecessor, his Government's objection to a Treaty which left unchecked the production of nuclear weapons by nuclear

Powers—"vertical proliferation". However, as was the case in the previous session, only the views of the more moderate non-aligned elements, this time reflected by the Swedish instead of the Mexican delegation, were finally accepted. On the 8th of February the Swedes tabled amendments which provided for a Review Conference every five years if desired by the majority of the parties to the Treaty, for a firmer undertaking to pursue the negotiation of further measures of disarmament and for reference in the preamble to a comprehensive test ban. Her Majesty's Government have long maintained that a Non-Proliferation Treaty would not last unless followed within a reasonable time by at least a cessation of the nuclear arms race. We therefore supported the Swedish amendments, re-tabled our own amendment empowering the Review Conference to examine the fulfilment of the purposes of the preamble and these, the only amendments accepted, were incorporated in the revised text of the 11th of March. The other main object of our policy in the ENDC—support of the European position—has also met with some success during the session; details were given in my telegram No. 6 Saving of the 28th March.

6. Among the rejected amendments was one to Article V which would have extended to nuclear weapon parties, including the United Kingdom, the benefits of peaceful explosions at low cost. Unfortunately this formed part of a package of amendments tabled by the Swedes on the 13th of February which was unacceptable to the Co-Chairmen for reasons quite unconnected with the point mentioned above. We are therefore pursuing the matter with the Americans outside the Treaty context.

7. The ENDC's report to the United Nations included, as an annex, the draft Security Council Resolution on security assurances which had been tabled in the Committee by the Soviet, United Kingdom and United States delegations on the 7th of March. On that occasion they had also indicated the supporting Declarations which their Governments were prepared to make at the time the Resolution was adopted by the Security Council. The three delegations had tried at their tripartite meetings to remove discrepancies between the draft Declarations, for the force of these undoubtedly lies not so much in their content as in the fact that the three nuclear

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Powers, and particularly the United States and the Soviet Union, are for the first time willing to offer a security guarantee jointly.

8. The Americans had proposed to the Russians and ourselves that the nuclear Powers should undertake not to use nuclear weapons against any non-nuclear party not engaged in an armed attack assisted by a nuclear Power. The Russians had already proposed a non-use formula in the ENDC, unacceptable to the West, which excluded from the guarantee countries with nuclear weapons on their territory, and they made it clear at the tripartite meetings that they could accept no formula which did not make this distinction. It was therefore agreed to drop any reference to non-use from the draft Resolution and Declarations. If pressed for their views on non-use at the forthcoming session of the General Assembly the Americans and Russians will no doubt be tempted to disclose the guarantee they were each prepared to give and this could reopen the question.

9. The resumed session of the General Assembly will now debate the draft Treaty from the 24th of April. Attempts will almost certainly be made to amend it further and, probably, to delay its opening for signature until after the Conference of Non-Nuclear States in August/September. It seems likely, however, that this measure of arms control by non-nuclear weapon States which would open the way to measures of arms control by nuclear weapon States, including the two great Powers, will finally be commended by a large majority of nations.

I am sending copies of this despatch to Her Majesty's Permanent Representatives to the United Nations, to NATO and to the European Communities at Brussels; to Her Majesty's Ambassadors at Addis Ababa, Bonn, Brussels, Bucharest, Cairo, The Hague, Mexico City, Moscow, Paris, Prague, Rangoon, Rio de Janeiro, Rome, Sofia, Stockholm, Tokyo, Vienna, Warsaw and Washington; and to the British High Commissioners in Canberra, Lagos, New Delhi and Ottawa.

I have, &c.

I. F. PORTER.

Text of Treaty on the Non-Proliferation of Nuclear Weapons

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 co-operate 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 this Treaty are entitled to participate in the fullest possible exchange of scientific information for, and to contribute alone or in co-operation 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,

Urging the co-operation of all States in the attainment of this objective,

Recalling the determination expressed by the Parties to the Partial Test Ban Treaty

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FOREIGN OFFICE,
S.W.1.

23 April, 1968.

Article III

You will recall that we agreed with Mr. Mulley that safeguards should not be dealt with in his initial speech, but that we would provide a draft for use on some subsequent occasion, possibly in answer to criticisms of the allegedly favourable treatment envisaged for Euratom.

- ... 2. For this I have taken a slightly modified version of the paragraph which we proposed in January (and which you rightly thought at that time might be too specific and so counter-productive), together with a new introductory paragraph. I think it suitable for present circumstances. It makes, perhaps more forcefully, the points in Fisher's speech of 18 January on the right of Euratom to negotiate, and the verification of Euratom safeguards. It seems to us that at this stage explicit references to Euratom are preferable to general mention of regional systems, since the latter might be held to imply that we are prepared to accept the establishment of other such systems. In addition, I consider that something on the lines of this wording should satisfy fully our commitment given to the Germans in NATO to uphold the Euratom interpretation.
3. These two paragraphs do not of course cover all the issues raised by Article III, such as the military uses loophole; and you will presumably want to add a piece about our own safeguards offer.

(R. C. Hope-Jones)

Jim D

I. F. S. Porter, Esq., C.M.G., O.B.E.,
UKDIS,
c/o UKMIS, NEW YORK.

The Safeguards Article finally included in the draft Treaty is the fruit of many months' discussion, and is of the greatest importance. If States are to become parties to the Treaty and surrender the right to acquire nuclear weapons, they must be assured that other States are going to fulfil their obligations as scrupulously as they intend to fulfil them themselves. The application of international safeguards, as envisaged in Article III, will secure this, and by eliminating possible areas of suspicion and mistrust it will strengthen the whole Treaty and enhance its stability. Moreover, we can expect the increased mutual trust thus engendered to be reflected in the progressive elimination of the restraints that have sometimes tended in the past to limit technical cooperation, so that Article III will make a positive contribution to the fulfilment of the objectives embodied in Article IV. But this will only happen if all States have complete confidence in the effectiveness of the safeguards that are applied. The provisions contained in the Article place squarely on the I.A.E.A. the responsibility for ensuring that no diversion of fissile material is taking place. This should inspire equal confidence in all parties to the Treaty that all the other parties are fulfilling its obligations.

One important feature of the draft from the point of view of the U.K., as a potential member of Euratom, is that it will permit Euratom, as a body, to negotiate with the I.A.E.A. for the conclusion of the necessary Safeguards Agreement. The nature of and content of the agreements to be negotiated between the I.A.E.A. and the parties to the Treaty will inevitably

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vary according to the particular circumstances and requirements of the countries concerned. It is not for the U.K. or any other individual country to try to dictate what the content of these agreements shall be. It is for the Board of Governors of the I.A.E.A. and the countries concerned to decide this in every case within the framework laid down in the Treaty. But in the particular case of Euratom, we believe that the text will permit an agreement which provides for the verification of the Euratom Safeguards System by the I.A.E.A. This is a matter as much of good sense as of politics. The Euratom Safeguards System is a total system which already penetrates into every corner of the peaceful nuclear activities of the European community. Its inspectors have been associated with the community's civil nuclear activities from the start. It is only sensible to make use of this system now, rather than to discard the knowledge and experience already gained and begin again. What the manner of this verification will be must again depend on the agreement, but it is clear that the I.A.E.A. must be permitted to take appropriate measures, on a continuing basis, to satisfy itself that Euratom safeguards are fully effective.

ATOMIC ENERGY AND DISARMAMENT DEPARTMENT,
FOREIGN OFFICE.

23 April, 1968.