SELECTED KEY DOCUMENTS FROM UK STATE PAPERS ON THE NEGOTIATION OF THE NUCLEAR NON-PROLIFERATION TREATY: 1968

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CABINET

COMMITTEE ON SAFEGUARDS FOR NUCLEAR MATERIALS

MINUTES of a Meeting held in Conference Room 'C', Cabinet Office, S.W.1., on TUESDAY, 2nd JANUARY 1968 at 2.30 p.m.

PRESENT:

Mr. E.F. Nowley,
Atomic Energy Authority
(In the Chair)

Mr. R.C. Hope-Jones,
Foreign Office

Dr. R. Press,
Cabinet Office

THE FOLLOWING WERE ALSO PRESENT:

Mr. R. McC. Andrew,
Foreign Office

Mr. G. Hall,
Foreign Office

Dr. F.H. Panton,
Ministry of Defence

Mr. W.R. Loader,
Ministry of Power

Mr. J. McAdam Clark,
Ministry of Technology

Mr. J.L. Croome,
Atomic Energy Authority

SECRETARIAT:

Mr. G. Hornby
Mr. K.W.N. George

C O N T E N T S:

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2. SAFEGUARDS NEGOTIATIONS

MR. HOPE-JONES outlined recent progress towards a Non-Proliferation Treaty (NPT). The ENDC had finished its last session in the middle of December after making a brief report to the General Assembly. A number of amendments to the draft Treaty of 24th August had been agreed between the United States and the Soviet Union but these had not been tabled in the absence of an agreed Article III. This contentious Article had meanwhile been discussed at length in NATO and bilaterally outside it. At one stage the Soviet delegation had wanted to alter the wording to make it clear that what was to be negotiated in accordance with the statutes of the IAEA was the means to implement the agreement (i.e. the safeguards) and not the agreement itself, but the Soviet Government had rejected this initiative. It was disturbing that the Belgians and other members of EURATOM now sought to interpret the United States draft of 2nd November 1967 to mean that safeguards need not necessarily be in accordance with IAEA statutes and hence that EURATOM safeguards would do. Thus the Germans wanted to say that each non-nuclear state undertook to "have" safeguards rather than to accept them. It was of course extremely unlikely that the USSR would accept, without relation to the IAEA, the safeguards which EURATOM already had. It was against this background that the United Kingdom had proposed that each non-nuclear state should undertake to accept IAEA safeguards as set forth in an agreement to be concluded with the IAEA. The present time-table meant in effect that an agreed text for a draft treaty must be ready by mid-March and everything must be done to bring European opinion into line before then. The United Kingdom now had an opportunity to further the chances of this happening since the Director General of the IAEA had agreed to see a representative of the West German Government (State Secretary Lahr) and had sought the United Kingdom's views and advice. The Foreign Office had therefore prepared some draft notes (tabled at the meeting) for the Committee's consideration of what this advice should be.

In discussion the following main points were made -

(a) Since a satisfactory NPT was a declared aim of Government policy, the Foreign Office were right to assume that the United Kingdom should agree to advise the Director General as he had asked because the German attitude represented the principal obstacle to a satisfactory Article III, which was in turn the main obstacle to a satisfactory NPT.

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(b) While it was true that no effective safeguards system could maintain its essential credibility without involving some inspection of facilities as well as of materials, this point could easily be wrongly presented. What needed emphasis was that safeguards should be explicitly limited to preventing the diversion of materials and that any inspection of facilities in EURATOM countries by the IAEA should be limited to what was strictly necessary to achieve that object.

(c) Any advice to the Director General should be kept in line with what the United Kingdom had already told the Germans and should seek to avoid two particular dangers: the risk of the Director General giving the Germans any commitment that their facilities would be free of IAEA inspection and the risk that the Director General might inadvertently leave the Germans with the fear that they would stand at a competitive disadvantage with the United States and ourselves when it came to commercial exploitation.

THE CHAIRMAN, summing up, said that the draft notes tabled by the Foreign Office, provided a general background for discussion with the Director General but needed some modification in the light of points made in discussion. Their wording was not precise enough to avoid the possibility of misinterpretation and they should not be handed over to the Director General or copied to the Germans. Much the best course would be for the Foreign Office to ask Mr. Hope-Jones himself to speak to the Director General on the general lines set out in his notes but taking account of the points made in discussion.

The Committee -

Invited the Foreign Office to be guided by the Chairman's summing up in the way taken to advise the Director General of the IAEA.

Cabinet Office, S.W.1

4th January 1968

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11 January, 1968

COPY NO. _____

PRIME MINISTER'S VISIT TO MOSCOW

JANUARY, 1968

DISARMAMENT

(a) NON-PROLIFERATION

Brief by the Foreign Office

Full Brief

The negotiations for a Non-Proliferation Treaty entered a new phase on 24 August, when the United States and Soviet co-Chairmen of the Eighteen Nation Disarmament Committee tabled a draft text(Annex A),complete except for Article III(the Safeguards Article) which was left blank. They hoped that within a few weeks they would be able to fill this blank and that in the meantime the rest of the draft would be examined in the E.N.D.C. and provisional agreement reached on a final version, so that by the time a text of Article III was finally tabled there would be little left to do.

2. These hopes have not been realised. Though the E.N.D.C. met regularly, little real progress was made, and the draft text came in for a great deal of criticism, some of it constructive and some unconstructive. Constructive criticism, for example, came from the Mexican representative, who proposed, with a view to meeting the wide demand for a treaty that provided for a balance of obligations between the nuclear and non-nuclear

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powers, that some of the pious aspirations in the preamble should be transformed into positive commitments in the body of the treaty. In particular, he proposed that the nuclear powers should undertake definite obligations to press ahead with meaningful discussion of genuine disarmament measures and to ensure that the non-nuclear powers are not deprived of the potential benefits of peaceful nuclear explosions by their renunciation of the right to conduct such explosions themselves. Though the exact wording may still cause difficulty, the idea behind such proposals is sensible enough. In all this we have played a positive part, both by giving constructive support to the Mexican proposals, and by suggesting that the scope of the Review Conference should be extended to include the purpose of the preamble as well as the provision of the treaty.

3. The Americans and Russians were for the most part content to sit back and listen to the debate. It was not easy for them to reach an agreed text and now that they have done so they do not want to tinker with it more than is absolutely necessary. However, agreement on a certain number of amendments has been reached between the Russian and American co-Chairmen (Annex B). These have not yet been tabled, as the Russians wish to postpone this until the co-Chairmen can table a complete text, including Article III.

The Problem of Article III on Safeguards

4. The crucial problem is that of the relationship to be established between the I.A.E.A. and Euratom which has its own safeguards system. The five members of Euratom who intend to participate in the Non-Proliferation Treaty insist (and we as potential members of Euratom have steadfastly supported them over this) that I.A.E.A. should not apply safeguards to them direct, but only verify the effectiveness of the Euratom Safeguards System; and that in order to achieve this there must be negotiations and an agreement between I.A.E.A. and Euratom, as an organisation distinct from

 /its members.

its members. The Russians have indicated that they accept this in principle, but they will not agree to language which explicitly recognises Euratom or, by providing for verification, appears to give Euratom a favoured position under the Treaty.

5. Early in September the Russians produced a compromise draft Article III, which the Americans (who had certainly co-operated in drafting it) then tried to sell to their NATO allies. This draft represented a substantial shift in the Soviet position, and though it of course contained no reference to other international organisations such as Euratom, or to other safeguards systems, the Russians gave the Americans to understand that they would not contest interpretations of it that would permit negotiations between Euratom and the I.A.E.A. leading to an agreement by which I.A.E.A. would verify Euratom safeguards. The only trouble was that it was extremely difficult to square the actual language with the interpretations which the Russians were apparently willing to accept.

6. This Soviet draft Article III was considered in detail by Euratom and the five non-nuclear member governments. The reactions of the individual governments covered a whole spectrum of opinion from the Dutch, who saw little wrong with the wording, to the Germans, who wanted wholesale revisions. It was, however, necessary for Euratom to speak with a united voice, so the five non-nuclear members drew up five principles (Annex C) with which any draft should conform. At the same time the amendments proposed to the Soviet text by the Germans, being the most extreme, were put forward as illustrative.

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7. Armed with these comments the Americans went back to the Russians. The Russians showed themselves more flexible than had been expected. They were not prepared to accept the German wording, as was only natural, but the Americans were able to extract from them textual changes which they felt covered the five principles put forward by Euratom. Only on the first half of the first sentence of the Article was it impossible for them to reach agreement. The Americans, adopting in part one of our own proposals, suggested that this should read:-

> "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 I.A.E.A., in accordance with the Statute of the I.A.E.A. and the Agency's Safeguards System."
> (Full text at Annex D.)

Mr. Roschin counter-proposed that it should read:-

> "Each non-nuclear-weapon state party to the Treaty undertakes to accept safeguards, in accordance with the Statute of the I.A.E.A. and the Agency's Safeguards System, as set forth in an agreement to be concluded with the I.A.E.A."

This was presumably intended to make it clear that it was the safeguards themselves, and not merely the agreement, that had to be in accordance with the I.A.E.A. Statute and Safeguards System. Final agreement between the co-Chairmen looked very close, but at this point Moscow repudiated both the American version, which is usually referred to as the November 2 draft, and Mr. Roschin's version which is referred to as the November 9 draft, while agreeing the other amendments. It is not clear at the moment what wording the Russians will accept for this sentence, although the

/Americans

Americans hope that Moscow may still be induced to go into reverse and ultimately accept their wording of November 2.

8. It is disappointing that as a result of the Soviet Government's rejection of Mr. Roschin's text and the recent German attitude in NATO, the gap seems to be widening instead of narrowing. The Germans sometimes give the impression of backing away as compromises on the text are put forward, and an Aide-Memoire they circulated in November strongly reinforced this impression. (The Italians, until recently the main objectors to the Treaty, have been slightly less vocal of late.) We have however built up a considerable fund of German goodwill over our attitude to the problem of Euratom and our assiduous consultation with Euratom members, and we may therefore be able to play a useful role in finally bridging the gap if we choose the right moment.

9. We have ourselves put forward wording which has become known as the British proposal. In this the reference is to "I.A.E.A. Safeguards" instead of to "Safeguards in accordance with the Agency Safeguards System". We feel that this wording would give more flexibility in allowing the I.A.E.A. agreement to cover verification of the Euratom System, since in our view any measures taken by I.A.E.A. to ensure fulfilment of the obligations imposed by the Treaty, whether direct or indirect, can properly be described as I.A.E.A. Safeguards, whereas the Agency's present Safeguards System makes no provision for verification of another system. At the same time, this phrase should appeal to the Russians. The immediate reaction in NATO to our suggestion was not particularly favourable, but we have been doing our best to ensure that it is better understood and the Foreign Secretary has written to Herr Brandt on the subject. However for the moment our best policy seems to be to support the Americans in their efforts to get the November 2 formula accepted, in spite of our reservations about this formula.

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10. We have now made public our offer, in parallel with the United States, to accept similar safeguards on our peaceful nuclear activities once a treaty is signed. The Soviet Union, however, have made quite clear that they are not prepared to give such an undertaking, which they do not regard as relevant to the purposes of the Treaty. Our gesture has had a useful effect on the non-nuclear states in reassuring them about safeguards, but there is no advantage in raising it with the Russians.

Future Procedure

11. The E.N.D.C. continued in session while the First Committee in New York was debating disarmament, and only submitted an interim progress report to the General Assembly. The E.N.D.C. then went into recess, and will meet again on 18 January. The Soviet Union and United States co-Chairmen, Mr. Roschin and Mr. Foster, are expected to start talks again in Geneva a few days in advance of this date.

12. While disappointment was felt that it had not been possible to reach agreement on a full text, the United Nations General Assembly passed a resolution calling for a further report by the E.N.D.C. on or before 15 March. This was therefore the new terminal date by which we must reach agreement on a treaty text. Thereafter we presume that the text will be debated by a Special Session of the General Assembly called for this purpose, and the treaty opened for signature.

13. There was some difficulty during the General Assembly debate about the Pakistani proposal for a conference of non-nuclear states on non-proliferation. This was originally due to be held in March of this year. Both the Russians and Americans were opposed to it,

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but it had of course considerable appeal to the non-nuclear and non-aligned states. Eventually a compromise was reached postponing the conference until August. We hope that if a non-proliferation treaty is open for signature by that time the states concerned will realise that there is no need for such a conference.

FOREIGN OFFICE
11 January, 1968.

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Mr. R. J. O'Neill

M. Mulley has seen.

Private Secretary

NON-PROLIFERATION: HERR BRANDT'S LETTER ON THE SAFEGUARDS ARTICLE

Herr Brandt's polite rejection of the arguments which the Secretary of State put to him in his letter of 11 December (copy attached) no longer matters, as the Russians have now given way and accepted the version which Germany prefers - and which, as Herr Brandt recognises, is itself based on a suggestion I first made informally to the Germans on 28 September. A complete revised text of the Treaty, including Article III, is being tabled in Geneva today.

2. Though provisional agreement has been reached on a text of Article III, it is clear from Herr Brandt's letter that there will be continuing discussion about the way this text is to be interpreted. The Belgians do not accept the Americans' own interpretation of the vital first sentence. We did not know, before receiving Herr Brandt's letter, how the Germans themselves interpreted it, and cannot accept their thesis that paragraph 28(d) of the I.A.E.A. Safeguards Document provides for the acceptance of other safeguards systems, even without verification. But naturally we wish to avoid arguments about this, and our line should be that in our view the first sentence, taken as a whole, permits the negotiation of an agreement between the I.A.E.A. and Euratom under which the I.A.E.A. would fulfill its function of ensuring that the Treaty is observed by verifying Euratom safeguards rather than by applying its own. I have told our Delegation to NATO to take this line when the new draft is discussed in the Council today.

3. It is likely that the Germans will still be worried about the way in which the Russians will interpret the agreed text. It would be useful if the Secretary of State could point out to Herr Brandt that the attitude of the Soviet Union towards the interpretation of the agreed text will not be as decisive as the Germans seem to assume. Any agreement on safeguards between the I.A.E.A. and Euratom will be negotiated with the I.A.E.A. Secretariat under the direction of the Board of Governors which is a body in which Western influences are strongly predominant. The outcome is therefore likely to be more favourable than the Germans tend to assume.

4. I attach a brief on the above lines for the Secretary of State's discussion with Herr Brandt tomorrow.

R.C. Hope-Jones

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

c.c. Lord Hood.

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Lord Hood

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25 JAN 1968

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German and Italian Views on the Non-Proliferation Safeguards Article

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The P.U.S. has asked for a report on the attitude of the Germans and Italians to the new Article III of the Non-Proliferation Treaty.

2. Neither the Germans nor the Italians have expressly accepted the new draft Article, which was one of the three possible versions discussed in NATO at the beginning of November, but both have said that, of these texts, the one now tabled by the co-Chairmen is the most acceptable to them, and Herr Brandt, in his letter to the Secretary of State of 8 January, said that this text provided a satisfactory basis for the verification of Euratom safeguards, provided that it was accompanied by "supporting statements".

Flag C

3. We still have some technical doubts about the text, which provides that the safeguards to be applied must be "in accordance with the I.A.E.A. System", since we find it difficult to understand how this wording could cover the verification of a different, even though compatible, system. But we concede that all the texts under discussion are capable of meeting the requirements of Euratom if they are suitably interpreted.

4. The Americans, in their introductory remarks to the new text at Geneva, made the following points:-

(a) That "the provision permits the I.A.E.A. to enter into an agreement . . . with another international organisation, the work of which is related to the I.A.E.A. . . ."; and,

(b) "in order to avoid unnecessary duplication, the I.A.E.A. should make appropriate use of existing records and safeguards, provided that under such mutually agreed arrangements the I.A.E.A. can satisfy itself that nuclear material is not diverted to nuclear weapons . . .".

This was as close as the Americans were prepared to go towards the specific endorsement of Euratom verification. The point has been underlined by Mr. Mulley in his speech in Geneva this morning, the text of which is not yet available.

5. We do not know whether these assurances and interpretations will be enough to satisfy the Germans and Italians. At a North Atlantic Council meeting this afternoon they both expressed satisfaction at the progress that had been achieved, but both said that the draft could still be improved.

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6. Since the new text is capable of being interpreted to meet Euratom's requirements, and since it is very unlikely that the Soviet Union would go further than they have already done (their acceptance of the U.S. text in fact represents a considerable concession), our own interest is to promote the acceptance of this draft and to ensure that it is satisfactorily interpreted. In doing so there is some need for caution as, if the Euratom verification interpretation is too openly stated at this stage, the draft might still be rejected by the Soviet Union and its allies, while if it is not stated at all the text may not be accepted by the Germans and Italians. However, we have pointed out to the Germans that even though the Soviet Union may try to maintain an interpretation which does not permit Euratom verification, the actual implementation of the Safeguards Article rests with the Board of Governors of the I.A.E.A., on which the Soviet Union does not have a veto and which is prémarily Western-orientated.

R.C. Hope-Jones.

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

Many thanks
I explained the position to the CPUS this morning

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c.c. Mr. O'Neill.

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ATOMIC ENERGY AND DISARMAMENT (GENERAL)
23 January, 1968
Section 1

THE EIGHTEEN-NATION DISARMAMENT COMMITTEE: 1967 NON-PROLIFERATION TREATY

Mr. Porter to Mr. Brown. (Received 23 January)

SUMMARY

1. The Eighteen-Nation Disarmament Committee (ENDC) have during the last 12 months been occupied almost exclusively with the negotiation of the Non-Proliferation Treaty. The most difficult problem, concerning safeguards to be applied in non-nuclear weapon countries to prevent the diversion of nuclear material to military purposes, is being negotiated outside the Committee. (Paragraphs 1–3.)

2. Early in 1967 the Americans circulated to NATO a partial draft Treaty which was badly received by the Germans and Italians. The ENDC convened on the 22nd of February for one month. (Paragraphs 4–6.)

3. The next session of the Committee lasted from the 18th of May to the 14th of December. On the 24th of August the United States and Soviet co-Chairmen tabled a partial draft text without an article on safeguards. (Paragraph 7.)

4. There are provisions in the draft text of the 24th of August to ensure that the civil nuclear technologies of signatory non-nuclear weapon States will not suffer as a result of their renunciation of the nuclear bomb and devices. (Paragraphs 8–9.)

5. The co-Chairmen have accepted the need for nuclear weapon signatories to undertake to try to achieve some measure of nuclear disarmament in order to strike a more equitable balance of Treaty obligations. (Paragraph 10.)

6. Security guarantees for non-nuclear countries are being negotiated between the co-Chairmen, ourselves and the Indians outside the ENDC. (Paragraphs 11–13.)

7. The Russians have insisted that the nuclear weapon powers should retain their right to veto amendments to the Treaty. (Paragraph 14.)

8. A draft Article III on safeguards has not yet been agreed between the co-Chairmen. (Paragraphs 15–18.)

9. While relations between the co-Chairmen have been good relations between them and the non-aligned members of the Committee have deteriorated. (Paragraphs 19–22.)

10. There is dichotomy in Washington's policy towards the Treaty as between the State Department and the Disarmament Agency. In view of the presidential elections this year the White House might now intervene in favour of an early conclusion of the Treaty. (Paragraph 23.)

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(Confidential) *UKMIS, Geneva,*
Sir, *17 January, 1968.*

I have the honour to report that for the last 12 months the Eighteen-Nation Disarmament Committee (ENDC) have worked almost exclusively on a draft Treaty to prevent the proliferation of nuclear weapons.

2. The two minimum provisions of the Treaty are on the face of it self-evident: nuclear States (*i.e.*, States which have produced nuclear weapons) should not pass their nuclear weapons or devices to anyone and should not help any non-nuclear State to acquire them and, secondly, non-nuclear States should not manufacture such weapons or devices or acquire them in any other way. In practice, however, these provisions have proved extremely difficult to put into treaty language acceptable to those key Governments whose ratification is essential for the Treaty to become an effective international instrument.

3. During the last 12 months the most difficult problem (which is being negotiated outside the ENDC) has arisen from the second of these provisions, *i.e.*, the application in non-nuclear, including EURATOM, countries of safeguards to prevent the diversion of nuclear material to military purposes. Many non-nuclear States who may well adhere to the Treaty in the end would nevertheless prefer to see it disappear into the sand if this could occur without their appearing to be responsible. Many more, though prepared unenthusiastically to accept the Treaty obligations, are determined to extract the maximum advantage in return. Moreover, since the main protagonists of the Treaty, the United States and Soviet co-Chairmen, have made known their anxiety to conclude it, efforts by the first group of non-nuclear States to obstruct and by the second to "improve" the Treaty, have not been without success.

4. As a result of the United States/Soviet rapprochement reported in Sir Harold Beeley's despatch No. 5 of 1966 the Americans in January 1967 circulated in NATO texts of all but one of the principal Articles of the Treaty. Shortly afterwards they circulated a draft of the missing Article III which provided for mandatory application of safeguards of the International Atomic Energy Agency (IAEA) in non-nuclear countries. While some members of the Alliance welcomed the draft the Germans and Italians, in particular, severely criticised it. They contended that Articles I and II, which largely embodied the provisions mentioned in paragraph 2 above, gave way to Soviet objections to shared control of nuclear weapons within the alliance. Moreover, since they were the result of long and difficult confidential negotiations between the Americans and Russians they were now virtually immutable. As for Article III, acceptance of mandatory safeguards would, they alleged, bring commercial disadvantages to non-nuclear weapon countries. Other criticisms included denial to non-nuclear countries of the benefits of nuclear explosions for peaceful purposes, the possibly prejudicial effect of the Treaty on prospects for European federation and the risk of its enhancing the status of East Germany. On the 28th of January the Soviet Union attacked the Federal Republic for its so-called militarism and Nazi excesses, its preparations for war and plans to develop missiles and nuclear weapons. The West German attitude consequently hardened and the list of German problems raised by the proposed draft soon rivalled in length the draft itself. The German Press went into full cry against the Treaty and the point was made in private and public that German support for our application to join the European Economic Community could not but be affected by our support for the Non-Proliferation Treaty.

5. When, therefore, the ENDC convened on the 22nd of February the co-Chairmen had not agreed on the tabling of any part of the Treaty and the Committee had to wait six months until the 24th of August before they had even a partial Treaty text before them. It is not surprising that much of the Committee's discussion in 1967 was unproductive; that at some meetings there were no speakers; and that the resentment of the non-aligned delegations increased as they waited for the co-Chairmen and the Western allies to agree among themselves. During this first brief session Warsaw Pact delegations accused the Federal Republic of seeking pretexts to cover their fundamental opposition to the whole concept of non-proliferation: we and the Americans rejected these allegations. Otherwise the Committee debated the vexed but sterile question of peaceful explosions which is examined later in this despatch. At the end of only one month, on the 23rd of March,

the Committee, at American request, again went into recess. With no prospect of early agreement in NATO the Americans felt that further discussion in the wider forum of the ENDC could only exacerbate the situation.

6. Opposition within the alliance, led by the Germans and Italians, had by now crystallised around the following main demands: safeguards should be applied to the civil nuclear activities of nuclear and non-nuclear countries alike; the IAEA, which was to be given over-all responsibility for application of safeguards under the Treaty, should recognise EURATOM and make it responsible for application of Treaty safeguards in EURATOM countries; the veto on amendments to the Treaty should be dropped or at least not restricted to the nuclear weapon Powers; the Treaty should be limited in duration; there should be no hindrance to the development of civil nuclear technology in non-nuclear States as a result of their accession to the Treaty. During March and April the Americans circulated in NATO proposals which met European objections on safeguards by giving favourable treatment to EURATOM and on amendments to the Treaty by dropping the nuclear Power veto. As was to be expected they proved acceptable to NATO and unacceptable to the Russians. After rejecting them the Soviet delegation sought instructions but these had not been received when the ENDC reconvened on the 18th of May.

7. This session, the longest on record, lasted until the 14th of December. On the 12th of June the United States and Soviet delegations agreed *ad referendum* on a revised Treaty text (still without a safeguards article), but Soviet reluctance to act publicly with the Americans during the Middle East crisis caused Moscow to delay agreement on tabling for over two months until the 24th of August. It was then made conditional on parallel tabling of identical texts instead of the tabling of a joint text as originally envisaged. The draft Treaty as tabled is annexed to this despatch. Debates in the Committee were of a general nature until the partial text had been tabled; they then became more specific with textual amendments proposed by Brazil, Italy, Mexico, Nigeria, Rumania, Sweden, United Arab Republic, and the United Kingdom. During this session the main outstanding problems for negotiation within and outside the Committee were identified and I should like briefly to examine these in the second part of this despatch.

Peaceful uses of nuclear energy

8. It has been felt by non-nuclear States that the Non-Proliferation Treaty would in some way widen the technological gap between them and nuclear States by denying them such incidental benefits to civil technology (" spin off ") as might be derived from the development of nuclear weapons. Although some of the more advanced non-nuclear States have probably been convinced that their fears in this connection were greatly exaggerated doubts nevertheless remain. The text of the 24th of August therefore recognised the right of all parties to develop and use nuclear energy for peaceful purposes and to participate in the fullest exchange of information to this end.

Peaceful explosions

9. The text of the 24th of August made preambular provision for the economic benefits of peaceful explosions (the release of underground gas, for instance) to be made available to all non-nuclear signatories on a non-discriminatory basis and through international procedures without political strings. In response to non-nuclear requests the co-Chairmen have agreed between themselves to move this provision from the preambular to the operative part of the Treaty as part of a final package of concessions to non-aligned demands. However, they and most other members of the Committee including ourselves have adamantly opposed a proposal by Brazil supported by India that a non-nuclear signatory should have the right to conduct its own peaceful nuclear explosions under international supervision. Nuclear devices for civil purposes are technically indistinguishable from weapon devices and, if manufactured and exploded by a non-nuclear State, would have many of the same political and strategic implications.

Further measures of disarmament

10. This raises one of the most important questions connected with a non-proliferation Treaty; how in a Treaty which is essentially discriminatory can a more equitable balance of obligations be struck as between nuclear and non-nuclear signatories? If the latter are to forego nuclear weapons the former, it can be justifiably argued, should at least undertake

to try to agree on a balancing measure of disarmament in the foreseeable future. In the draft tabled on the 24th of August there were preambular provisions of intention to stop the arms race and of desire to facilitate cessation of the manufacture of nuclear weapons, the liquidation of stock piles and the elimination of nuclear weapons pursuant to a Treaty on general and complete disarmament. There was pressure on the co-Chairmen to go further and several amendments to this effect were tabled. The United Kingdom proposed one which, without prejudice to other amendments, would add fulfilment of the purposes of the preamble to the agenda of the review conference which was in any case to meet five years after the Treaty had come into force. To meet this almost universal demand for a nuclear Power undertaking on disarmament the co-Chairmen have already agreed between themselves on a provision to be put into the operative part of the Treaty as part of the final package. It is not yet known whether the Russians will also agree to the proposed United Kingdom amendment.

Security assurances

11. It also seems reasonable for non-nuclear, particularly non-aligned countries, who forgo their option to acquire nuclear weapons to be given some kind of guarantee against nuclear attack or nuclear threat. This could take the form of a negative non-use formula as preferred by the Russians, *i.e.*, nuclear Powers signatories to the Treaty would undertake, with certain provisos, not to use nuclear weapons against non-nuclear signatories; or a positive guarantee as preferred by the Americans and ourselves *i.e.*, nuclear signatories would undertake to assist a non-nuclear country that is the victim of nuclear attack or nuclear threat; or, as now seems probable, a combination of the two.

12. In his despatch No. 4 of the 23rd of September, 1966, Sir Harold Beeley, reported on the development of the debate on security assurances during that year and made certain proposals. Such bilateral discussion as there has been in 1967 between the Americans, Russians, Indians and ourselves outside the Treaty framework has been mainly concerned with the so-called positive formula. At one extreme, the Indians sought, without prejudice to their non-aligned status, the kind of guarantee against China which would normally form part of a military alliance. At the other extreme, Moscow offered an assurance which amounted to no more than a reiteration of her existing obligations under the United Nations Charter and, knowing Congressional reluctance to undertake any further military commitments, this approach was viewed sympathetically by the United States Administration. Partly as a result of Her Majesty's Government's intervention in Washington, the most recent United States draft positive assurance which takes the form of a Security Council Resolution with parallel unilateral declarations by the nuclear Powers is, from the non-aligned point of view, an improvement on the original Soviet text. It seems also to be generally acceptable to the Russians and at the latter's insistence has now been supplemented by a negative or non-use guarantee. The Americans, in fact, completely reversed their previously declared position on a non-use provision without consulting us, the only other nuclear State directly concerned.

13. It is doubtful whether even these dual guarantees will substantially improve India's security against China (who would not, of course, be party to any non-use guarantee) or will be of much domestic presentational value to the Indian Government.

Amendments to the Treaty

14. Following Soviet rejection of the United States draft amendments Article mentioned in paragraph 6 above, the Americans tried to reach a compromise between Soviet insistence on a nuclear veto on amendments and the strong and understandable opposition of the developed non-nuclear Powers, led by Germany, to a Treaty of unlimited duration frozen in favour of the nuclear Powers. On the 12th of June the United States and Soviet delegations agreed on alternative versions of this Article. Under the first the nuclear power veto was retained but amendments were permissive, *i.e.*, they applied only in those countries which ratified them. Under the second, based on a British idea, the veto was extended to include all members of the Board of the International Atomic Energy Agency at the time the amendment was circulated but amendments, once adopted, were binding on all parties. Although the Soviet delegation are said to have recommended the first alternative to

Moscow, the Soviet Government preferred the second, and this was therefore tabled on the 24th of August. Several delegations objected to an obligation to accept amendments against their will and the co-Chairmen now seem ready to introduce the permissive clause into the existing amendments Article.

Safeguards

15. The two main obstacles to agreement on a safeguards Article, which is being negotiated almost entirely outside the ENDC, each concern discrimination—discrimination as between nuclear and non-nuclear countries, discrimination in favour of EURATOM countries.

16. Developed industrial countries such as Germany and Japan see in on-site inspection the risk of commercial espionage and, in an attempt to dispel this suspicion, we and the Americans have offered to accept the inspection of our own civil nuclear installations. The Russians show no signs of joining us, arguing that in the context of a non-proliferation treaty inspection of States already permitted to produce nuclear weapons is illogical.

17. The other question of discrimination arises over application of IAEA safeguards in EURATOM countries. Russia and her allies who in 1966 had been following the traditional Soviet line of "no controls without disarmament", during 1967 accepted the need for mandatory safeguards for non-nuclear signatories on condition that they were universally applied by the IAEA. But they would not accept equivalence of the existing EURATOM safeguards system, nor what they called self-policing by a regional organisation which might some day be dominated by Germany. In this they were supported by non-nuclear countries whose interest is, of course, to ensure that other non-nuclear, including EURATOM, countries, are subjected to the same safeguards as themselves. The five EURATOM non-nuclear countries have, however, their own legal and political problems. They must, for instance, satisfy the EURATOM Commission that nothing in the draft Non-Proliferation Treaty (and this problem is particularly acute in the case of the safeguards article) is incompatible with the EURATOM Treaty.

18. On the 1st of September the Russians produced a draft Article III on safeguards which, though already agreed with the Americans, was presented to NATO as a Soviet compromise to meet European objections. The text was, according to the co-Chairmen, in sufficiently general terms to cover the Euratom position while remaining presentationally acceptable to other non-nuclear and particularly East European countries. The Five Euratom countries could not agree on a common attitude to the text. The less extreme members (Belgium and the Netherlands) and possibly the Commission itself might have accepted a modified version together with interpretations and, if necessary, a device whereby they could withhold ratification of the Treaty until a satisfactory safeguards agreement had been negotiated between EURATOM and the IAEA. However, the Germans, supported by the Italians, would not accept a text which provided explicitly for the universal application of IAEA safeguards, whatever interpretations or arrangements might be tacitly agreed between the co-Chairmen. They argued that such a text could provide the French with a pretext for getting rid of EURATOM safeguards as redundant, thus putting themselves in a favoured position within the Community. Her Majesty's Government have proposed two compromise formulæ in NATO but when the ENDC went into recess at the end of the year the problem of safeguards was still unresolved.

19. In conclusion I should like to say a few words about the state of the ENDC and the prospects for an early conclusion of our work on a Non-Proliferation Treaty. Apart from a limited debate on the comprehensive test ban initiated by the Swedes during the lull before the tabling of the partial draft treaty, other disarmament issues have hardly been debated at all. Delegations on the whole preferred to remain silent rather than to raise questions which could reintroduce a cold war atmosphere and prejudice prospects for the one measure of arms control which seems to be within our grasp.

20. Relations between the co-Chairmen themselves have been uniformly good throughout the year and it is indicative of the importance they each attach to the Non-Proliferation Treaty that they made no use of the ENDC for propaganda purposes

during the Middle East crisis. On the other hand relations between the co-Chairmen and non-aligned members of the Committee have deteriorated. Non-aligned countries have for two decades exhorted the super-Powers to get together but when this finally happened in the arms control field the rapprochement was from the non-aligned point of view, of an excessively exclusive character. They waited until the 24th of August for even a partial treaty text which had already appeared in the Press. They then submitted comments, amendments and, in the case of the Swedes, a draft safeguards article, to all of which they received virtually no response. The co-Chairmen have in fact agreed on amendments which would go far to meet non-aligned pre-occupations, but Moscow have so far refused to table these except as part of a package including a safeguards article. Non-aligned resentment has therefore grown and came to a head in December in an acrimonious debate on the interim report to be submitted to the General Assembly.

21. Relations between this Delegation and that of the United States have naturally been influenced to some extent by our European policy. The Americans, not without reason, are inclined to see Euratom as the enemy of the Treaty and have therefore felt some uncertainty about our own role. In retrospect, however, they should realise that any influence we may have exerted on our European friends has worked in favour of rather than against the Treaty.

22. Relations between us and the Soviet delegation have been good and the latter, in spite of the importance they attach to the co-Chairmanship, sometimes discuss with us matters under negotiation between themselves and the Americans. They probably see in us a possibility of getting to know the Western position in more depth: like the Americans we are a nuclear Power supporting the Treaty but with possibly a better understanding of the European point of view. In the ENDC atmosphere of *détente* contacts between East and West European delegations and observers is inevitable and, although these must provide the Russians with useful background material (just as we sometimes get a preview of Russian thinking from say our Bulgarian colleagues) they do not, so far as we and the United States delegation can tell, seriously prejudice the United States negotiating position.

23. When the ENDC went into recess on the 14th of December the state of the Treaty was briefly as follows. An incomplete draft text had been tabled and discussed at some length. The co-Chairmen had agreed between themselves on amendments which would meet many of the points made in Committee but had not been able to agree to table them. On the missing safeguards article the Germans seemed unlikely to agree to a text negotiable with the Russians. The Treaty might, in fact, have been completed during the session but for German opposition and the dichotomy which this opposition has produced in United States policy. Negotiations, particularly on safeguards, have in practice been conducted between the Russians and Germans with the Americans, torn between support of the Treaty (led by the Disarmament Agency) and reluctance to offend Germany (led by the European Bureau of the State Department), acting sometimes as little more than a go-between. Their negotiating hand has been particularly weakened by undertakings given by Mr. Rusk to Mr. Brandt in a letter of the 17th of May. However, the abrupt reversal of declared United States policy to meet the Russian request for a non-use security guarantee is one of several indications that the White House may now be ready to intervene in favour of an early settlement: the Treaty to be of real value to the President in his forthcoming electoral campaign should be completed by early summer. The Russians, too, are showing signs of willingness to make further concessions in order to achieve an early settlement. If in these circumstances the Germans should decide to call it a day and to present the quite substantial amendments they have achieved during the course of the year as a major diplomatic victory, a complete text of the Treaty which would have the general blessing of the Western and Eastern alliances could still be tabled in time for the ENDC to meet the General Assembly's request for a final report by the 15th of March.

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.

ANNEX

Draft 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 that potential benefits from any peaceful applications of nuclear explosions should be available through appropriate international procedures to non-nuclear-weapon States Party to this Treaty on a non-discriminatory basis and that the charge to such Parties for the explosive devices used should be as low as possible and exclude any charge for research and development,

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,

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,

Noting that 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,

Have agreed as follows:

Article I

Each nuclear-weapon State Party to this 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 this 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

(International Control)

Article IV

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, as well as the right of the Parties to participate in the fullest possible exchange of information for, and to contribute alone or in co-operation with other States to, the further development of the applications of nuclear energy for peaceful purposes.

Article V

1. Any Party to this 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 this 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 all Parties upon the deposit of instruments of ratification by a majority of all the Parties, including the instruments of ratification of all nuclear-weapon States Party to this 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.

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 assuring that the purposes and provisions of the Treaty are being realised.

Article VI

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 , which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force after its ratification by all nuclear-weapon States signatory to this Treaty, and 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 VII

This Treaty shall be of unlimited duration.

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 jeopardised 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 jeopardised its supreme interests.

Article VIII

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.

In witness whereof the undersigned, duly authorised, have signed this Treaty.

Done in at this of

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OPD(68)6

26 January 1968

COPY NO. 7

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CABINET

DEFENCE AND OVERSEA POLICY COMMITTEE

NON-PROLIFERATION

Memorandum by the Minister of State for Foreign Affairs

The tabling of the complete text of the Non-Proliferation Treaty when the Eighteen Nation Disarmament Committee resumed in Geneva on 18 January was a welcome development. This marked the positive step forward for which we had been hoping last year, and by laying the entire Treaty open for public discussion thereby made substantial amendments more difficult. The revised text also represents a considerable concession by the Russians. The full text as tabled is at Annex A, and the text of a speech I made at Geneva on 23 January giving the U.K. views on this new version of the treaty is at Annex B.

2. In this situation we can afford to be more optimistic. Events are on the march, and it is reasonable to suppose that a Treaty is now within our grasp. The United Nations General Assembly Resolution called for a report to be submitted by the E.N.D.C. on or before 15 March. It should certainly be possible to meet that date; in fact we hope it may be possible to anticipate it. Thereafter there will be a resumed session of the General Assembly to consider the text and presumably open it for signature.

3. However, there may still be some difficulties ahead. Although it is too early yet to forecast precise reactions, some countries

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have given indications that they may be reluctant to sign. These countries can be divided roughly into two groups. The first comprises certain non-aligned states who for various reasons have the feeling that they may be victimised by the Treaty in some way, e.g. India, Brazil, Israel and the Arab States. These are countries whose views on the Treaty may however be affected by the decisions reached on security assurances, (on which subject I am submitting a separate paper to the committee). In any case we hope that they may in the end bow to international pressure to sign. But we consider there is little to be gained at present by our trying to bring unilateral pressure to bear on these doubters now. If, when a Treaty is signed, they decide not to adhere, then universal pressure, in which the Soviet Union may well be ready to join the United States and ourselves, is likely to be more effective.

4. The second group consists of our NATO allies who are members of Euratom. Their doubts about the Treaty have sprung mainly from the wording of Article III on safeguards and its effect on the Euratom safeguards system. The formula now reached for Article III was considered by the Euratom countries as the most acceptable of the three alternatives put forward in NATO. Nevertheless they did not formally endorse it and both the Germans and the Italians have since said that the treaty will require some "improvements". There therefore remains the danger that the members of Euratom may eventually decide that they cannot accept this text. It is too early to say what risk there is of this happening, or if it does, whether it would occur, in the E.N.D.C. or later at the General Assembly. It would be particularly awkward for us as potential members of Euratom and the E.N.D.C. if such a confrontation of views arose at Geneva where Italy as the only representative of Euratom

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the E.N.D.C. might feel called upon to object to the Treaty on behalf of the others. It would be less difficult if the objections came at New York where the Euratom countries may feel less constrained to present a united front. However the probability is that the Euratom countries, now that Article III has been tabled, will resign themselves to the fact that further substantial amendments are not possible and that this is the best that they can expect.

5. Apart from Article III the new Articles and amendments in the tabled Treaty text are designed to meet points raised by the non-nuclear and non-aligned states. As such we have welcomed them: indeed we suggested some of them. In particular the new Article VI refers to the need to pursue negotiations in good faith on effective measures regarding cessation of the nuclear arms race and disarmament, and on a treaty on general and complete disarmament under strong and effective international control. A number of countries may withhold their ratification of the Treaty until the nuclear-weapon states show that they are taking seriously the obligations which this Article imposes on them. It will therefore be essential to follow the Treaty up quickly with further disarmament measures if it is to be brought into force and remain in force thereafter. We have therefore begun work on a paper examining the most suitable measures on which we should concentrate our attention once a Non-Proliferation Treaty has been achieved.

F.M.

Foreign Office, S.W.1.
26 January 1968.

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ANNEX A

DRAFT NON-PROLIFERATION TREATY TABLED AT THE ENDC

18 JANUARY 1968

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,

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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,

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,

Have agreed as follows:

Article I

Each nuclear-weapon State Party to this 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 this Treaty undertakes not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control

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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.

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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.

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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 co-operation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing, use or production of nuclear material for peaceful purposes in accordance with the provisions of this Article and the principle of safeguarding set forth in the Preamble.

4. Non-nuclear-weapon States Party to the Treaty shall conclude agreements with the International Atomic Energy Agency to meet the requirements of this Article either individually or together with other States in accordance with the Statute of the International Atomic Energy Agency. Negotiation of such agreements shall commence within 180 days from the original entry into force of this Treaty. For States depositing their instruments of ratification 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 have the right to participate in the fullest possible exchange of scientific and technological information for the peaceful uses of nuclear energy. Parties to the Treaty in a position to do so shall also co-operate in contributing alone or together with other States or

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international organisations 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.

Article V

Each Party to this Treaty undertakes to co-operate to ensure that potential benefits from any peaceful applications of nuclear explosions will be made available through appropriate international procedures to non-nuclear-weapon States Party to this 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. It is understood that non-nuclear-weapon States Party to this Treaty so desiring may, pursuant to a special agreement or agreements, obtain any such benefits on a bilateral basis or through an appropriate international body with adequate representation of non-nuclear-weapon States.

Article VI

Each of the Parties to this Treaty undertakes to pursue negotiations in good faith on effective measures regarding cessation of the nuclear arms race and 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 this Treaty may propose amendments to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Governments which shall circulate

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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 this 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 instruments of ratification by a majority of all the Parties, including the instruments of ratification of all nuclear-weapon States Party to this 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 and provisions of the Treaty are being realized.

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.

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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 this 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 instruments of ratification by a majority of all the Parties, including the instruments of ratification of all nuclear-weapon States Party to this 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 and provisions of the Treaty are being realized.

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.

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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 , which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force after its ratification by all nuclear-weapon States signatory to this Treaty, and 40 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

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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.

In witness whereof the undersigned, duly authorized, have signed this Treaty.

Done in at this of .

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NON-PROLIFERATION

Brief for the Minister of State
on OPD(68)6

Speaking Notes

1. The progress that has been made on non-proliferation in the last two weeks is very satisfactory as far as it goes. The Soviet Union and the United States have agreed the text between themselves; and they have tabled it at Geneva in time for a thorough debate there before progress has to be reported to the United Nations in the Spring.

2. A lot of the thinking behind the treaty, and some of the language, originally came from us. We shall legitimately be able to say so in public when the right moment comes.

3. Both the Soviet Union and the United States undoubtedly now both want a treaty, and want it soon. The American motives are obvious in an election year. Soviet motives are less clear, but the desire to see German nuclear activities subjected to international safeguards is a major factor in their thinking.

4. But, whatever the reasons, the importance which they both attach to the treaty is evident from the extent of the concessions they have been willing to make to each other's point of view in order to get agreement. They have also jointly gone a long way to meet the demands of the non-nuclear weapon states for changes to make the treaty more palatable to them.

5. We are not out of the wood yet. The non-aligned states at Geneva ~~have predictably~~ will probably continue to try for further concessions, particularly actual disarmament measures by the nuclear

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powers. But they are divided between those like the Swedes who basically want a treaty and those like the Indians who do not. We cannot yet be certain which will come out on top. But there are probably sufficient states who positively want the treaty, coupled with those who have no nuclear ambitions or capability, to start a bandwagon rolling at the U.N. which will be difficult to stop.

6. A trickier problem for us is the question of interpretations of the treaty. This affects particularly NATO and the Euratom countries. I do not think we will have too much trouble in getting it accepted that the treaty permits existing NATO defence arrangements as well as the European option. But the interpretation of the Safeguards Article to permit verification of Euratom safeguards by the I.A.E.A. may eventually have to be established outside the treaty negotiations at the I.A.E.A. itself, in the course of the negotiation of the necessary safeguards agreements. Fortunately this should not present insuperable problems. The I.A.E.A. is Western-orientated and the Russians have no veto there. We have been trying to persuade the Germans that this gives them adequate protection.

7. I do not think either the Germans or Italians have yet decided on their final attitude. German reactions in particular have been very confused, and the Chancellor has said some things which were interpreted as condemnation of the treaty but which were counterbalanced by later statements. We shall have to continue to treat these two with considerable care. France is not helping - M. Messmer recently referred to the treaty as "the castration of the impotent". But the other Euratom countries

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are doing their best to help within the framework of Euratom's genuine requirements.

8. If all goes well, the treaty should be opened for signature in the United Nations in the Summer. There may then be a considerable time-lag before it is brought into effect. Forty ratifications including those of the nuclear weapon states will be required. The Euratom countries will certainly want to know in some detail what the obligations in their safeguards agreements will be before they ratify. A number of countries, particularly the "paired states" like India and Pakistan, or Israel and the U.A.R., will also tend to wait for each other. But even a treaty signed but not yet brought into force will have a political effect in the right direction, provided that entry into force is not too long delayed.

9. Thereafter the immediate need will be to proceed as soon as possible to other disarmament measures, both to make use of the impetus of the non-proliferation treaty and to ensure that it does not collapse. We are already studying this problem in detail.

ATOMIC ENERGY AND DISARMAMENT DEPARTMENT,

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AEID.

Mr. Mullay would like this submission together with your draft rebuttal of Mr. Healey's minute as the basis of his own minute to the Defence Secretary.

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NATO Nuclear Sharing Arrangements and the Non-Proliferation Treaty.

The main argument on the relation between NATO nuclear sharing arrangements and the Non-proliferation Treaty took place between the beginning of 1965 and the end of 1966. 13. In that period three drafts of the Treaty were discussed; the U.S. draft, tabled at the ENDC in August 1965, which prohibited the "transfer of nuclear weapons into the national control of any non-nuclear State"; the earlier U.K. draft of Spring 1965 which was circulated in NATO but not tabled, which prohibited transfer of the "control of nuclear weapons to any non-nuclear State or any association of States"; and the Soviet draft tabled at the United Nations in the Autumn of 1965, which prohibited the transfer of nuclear weapons "to the ownership or control of States or groups of states not possessing nuclear weapons" and denied to such states "the right to participate in the ownership, control or use of nuclear weapons".

14. The main difference between the U.S. and U.K. drafts was that we wished ~~to close the possibility, whether inside or outside NATO, of non-nuclear States acquiring the control of nuclear weapons as a group ("the non-nuclear association option"), or as a majority within a mixed association ("the majority vote option")~~, since such arrangements appeared to us logically indistinguishable from proliferation. The Soviet Union for its part ~~declined to explain~~ the meaning of its draft but said that it was intended to prohibit non-nuclear "access" to nuclear weapons, and that if NATO arrangements, existing or proposed, permitted such "access", then they must be banned.

LAST PAPER

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In March 1966 after discussions with Lord Chalfont, the Americans came part way to meet the U.K. view by accepting an amendment which banned the non-nuclear association option though not the "majority-vote option".

These matters rested until the period November 1966 - January 1967, during which the United States and Soviet Union evolved the present agreed language of Articles I and II (Annex A) which has remained unchanged ever since. The substance of the U.S./Soviet agreement was that, since the Soviet Union refused to endorse in terms anything that NATO did, the treaty should deal only with what was prohibited, and not with what was permitted. It was also an integral part of the agreement that the words "transfer" and "control" should not be defined, either in the text or outside it, but that the application of these words in relation to nuclear sharing arrangements should be covered by an understanding between the United States and Soviet Union in the form of "Interpretations".

In January 1966 the Americans gave us an Aide Memoire (Annex B) describing these negotiations and setting out the interpretations of the new text which they intended to put to the Soviet Union in writing and to make public in due course. These interpretations were to the effect that the treaty would not prohibit existing bilateral ("key of the cupboard") arrangements in NATO nor consultative arrangements, including machinery established for this purpose, and would not prohibit the transfer of nuclear delivery vehicles, as

/distinct

distinct from warheads. Nor would the treaty prohibit the transfer of nuclear weapons after the outbreak of war, after which point the treaty would no longer be controlling. It would also leave open the possibility of a European Federation including the United Kingdom or France or both and with its own nuclear weapons ("The Federation Option") since such succession arrangements would not involve transfer.

It was then considered that it would be desirable for us to have our own cross-check on the Soviet Union's reactions to these interpretations. During Mr. Kosygin's visit to London in February 1967 the Prime Minister therefore put to him detailed interpretations (Annex C) derived from the U.S. Aide Memoire, and the Soviet delegation were later at their request given a written copy of these interpretations. In reply Mr. Kosygin said (Annex D) that the Prime Minister had correctly set out the situation. It was clear that the Americans had provided us with detailed information and there seemed no need to go into detailed consideration of the various points here. On the treaty generally, he believed that we had entered on a straight road which would lead to agreement.

10. Later in 1967 the United States also circulated in NATO and gave to the Soviet Union in writing a paper ~~(Annex B)~~ setting out their interpretations on the same lines. The United States representative informed NATO on 10 May that the Soviet Union had raised no objection to these interpretations. On this basis all the NATO countries including the United Kingdom agreed that the United States and Soviet Union could table the treaty on their own responsibility and without specific commitment.

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11. There the matter now formally rests. Neither the United States nor the United Kingdom have yet made a formal statement of their interpretations in public, although when the text was tabled at the ENDC at Geneva on 24 August 1967 a U.S. spokesman in Washington informally made known the United States interpretations to the press as background information. The Americans have told us that they expect certainly to have to make a formal statement of their interpretations in the course of the ratification proceedings before the U.S. Senate if not before. They may also read the interpretations into the record of the ENDC. [Their reluctance to do so at an earlier stage has probably been due more to their unwillingness to give an opening to those like the Indians, who for other reasons are doubtful about the Treaty, to muster support against it in the United Nations as an "incomplete" treaty, than to any fear that the Soviet Union would carry opposition to these interpretations to the point of refusing to sign, which they do not anticipate.] The United Kingdom, including both the Foreign Office and the Ministry of Defence, has hitherto taken the same line.

12. An accepted difference between the U.S./Soviet draft of January 1967 and the previous U.S./U.K. drafts, is that the former would ban the transfer of nuclear warheads (as distinct from nuclear delivery vehicles,) not only between nuclear-weapon States and non-nuclear-weapon States, but also between the nuclear-weapon States themselves. This difference has hitherto been accepted by the Ministry of Defence on the ground that the present text removes all difficulties associated with the non-nuclear-association option and the majority-vote-option. It was at the same time accepted that in the context

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of possible supplies by the United States to the United Kingdom, the undertaking reflected the actual position, since U.S. legislation already prohibits the delivery of warheads to the U.K. The undertaking was therefore considered by both the Foreign Office and the Ministry of Defence to be acceptable, provided that the Article did not prohibit, as it specifically does not, assistance between nuclear-weapon States other than the delivery of nuclear warheads.

ANNEX A

ARTICLE I

Each nuclear-weapon State Party to this 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 this 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.

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ANNEX B

AIDE MEMOIRE

The attached draft text of various articles of a non-proliferation treaty is based on concepts which were first clarified during the E.N.D.C. and contains formulations which emerged from U.S.-Soviet discussions during the United Nations General Assembly. We have made it clear that we were unable to agree on any language prior to full consultation with our allies. The United States has accordingly not agreed to these possible formulations. Although the Soviets have refrained from indicating their final agreement, we believe, on the basis of our bilateral talks, that they would find them acceptable.

An explanation of the text follows:

Preamble:

No text of a preamble has been supplied because there was not time in our discussions with the Soviets to elaborate a complete draft. However, the Soviets expressed a preference for a relatively simple preamble which, in addition to the customary introductory clauses, would express the intention of the parties to achieve the cessation of the nuclear arms race and a further easing of international tensions.

/Articles I and II:

Articles I and II:

1. In talks with the Soviets, it has been clearly understood that the non-proliferation treaty deals only with what is prohibited and not with what is permitted. Accordingly, these articles (A) would not prohibit NATO nuclear consultation and planning or the permanent committee established for this purpose; (B) would not disturb existing bilateral arrangements for deployment of nuclear weapons within allied territory as these arrangements do not involve any transfer of warheads or control over them up to the point where a decision to go to war is made, at which time the non-proliferation treaty would no longer be controlling; (C) would have no bearing on the decision of NATO allies to go to war; (D) do not deal with the transfer of nuclear delivery vehicles, provided there was no transfer of nuclear weapons or control over them; (E) would not bar succession by a new federated European state to the nuclear status of one of its former components. Such a succession would be automatic and no act of "transfer" would be involved. Since the treaty does not prohibit the consolidation of states and does not require destruction of any nuclear weapons, it must permit the creation of a federated European state with its own nuclear weapons. Short of such succession, the draft would bar transfer (including ownership) of nuclear weapons or control over them to a new multilateral or other entity. (Note: It should be noted that the language of Articles I and II is derived from and consistent with U.S. atomic energy legislation, a

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point we have stressed to the Soviets and which reinforces our interpretations. The above interpretations were covered in varying degree in discussions with the Soviets as these questions arose during our bilateral talks. We also expect that they will emerge in the course of Senate Committee hearings when the non-proliferation treaty is submitted to the United States Senate. They will thus form part of both the negotiating history and the legislative record, but we do not expect the Soviets to endorse all of them explicitly and certainly not publicly. Indeed, we should anticipate that various arrangements permitted according to the above interpretations may continue to come under attack in Soviet propaganda. However, we believe the Soviets will have no legitimate grounds for alleging that they would constitute violations of the non-proliferation treaty).

2. These articles prohibit "other nuclear explosive devices" as well as nuclear weapons because of the inescapable technical fact that the technology for making such devices would be essentially indistinguishable from that of nuclear weapons and because such devices could be adapted for use as weapons. If and when peaceful applications of nuclear explosives that are permissible under the Test Ban Treaty limitations prove technically and economically feasible and are available for practical applications in the countries which possess them, the United States believes that such states should make them available at minimum cost to other states as part of an international nuclear

/explosive

explosive service for peaceful applications. The service would involve performing the desired detonation under appropriate international auspices, with the nuclear device remaining under the custody and control of the supplying state.

3. Article I is a draft which the Soviets also have. Based on our talks, we believe they are prepared to agree to it. Article II is derived directly from Article I. The Soviets do not have this article but we believe they would accept this formulation.

Article III:

No draft article III has been provided because we have not resolved the issue of the type of safeguards clause we would like to see in the treaty. As we stated at the E.N.D.C., we are considering a safeguards clause stronger than the hortatory language in the draft previously made public at the E.N.D.C. It would specify I.A.E.A. safeguards. Although this would not involve any discrimination among non-nuclear-weapon states, we recognize this approach presents a problem for EURATOM. However, the only alternative would probably be to have no effective safeguards clause at all because we have clear indications that the Soviets are not prepared to accept any clause which directly or indirectly endorses EURATOM safeguards or which applies safeguards to nuclear powers. The choice which must be made involves an opportunity to achieve safeguards throughout the world, not just in EURATOM countries and the few other non-Communist countries which have accepted I.A.E.A. safeguards. We hope to suggest a concrete

/formulation

formulation in the near future.

Article IV:

The provisions for amendments in paragraphs 1 and 2 are derived from the limited Test Ban Treaty. The review clause in paragraph 3 is derived from a clause in the U.S. draft non-proliferation treaty tabled at the E.N.D.C. It differs in that the provision for a conference is automatic and for the stated purpose of reviewing the operation of the treaty "with a view to assuring that the purposes and provisions of the treaty are being realised". This increased emphasis on review is for the purpose of protecting the interests of the non-nuclear-weapon powers. It will provide an opportunity to assess whether the treaty is accomplishing its purpose of facilitating nuclear disarmament and easing international tensions.

The treaty provision for review after five years would not provide for termination at that time and any amendments proposed as a result of review would require the votes of a majority of parties, including all nuclear-weapon parties. Withdrawal, however, would be possible at any time pursuant to the withdrawal clause (Article VI).

Article V:

Article V deals with signatures and entry into force. It is derived from comparable language contained in the limited Test Ban Treaty and in the non-proliferation treaty drafts tabled at Geneva. The depositary governments (paragraph 2) would be nuclear-weapon states, as in the case of the limited Test Ban Treaty. We have not expressed a view on the precise number of states which should ratify before

/the treaty

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the treaty goes into force (paragraph 3) but we believe it should be a fairly large number.

Article VI:

The withdrawal clause is also derived from the limited Test Ban Treaty, but it contains the important modifications urged by our allies and earlier embodied in the U.S. draft non-proliferation treaty tabled at Geneva.

Embassy of the United States of America,
London, January 24, 1967.

United States "Interpretation" of the "Non-Proliferation Treaty", handed to the Soviet Union May 1967

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Annex B

Questions US Allies have been asking together with answers US has given:

1.Q. What may and what may not be transferred under the draft treaty?

A. The treaty deals only with what is prohibited, not with what is permitted.

It prohibits transfer to any recipient whatsoever of "nuclear weapons" or control over them, meaning bombs and warheads. It also prohibits the transfer of other nuclear explosive devices because a nuclear explosive device intended for peaceful purposes can be used as a weapon or can be easily adapted for such use.

It does not deal with, and therefore does not prohibit, transfer of nuclear delivery vehicles or delivery systems, or control over them, to any recipient, so long as such transfer does not involve bombs or warheads.

2.Q. Does the draft treaty prohibit consultations and planning on nuclear defense among NATO members?

A. It does not deal with allied consultations and planning on nuclear defense so long as no transfer of nuclear weapons or control over them results.

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3.Q. Does the draft treaty prohibit arrangements for the deployment of nuclear weapons owned and controlled by the United States within the territory of non-nuclear NATO members?

A. It does not deal with arrangements for deployment of nuclear weapons within allied territory as these do not involve any transfer of nuclear weapons or control over them unless and until a decision were made to go to war, at which time the treaty would no longer be controlling.

4.Q. Would the draft prohibit the unification of Europe if a nuclear-weapon state was one of the constituent states?

A. It does not deal with the problem of European unity, and would not bar succession by a new federated European state to the nuclear status of one of its former components. A new federated European state would have to control all of its external security functions including defense and all foreign policy matters relating to external security, but would not have to be so centralized as to assume all governmental functions. While not dealing with succession by such a federated state, the treaty would bar transfer of

nuclear weapons (including ownership) or control over them to any recipient, including a multilateral entity.

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VISIT OF MR. KOSYGIN TO LONDON

FEBRUARY 1967

Annex C.

NON-PROLIFERATION AND NATO NUCLEAR ARRANGEMENTS

(Under the Foreign Office)

Talking Points handed to the Soviet Delegation

Non-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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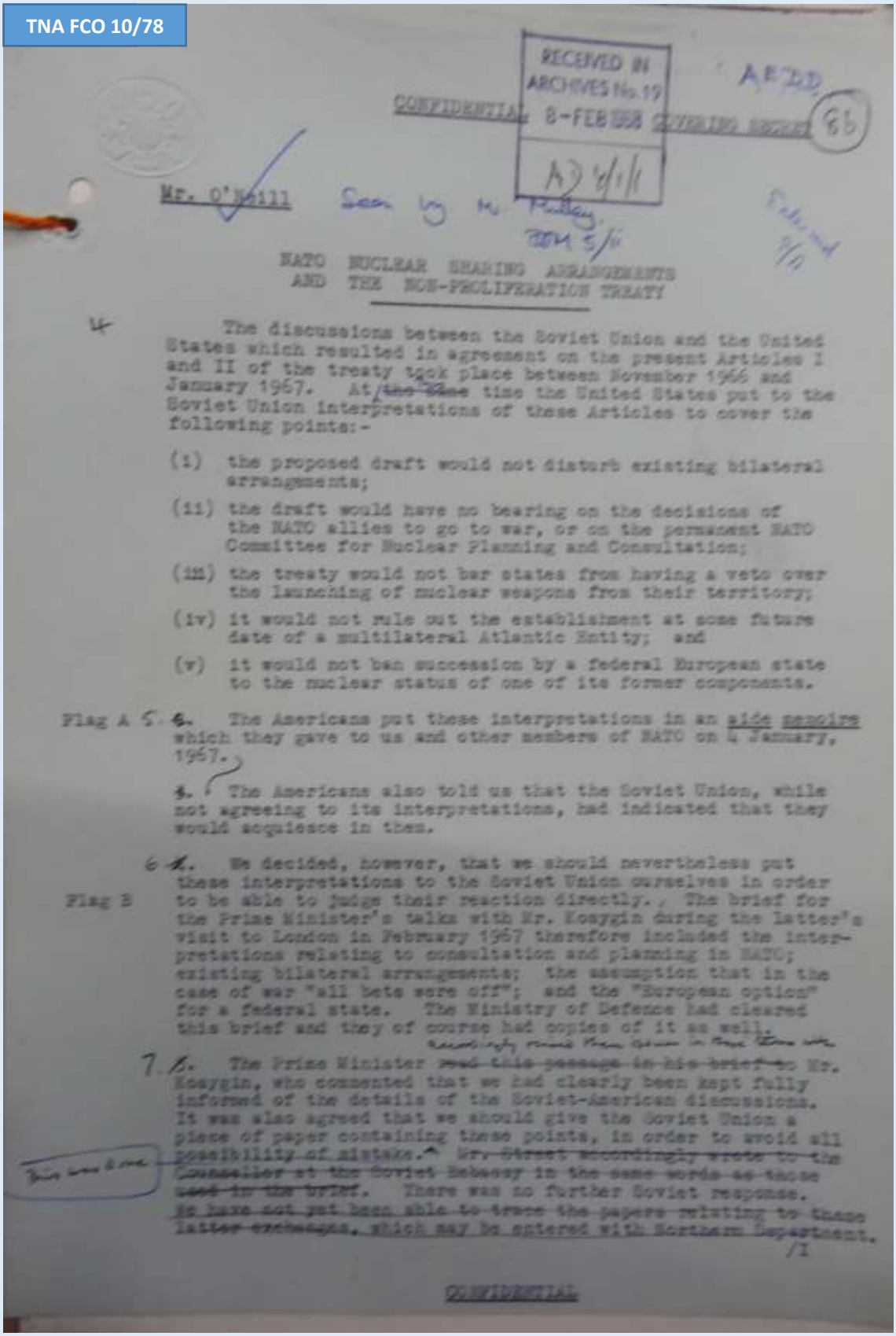

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Mr. O'Neill Seen by M. Palliser

NATO NUCLEAR SHARING ARRANGEMENTS AND THE NON-PROLIFERATION TREATY

4. 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 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. 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.

6. We decided, however, that we should nevertheless put these interpretations to the Soviet Union ourselves in order Flag B to be able to judge their reaction directly. The brief for the Prime Minister's talks with Mr. Kosygin 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. Kosygin, 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

TNA FCO 10/78

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RECEIVED IN ARCHIVES No 13 FEB 1968

AD 4/11/1

1. Mr. Mulley
2. Lord Hood
3. REDW.

SECRET

MINISTER OF STATE
FOREIGN OFFICE

Advance copies to REDD and WOCD
Copy also sent to Private Secretary. DOH 1/11

NON-PROLIFERATION TREATY AND
SECURITY GUARANTEE

Following yesterday's meeting of the Defence and Oversea 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 .....

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.

TNA FCO 10/78

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F I D IN
AF MS No. 19
12 FEB 1968
AD 4/1/1

Mr. O'Neill.

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

Confidential

93

Now included in OPD paper Cabs and P/M 12/2

SECRET

Sir B. Pack

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

NON-PROLIFERATION

Problem

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.

.../Background

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Background

Flag A
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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.

Flags C & D

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

Flag E
Flag F

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 Oversea 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.

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Flag H

As a result the Law Officers have today informed us of their opinion (set out in the attached draft OPD paper), which endorses the Minister of State's minute and answers the questions of the Defence and Oversea 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 Oversea 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.

...

Flag H

R. C. Hope-Jones

(R. C. Hope-Jones)
8 February, 1968

ATOMIC ENERGY AND DISARMAMENT DEPARTMENT,
FOREIGN OFFICE.

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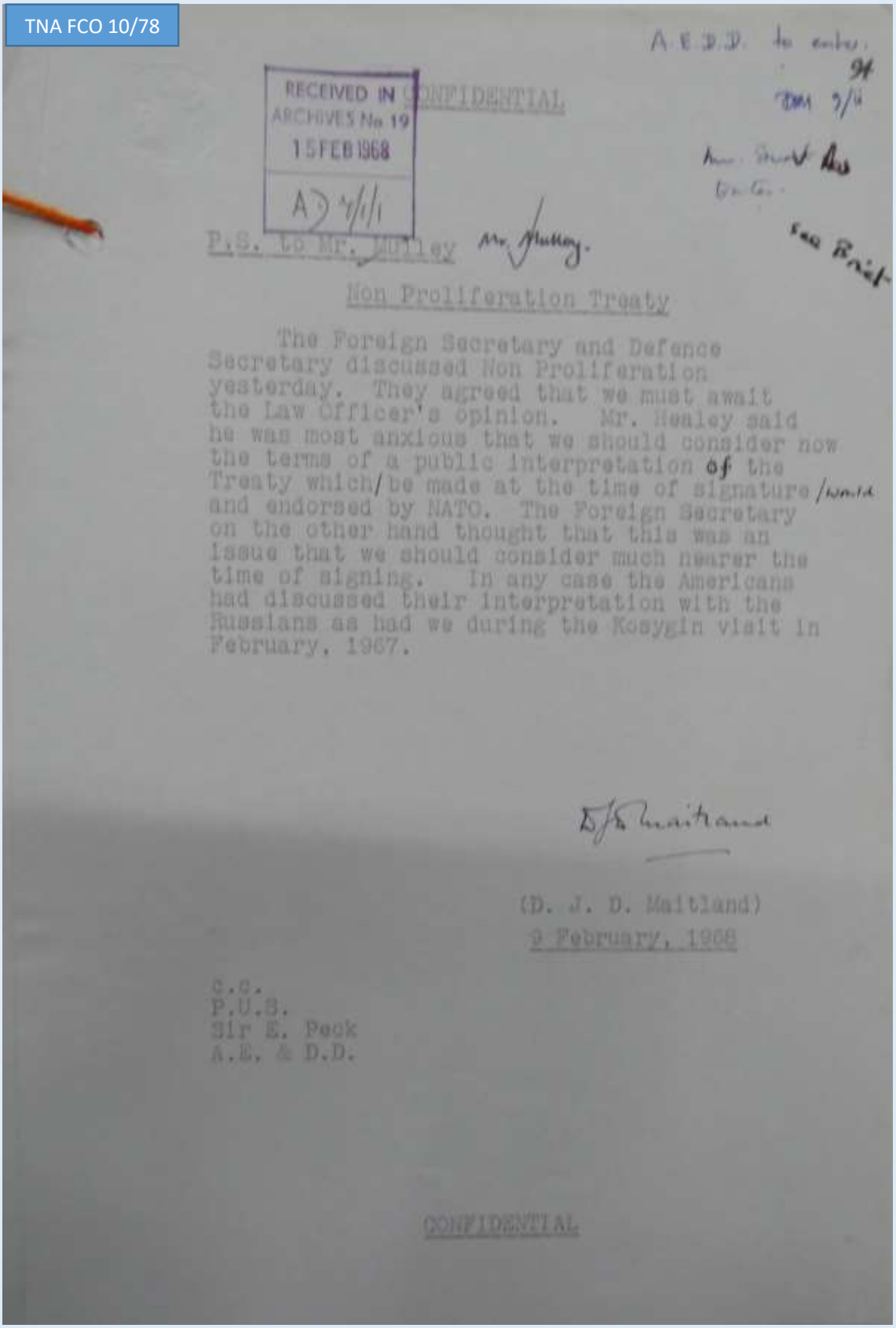

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15 FEB 1968
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P.S. to Mr. Mulley

Mr. Healey.

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 Kosygin visit in February, 1967.

D J D Maitland

(D. J. D. Maitland)
9 February, 1968

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

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TNA FCO 10/78

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.

Flag I

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 Oversea 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.

Flag C

Flag H

(Fred Mulley)
9 February, 1968

Approved & S.J.D. who writes the paper to be circulated in his name.

TNA FCO 10/78

SECRET

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.

/(d)

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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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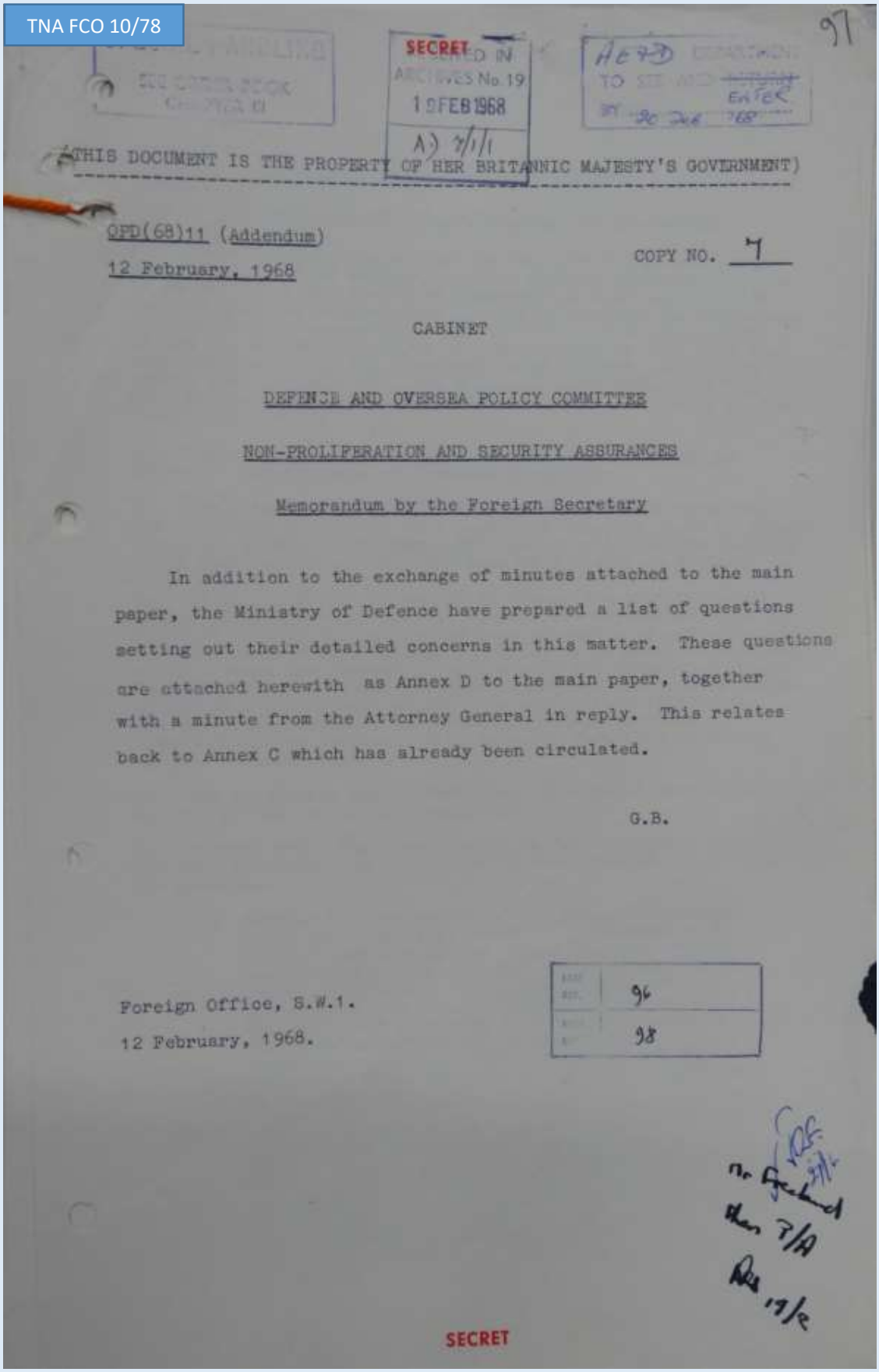

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OPD(68)11 (Addendum)

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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ANNEX D

THE DRAFT NON-PROLIFERATION TREATY

A. 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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Mr. Hurley has seen. (92)
A.E.D.D. to note.

ROYAL COURTS OF JUSTICE.
LONDON.

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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~~ Articles I & II, my answer is Yes.

4. I am sending a copy of this Minute to the Secretary of State for Defence.

F.E.J.

12th February, 1968.

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Incorporated in OPD Paper 45(96) P/A May 15/2

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Mr. O'Neill Mr. Murray

NON-PROLIFERATION AND SECURITY ASSURANCES

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

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

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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.

Flag F

R.C. Hope-James

(R. C. Hope-James)
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 any declaration explaining the Interpretations. It seems to me essential that you should keep control of this and seek to time it, after signature, so that we can be agreed with the Americans and our other NATO allies.

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

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DEFENCE AND OVERSEA POLICY COMMITTEE

14 February, 1968

Non-Proliferation and Security Assurances

Problem

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).

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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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(i) 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.

/ 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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P/O

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Talking Points

1. At the last meeting of this Committee which discussed
lag D 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.

Flags D and E

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

 /commitment.

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 Kosygin 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.

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 Kosygin 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 Kosygin 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 Points

1. 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

/want

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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

/or

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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6. The Way Ahead

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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TNA FCO 10/78

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ARCHIVES No 19
19 FEB 1968

OPD(68)11

12 February, 1968

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DEFENCE AND OVERSEA POLICY COMMITTEE

NON-PROLIFERATION AND SECURITY ASSURANCES

Memorandum by the Foreign Secretary

At the recent meeting of the Defence and Oversea Policy Committee (OPD(68) 2nd Meeting), the Committee invited the Minister of State for Foreign Affairs, 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 on our right to transfer nuclear weapons to the United States if we wished to do so.

2. These questions have been discussed with the Secretary of State for Defence and minutes setting out the issues involved have been exchanged. These are attached as Annexes A and B. In the light of this discussion the Foreign Office legal advisers consulted the Law Officers, who have advised that they are in general agreement with the views expressed in Mr. Mulley's minute /of 6 February

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97, 98

SECRET

of 6 February to the Defence Secretary (Annex B). In relation to the questions posed by the Defence and Oversea 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 Oversea 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 OPD(68)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.

- 3 -

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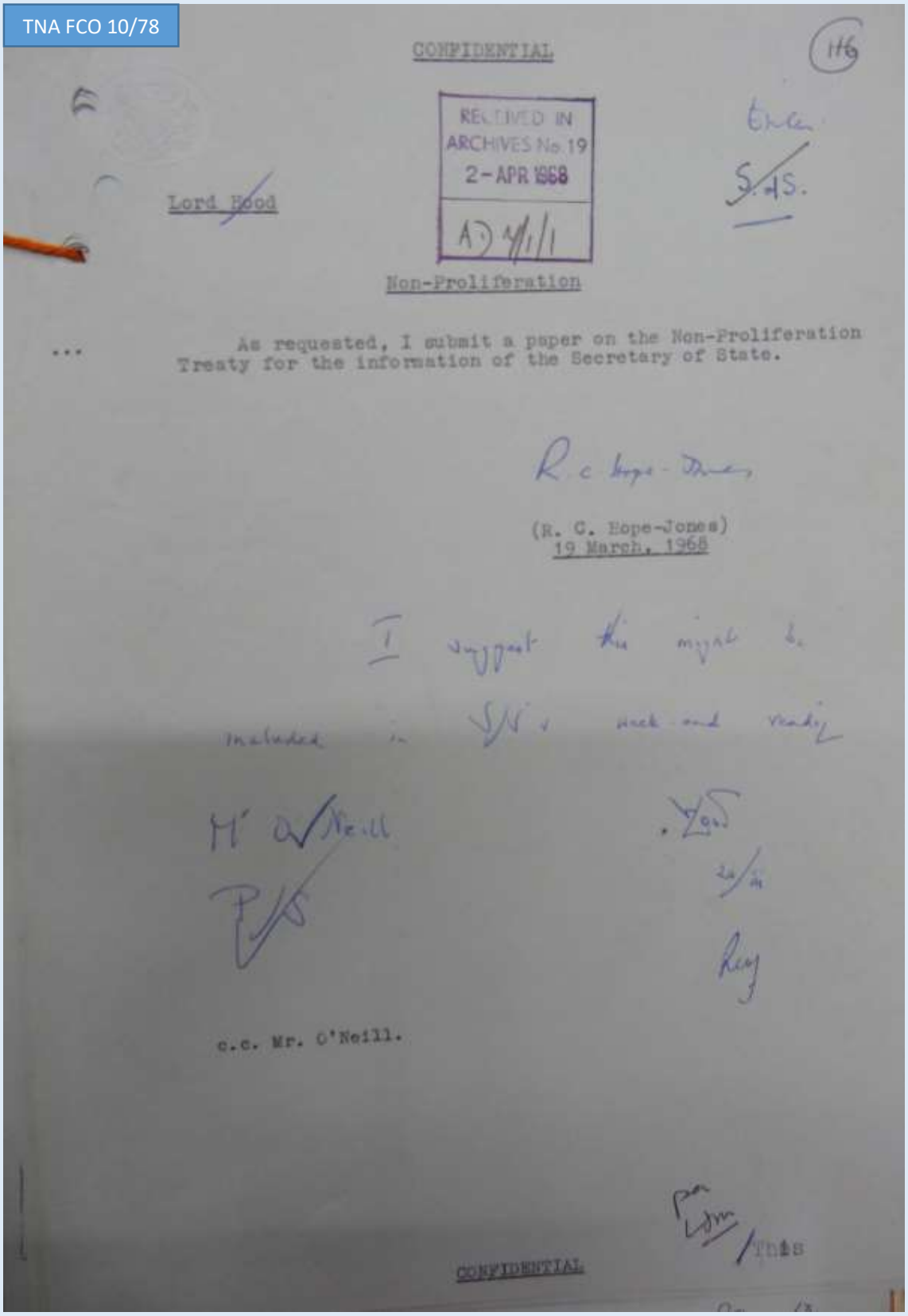

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RECEIVED IN ARCHIVES No. 19
2-APR 1968
AD 4/1/1

Lord Hood

S. of S.

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 support this minute &
included in S/S's neat and readily

Mr O'Neill

Roy

c.c. Mr. O'Neill.

CONFIDENTIAL

This

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NON-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

/of

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.

/Their

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

/Minister

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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.

6. 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

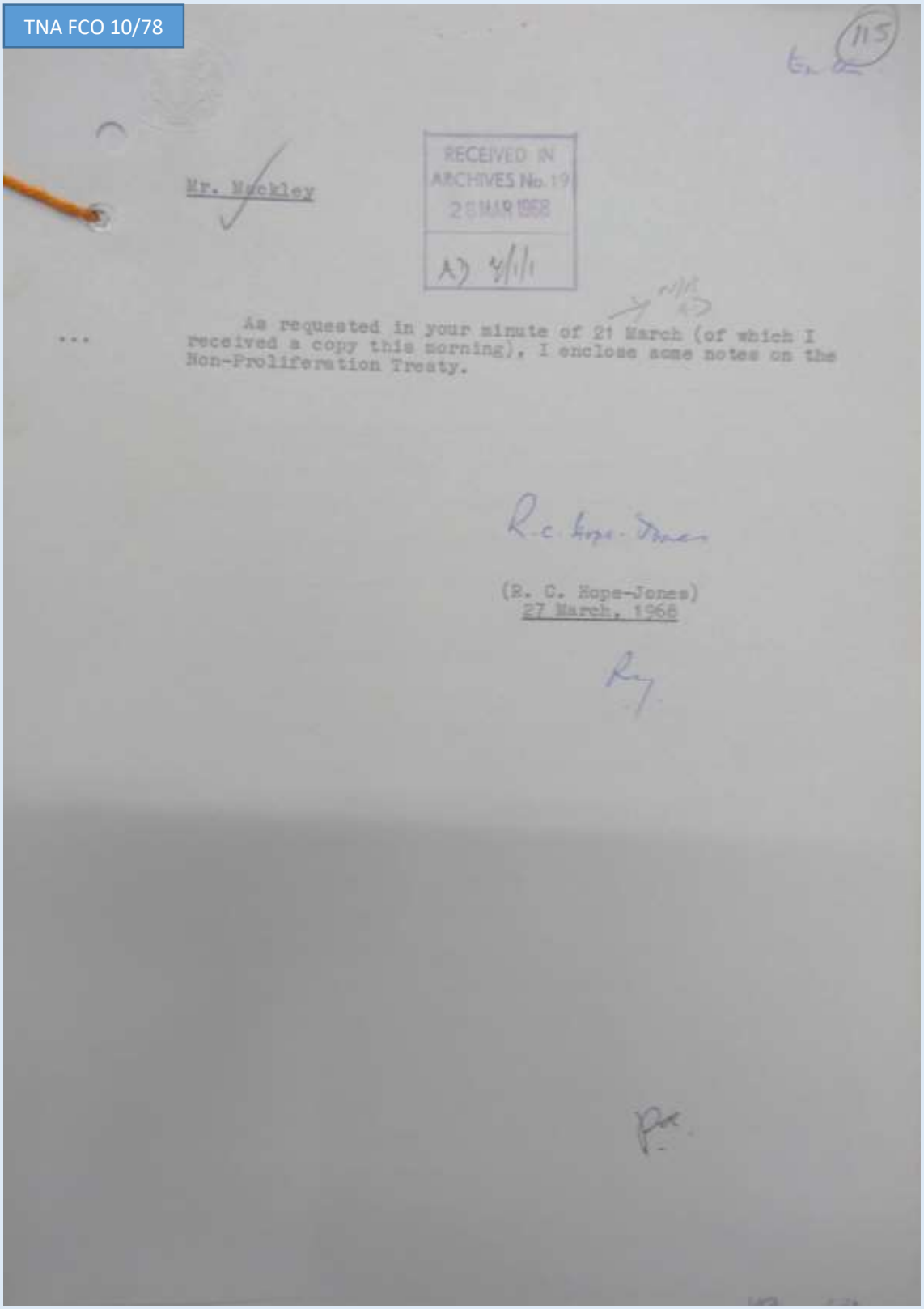
/loophole

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.

TNA FCO 10/78



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Mr. Mackley

RECEIVED IN ARCHIVES No. 19
26 MAR 1968

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...

As requested in your minute of 21 March (of which I received a copy this morning), I enclose some notes on the Non-Proliferation Treaty.

R.C. Hope-Jones

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

Roy

CONFIDENTIAL

AE (D) (114)

NATO AND THE NON-PROLIFERATION TREATY

Flag A

At its meeting on 14 February the Defence and Oversea 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

Flag B

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:-

(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.

Flag D

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.

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:-

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(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

/States

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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

 /considering

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.

TNA FCO 10/78

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ATOMIC ENERGY AND
DISARMAMENT (GENERAL)
17 April, 1968
Section 1

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EIGHTEEN-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, 10 April, 1968.*

Sir,

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

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 Mexic[illegible] 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 28h 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

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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(AD 14/4)

CONFIDENTIAL

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)

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

/vary

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.