

February 22, 1967
**US Department of State, Oral Note, 'Interpretations
Regarding Draft Non-Proliferation Treaty
Formulations'**

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Summary:

As an assurance to the Germans and other NATO allies, ACDA and the State Department drew up a memorandum on the interpretation of the NPT draft treaty. The key point was that the treaty "deals only with what is prohibited, not what is permitted."

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INTERPRETATIONS REGARDING
DRAFT NON-PROLIFERATION TREATY FORMULATIONS

The United States Government is presenting herewith a draft summary of interpretations relating to the non-proliferation treaty. This summary cannot be made final, of course, until agreement has been reached on the text of treaty provisions for ENDC Co-Chairmen to introduce into the ENDC. A final written summary of interpretations will be transmitted later. In accordance with agreement between Secretary Rusk and Foreign Minister Brandt we would plan to give these final interpretations in writing to the Soviet Union as soon thereafter as possible.

In our discussions in Washington we were agreed that it would not be desirable to request comments from the Soviet Union but that we would inform the Soviets that we are providing them with a summary in order to inform them of explanations we have given to our NATO allies in response to their questions. ^D

DRAFT SUMMARY OF INTERPRETATIONS

1. The treaty deals only with what is prohibited, not with what is permitted. ^{ju}

2. 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.

3. 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.

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

5. It does not deal with existing 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.

6. ^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. It would bar, however, transfer (including ownership) of nuclear weapons or control over them to a new multilateral or other entity lacking the attributes of a federated state essential to bring into play the legal doctrine of succession. ^B

END OF SUMMARY OF INTERPRETATIONS

In addition to the foregoing points, certain interpretations regarding preambular language will be provided once the preamble is agreed upon. We are seeking Soviet concurrence to formulations in the preamble which should lend themselves to the following interpretations:

a. It is the intent of the nuclear-weapon-states to achieve at the earliest possible date the cessation of the nuclear arms race. Article IV provides means for treaty signatories to assess progress toward this objective;

b. It is the intent of the nuclear-weapon-states that nuclear weapons and delivery vehicles should be eliminated from national arsenals pursuant to a treaty on general and complete disarmament.

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c. Apart from nuclear explosive devices, the treaty in no way inhibits the peaceful applications of atomic energy. It would not prohibit any non-nuclear-weapon-state from proceeding with development of a fast breeder reactor;

d. Apart from nuclear explosive devices, the treaty in no way hinders cooperation between states regarding the peaceful applications of atomic energy;

e. It is the intention of nuclear-weapon-states which possess nuclear explosive devices to make nuclear explosive services available to other parties in a non-discriminatory manner under appropriate international arrangements, with devices remaining under control and custody of the states which provide them.

The United States has also provided its allies with a draft formulation of Article III concerning the application of international safeguards over peaceful nuclear activities. If this formulation proves acceptable to our allies and the Soviet Union it would lead itself to the following interpretations:

a. It would not impinge upon the essential interests of the Federal Republic of Germany and other EURATOM members in developing peaceful nuclear technology;

b. It would provide a reasonable period of time for application of IAEA safeguards to become effective;

c. It would not prevent the United States or any other supplier from selling plutonium to EURATOM and the Federal Republic of Germany;

d. It would not establish inspection arrangements which could be exploited for industrial espionage.

e. It would not affect the right of any state to decline to receive individual IAEA inspectors.

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The German Aide Memoire of February 3, 1967, expresses need for achieving binding interpretations with the Soviets on "the reservation of the possibility to protect Western Europe by a nuclear anti-missile system". As we previously explained to Ambassador Knappstein, the draft treaty does not, and we believe it cannot, differentiate between offensive and defensive nuclear weapons. Therefore, nuclear warheads for anti-ballistic missiles would be subject to the same restriction as other nuclear weapons, i.e., no transfer would be permitted of the nuclear warheads or control over them. However, the treaty would not preclude deployment of anti-ballistic missiles in the same manner that US surface-to-air missiles are now deployed. We believe that the question of possible deployments of anti-ballistic missiles should continue to be examined in other contexts.

(State 141946 LIMDIS)
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