



ARMS CONTROL TEXT

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*"The 1995 NPT Conference - An
Historic Opportunity for International and
Regional Security"
Statement Before the Organization of
American States Special Committee on
Hemispheric Security, Washington, D.C.*

I welcome the opportunity to discuss with you today a matter of utmost importance to the United States: the extension of the Treaty on the Non-Proliferation of Nuclear Weapons, or NPT. In April, parties to the NPT will meet in New York to take a decision on the further duration of the Treaty. This decision will have profound consequences not only for the future of the NPT, but also for the future of the international security system of which the NPT is such an integral part and, importantly, for the peace and stability of our Hemisphere. The United States strongly supports the NPT, and is committed to secure the Treaty's indefinite extension, without condition, at the 1995 NPT Conference. Achieving indefinite extension is a national security and foreign policy objective of the highest priority for the United States.

The NPT is the cornerstone of the international nuclear nonproliferation regime, indeed of virtually all arms control agreements. The NPT's entry into force in 1970 created an international norm of nonproliferation that has helped to isolate states outside the regime who have persisted in their efforts to acquire nuclear weapons. The NPT serves two mutually reinforcing aims – nuclear nonproliferation and disarmament – by balancing positive and negative rights and obligations. Nuclear weapon states parties to the Treaty are

obligated not to assist non-nuclear weapon states to acquire nuclear weapons, to facilitate the peaceful uses of nuclear energy, and to pursue measures of nuclear disarmament. President Clinton strongly reaffirmed these goals in his speech at the Nixon Center on March 1, and also reaffirmed United States determination to seek universal membership in the NPT. Non-nuclear weapon states parties to the Treaty are obligated not to acquire nuclear weapons and to place all their nuclear activities under international safeguards. All NPT parties are obligated to work together to enhance international cooperation in the peaceful uses of nuclear energy. With its global reach, the NPT sets the fundamental legal standard and political framework to prevent the spread of nuclear weapons.

I have spent much of my time this last year traveling around the world meeting with different countries and listening to their views about the NPT and its extension. I asked to speak to this distinguished group of OAS representatives here today for several reasons. The Organization of American States and its member states have been very active in addressing the proliferation of weapons of mass destruction. Last year's OAS General Assembly Resolution (AG/RES. 1302 (XXIV-0/94), "Regional Contributions to Global

Security: Nonproliferation," is a clear indicator of the commitment OAS states have to this issue, which this Special Committee has also worked to keep in the forefront of discussions on regional security.

OAS members have made significant contributions to promote regional arms control and nonproliferation measures and in so doing set the standards for other regions. Some examples include:

- The Treaty of Tlatelolco;
- The bilateral nuclear safeguards agreement between Argentina and Brazil;
- The quadrilateral nuclear safeguards agreement among Argentina, Brazil, the Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials and International Atomic Energy Agency brought into force in March 1994;
- The 1991 Declaration of Cartagena of the Presidents of the Andean Group;
- The Declaration of Guadalajara;
- The 1991 Mendoza declaration; and
- Widespread adherence to the BWC, CWC, and NPT.

All of these major contributions to regional and international security reflect growing hemispheric support for nonproliferation. By any measurements, this is a remarkable set of nonproliferation achievements.

THE NPT DESERVES A PERMANENT STATUS:

Latin American countries were the first to commit against nuclear proliferation and to codify this commitment in a nuclear-weapon-free zone arrangement, the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean, more commonly known as the "Treaty of Tlatelolco."

As a result of the entry into force of the Treaty of Tlatelolco in 1968 and the NPT in 1970, the risk of nuclear proliferation in this region is the lowest of any worldwide. By virtue of their membership in the Treaty of Tlatelolco, which is a permanent Treaty, Latin and Caribbean states have foresworn forever the acquisition of nuclear weapons. This strong commitment to nuclear nonproliferation will soon reach an historic milestone, as the Latin America and the Caribbean area becomes the first region to fully implement a regional nuclear-weapon-free zone.

The April 1995 NPT Conference presents another historic opportunity for Latin and Caribbean states. Supporting the indefinite extension of the NPT will ensure that all countries around the world are similarly committed indefinitely to nuclear nonproliferation principles. A decision in support of indefinite extension will also help ensure that the risk of nuclear proliferation in the region remains low. Most importantly, it would bring the NPT into line with Tlatelolco, making the commitment to nonproliferation as firm worldwide as that undertaken by Latin America. If the NPT's future is limited, however, the result could be that at some point in the future, other countries would be free to acquire nuclear weapons while Latin and Caribbean states could not because they have already foresworn this option permanently. No doubt this issue will be discussed at the OPANAL General Conference to be held in Chile on the 28th through the 30th of this month.

The United States would hope that as many OAS states as possible will be willing to publicly express themselves in favor of indefinite extension of the NPT at the OPANAL Conference.

The importance of this opportunity to lock in a permanent NPT and a permanent commitment by all NPT parties against nuclear weapons, which will complement the commitments inherent in the Treaty of Tlatelolco, cannot be overstated.

In 1968, when the NPT was being negotiated, the world did not have any experience in operating a complex, global, nuclear nonproliferation regime. Some states worried that full-scope IAEA safeguards administered under the NPT could be unduly burdensome and could compromise

industrial secrets. Today, we can declare the nuclear nonproliferation regime a major success. One of its most important characteristics has been its capacity for adaptability and growth without having to alter the NPT itself. The safeguards regime has demonstrated its effectiveness and efficiency; the commercial burden that had been feared has not been realized.

Uncertainty in 1968 about who would join the NPT was a major concern. Today, that uncertainty has been replaced with an appreciation of the nearly-universal membership of this arms control Treaty. With over 170 parties, the NPT is the most widely adhered to arms control agreement in history. Membership in the Treaty continues to increase, which reinforces the view that the NPT is a vital and effective part of the international nonproliferation regime. Because the norm of nonproliferation is now so widely and deeply honored, even those few states not yet party to the NPT know that the international community applies the same nonproliferation standard in judging their actions. In this way, the NPT reaches all countries, party or not.

Clearly, the context in which the Treaty's negotiators gave the NPT an initial duration of twenty-five years has changed. During the Cold War, uncertainty about the future and the long-term effectiveness of the Treaty led a small handful of states to want to leave open the nuclear option. Today, the Cold War is behind us but the threat of nuclear proliferation has emerged as the gravest threat to regional and global security and stability that confronts us. In April, we will have an opportunity to ensure that this threat does not become a horrifying reality.

Making the NPT permanent, like all other international arms control agreements, would be the most unambiguous signal the international community could send about its commitment to prevent the further spread of nuclear weapons. A strong and permanent NPT is an important source of leverage over those states outside the nonproliferation regime to join the NPT or adopt other measures to conform with established nonproliferation norms. The nearly universal support that now exists for the NPT is a formidable political force against states that have remained outside the regime, or parties that have not complied with their NPT obligations. Further,

by making the NPT a permanent part of the international security structure we would ensure that it continue to serve as a stable foundation upon which other vitally needed measures of nuclear disarmament can be built.

ISSUES OF IMPORTANCE FOR THE EXTENSION DECISION:

There are many issues that states will consider in connection with the NPT extension decision. In September, during the third meeting of the NPT Preparatory Committee, Indonesia, acting on behalf of the Non-Aligned and Others group, tabled a document that identified six areas in which "substantive progress" by the nuclear weapon states would "contribute to the successful outcome of the Review and Extension Conference." In sum, these six areas are:

- 1) agreement on principles of nuclear disarmament;
- 2) support for nuclear-weapon-free zone agreements, especially in the Middle East and Africa;
- 3) completion of a Comprehensive Test Ban Treaty (CTBT);
- 4) provision of positive and negative security assurances to non-nuclear states parties to the NPT;
- 5) negotiation of a fissile material cut-off convention; and
- 6) enhancement of international cooperation in the peaceful uses of nuclear energy.

The United States recognizes the views expressed in this document as confirming the strong desire of non-aligned states for more arms control progress and to receive some concrete assurances that the nuclear weapon states are committed to their NPT obligations. All of the initiatives identified by the non-aligned paper are ones on which the United States shares an interest in seeing progress made. Serious efforts are underway in all of these areas to address the issues of primary interest to non-aligned states that will figure so importantly in NPT extension decision considerations. The

United States is committed to a process of arms reductions. We have reduced the number of our arsenal of non-strategic nuclear force warheads by 90 percent since 1988. By 2003, we will have reduced the number of strategic nuclear warheads by 70 percent from its Cold War high. As a further demonstration of our commitment to the disarmament objectives in the NPT, President Clinton announced on March 1 that he had ordered that 200 tons of fissile material be permanently withdrawn from the U.S. nuclear stockpile. Moreover, the United States is strongly committed to the successful conclusion of a Comprehensive Test Ban Treaty at the earliest possible date. We are working to ensure that the first half-century of nuclear explosions is the last. Serious efforts are underway among the United States and other P-5 members to harmonize and update existing negative and positive security assurances for non-nuclear weapon state parties to the NPT. In addition, the United States remains firmly committed to the legitimate use of peaceful nuclear energy and to efforts to enhance international cooperation in this area.

Although it may not be possible to meet all of the "requests" made in the non-aligned document prior to the 1995 NPT Conference, this should not be construed to signify that the United States or other states are not committed to their NPT obligations. To those who would question our commitment to arms control and our motives in seeking a permanent NPT, we say investigate our record. We are proud of the accomplishments we have made to date and believe that honest scrutiny of our efforts will reveal the degree of our commitment to the NPT. Moreover, while the United States recognizes the strong interest of states in seeing further progress made in all the areas outlined by the non-aligned document, we fundamentally disagree with those who would use the extension of the NPT as a "bargaining chip" in the quest for completion of other arms control measures. The NPT is too important to the security of all its parties to risk holding its future hostage.

The NPT benefits all its parties, and all NPT parties have a responsibility to ensure that the Treaty remains a strong and viable part of the international security system. Countries must resist efforts to "bargain" with the NPT's future and instead take advantage of the opportunity afforded

by the 1995 NPT conference to make the Treaty permanent and thus ensure the security of future generations.

THE NATURE OF THE EXTENSION DECISION:

I would like to spend a few minutes reviewing the nature of the extension decision to be taken in April. This aspect of the 1995 NPT Conference has been the subject of much debate within the NPT community, and is likely to be the subject of even more intense discussion over the coming weeks.

It is important that the NPT parties understand the constraints built into the Treaty and the parameters within which the extension decision must be taken. Article X.2 of the Treaty explicitly provides that parties in 1995 will meet to: "decide whether the NPT 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." The decision taken by a majority of the parties at the 1995 NPT Conference is immediately legally binding on all parties no matter how they voted and without reference to national parliaments. This is possible because the decision mechanism is built into the Treaty. When states joined the NPT, they accepted the 1995 provision and are bound by it, but are bound by nothing more.

A review of the Treaty's negotiating history suggests that the treaty negotiators deliberately formulated the language of Article X.2 to restrict the extension to three options. Despite the Treaty's precise language, some have suggested that the decision in 1995 is a political one and that the parties should thus be allowed to take whatever decision they like in 1995, regardless of whether it conforms to the options set forth in the NPT. While political views will certainly play a role in 1995, it is irresponsible -- even dangerous -- to suggest that treaty parties could ignore the very real legal aspects of the NPT. When an important new legal obligation is imposed on the parties pursuant to a Treaty provision, but without further ratification by national parliaments, that provision must be narrowly construed. This is a fundamental rule of legal construction.

The reason that this point is so important is that there have been suggestions that the 1995 NPT

Conference could simply extend the Treaty for twenty-five years under the same terms as Article X.2 provides, that is, to hold another extension conference in 2020 with the same options before it as that in 1995. George Bunn, one of the original drafters of the NPT, addressed this proposal in an article last Fall. According to Bunn, the proposal "...would amount to adding to Article X.2 the following language: 'Twenty-five years after the first extension conference, a conference shall be convened to decide whether the Treaty shall continue in force indefinitely, or shall be extended...'" In Bunn's words, "that would require an amendment to the treaty, a difficult procedure."¹ At the 1995 NPT Conference, NPT parties must choose one of the three options pursuant to Article X.2 in order to extend the Treaty. The conference is not authorized to take some other extension option.

The singular nature of the extension decision must also be given due consideration. What Article X.2 does not explicitly state, but what is so critical to the extension decision, is that the 1995 NPT Conference offers, as a practical matter, the one and only chance for NPT parties to take a decision on extension which will be legally binding on all NPT parties, whether or not they support the decision, and that will not require ratification by national parliaments. A new extension decision taken sometime after the 1995 Conference could only be accomplished through treaty amendment, which in turn would require approval of a majority of all states to the Treaty (that is, by their national parliaments), including by all five nuclear-weapon states and all other parties which are then members of the IAEA Board of Governors. Eventually, all states parties would have to submit the amendment to ratification procedures for it to take effect for them. It is worth noting that it took nineteen years for the original 98 signatories of the NPT to ratify their decision. It is likely that any effort to amend the NPT, even for such a necessary purpose as extending its life, would fall victim to the processes by which such amendments would need to be agreed to by national parliaments. Clearly, there are numerous issues which will be

discussed and debated as countries prepare for the 1995 NPT Conference, as well there should be given the importance of this conference. It is essential, however, that the singular nature of the extension opportunity offered in 1995 be considered seriously and carefully by all parties as the 1995 NPT Conference approaches.

A final aspect of the extension decision that should be given due consideration is that Article X of the Treaty expressly permits the decision at the 1995 NPT Conference to be taken by a majority vote. This marks a significant departure from the past NPT Review Conference practice, where consensus decision-making has been the norm.

The fact that Article X permits the taking of the extension decision by a majority vote, however, is no accident. This aspect of Article X was crafted in recognition that the extension decision in 1995 fundamentally is too important to risk it being held hostage to a consensus decision requirement. If consensus were the rule in 1995, this would mean that one state could block a successful extension outcome; that the wishes of the vast majority of states would go unrealized because one state -- or an handful of states -- was unwilling to accept a particular extension decision. This clearly would be unacceptable.

I am personally skeptical that consensus on any extension decision will be possible. More important, however, is the fact that the provisions of the Treaty anticipate that a vote on the extension may be necessary and explicitly provide for such an outcome. This important aspect of Article X must not be ignored. The United States shares the view that an extension outcome in 1995 reflecting consensus support would be the ideal, but it is clear that such an outcome will not be needed to meet the requirements of Article X and to achieve success. The United States will work with all NPT parties to achieve a successful outcome at the 1995 NPT Conference; but in doing so we intend to make full use of the flexibility built into Article X, including the taking of the extension decision by majority vote if necessary. The consequences in 1995 for the future of the entire international nonproliferation regime are too important to do otherwise.

¹ Bunn, George, "Extension of the NPT: Legal Questions Faced by the Parties in 1995." American Society of International Law, October 1994.

CONCLUSION:

The 1995 NPT Conference is six weeks away. This issue is at the top of many countries' foreign policy agendas, and rightly so. The decision on the NPT's future will be the single most fateful vote affecting world peace for the remainder of this century and for many years to come. History will not treat us kindly if we squander this opportunity.

The United States has reviewed all of the options provided for by Article X of the Treaty. We support indefinite extension of the NPT because that is the only option that will guarantee that the Treaty remains a strong, durable, and dependable part of the international security system. It is the only outcome that will ensure that the NPT continues to provide an effective means by which to prevent nuclear proliferation, to promote progress in arms control, and to facilitate cooperation in peaceful uses of nuclear energy.

The United States understands the concerns that non-nuclear-weapon states have about the need to ensure continued progress in arms control and disarmament. However, it is clear that a limited extension of the NPT will not serve countries' interests in seeing progress made in this area, nor in ensuring regional and international security and stability. In fact, the opposite is true. It is through an indefinite extension, which will create a stable and dependable security environment, that countries can best ensure progress in arms control and disarmament.

I want to make special note of the fact that, under a permanent NPT, regular Review Conferences would continue to be held. The Treaty review process over the past 25 years has proved an effective and important means for Treaty parties to recommend measures to further strengthen the

NPT and the broader international nonproliferation regime. It provides the mechanism through which future treaty accountability can best be assured. In supporting an indefinite extension with a commitment to a regular review process, we can both protect the future integrity of the NPT and continue efforts to work to strengthen and improve the Treaty's operation.

OAS members have demonstrated both in word and deed their commitment to ensure that the international nonproliferation regime remains as strong as possible. Latin and Caribbean states have further illustrated their strong support for this objective by enhancing and working to bring fully into force the Treaty of Tlatelolco. There is one more, crucial action that must be accomplished before this hemisphere can consider itself truly safe from the threat of nuclear proliferation. With the strength of your convictions and commitment to nuclear nonproliferation and to arms control, I ask you all to join the many other countries around the world in supporting the indefinite extension of the NPT. Again, I ask that your country consider taking the opportunity presented by the forthcoming OPANAL Conference to place on public record your support for this objective.

Global norms and nonproliferation practices such as the NPT will be increasingly important to all OAS member states as we enter a new international security environment. The 1995 NPT Conference represents our one and only chance to make the NPT a permanent part of the global security system and thereby ensure the security of future generations. We must not let this opportunity pass unfulfilled.

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