

CHAPTER 10

THE THREE QUALIFICATIONS OF ARTICLE IV'S "INALIENABLE RIGHT"*

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To be sure, Article IV of the NPT recognizes the "inalienable right" of signatories to peaceful nuclear energy. However, it also explicitly imposes two qualifications on the "nuclear energy for peaceful purposes" to which NPT signatories have an "inalienable right." Signatories shall develop "research, production and use" of peaceful nuclear energy (1) "without discrimination" and (2) "in conformity with articles I and II of this Treaty."¹ Moreover, when the NPT's Article III defines the purpose of comprehensive safeguards by the IAEA as the "*verification of the fulfillment of [signatory] obligations assumed under this Treaty with a view to preventing the diversion of nuclear energy from peaceful purposes to nuclear weapons and other nuclear explosive devices,*"² it effectively establishes (3) "conformity with Article III" as a third qualification. These three qualifications, when understood in relation to the treaty's preamble and main text, not only narrow the scope of "nuclear energy for peaceful purposes" to which signatories have an "inalienable right," but also establish criteria that signatories must meet in order to exercise this right.

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To begin, paragraph seven of the NPT's preamble lays out the principle that addresses the special meaning of Article IV's first qualification, "without discrimination," within the context of the treaty.³ That paragraph affirms:

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 of the Treaty, whether nuclear-weapon or non-nuclear weapon States.⁴

To be clear, neither this principle (which hereinafter I refer to as the "benefits-without-discrimination" principle), nor any other part of the NPT, ever expressly requires that any specific *nuclear technology*, or any specific *peaceful application* of nuclear technology, be made available to all signatories, but rather that only *the benefits* of a given nuclear technology's peaceful application be made available somehow. In essence, this principle recognizes that some nuclear technologies and some peaceful applications of nuclear technology – to take an extreme example, so-called "nuclear explosions for peaceful purposes" in civilian mining, excavation, or canal-digging operations – may be too uneconomical, too proliferative, and too unsafeguardable to permit non-nuclear-weapon states to acquire and use them. Thus, when Article IV's first qualification applies this principle to peaceful nuclear energy, it appears to permit, in principle, the denial of a given nuclear technology or a given nuclear technology's peaceful application to a signatory as long as the benefits of the denied nuclear technology's peaceful application are made available somehow.

Article IV's second qualification requires that the development of "research, production and use" of peaceful nuclear energy be "in conformity with articles I and II" of the NPT. These two articles articulate the NPT's main prohibitions against the direct and indirect proliferation of nuclear weapons by treaty signatories. Article I prohibits nuclear-weapon signatories from giving nuclear weapons and other nuclear explosive devices, or control over such devices, to "any recipient whatsoever," and also forbids them from "assist[ing], encourag[ing], or induc[ing]" any non-nuclear-weapon state "to manufacture or otherwise acquire" nuclear explosive devices.⁵ Article II correspondingly prohibits non-nuclear-weapon signatories from receiving nuclear explosive devices, or control over such devices, and also forbids them from building or acquiring in any way nuclear explosive devices, and from receiving or seeking "any assistance in the manufacture" of such devices.⁶ Article IV's second qualification therefore effectively narrows the scope of "nuclear energy for peaceful purposes" to which signatories have an "inalienable right" under Article IV, since peaceful nuclear energy "in conformity with articles I and II" excludes *not only* nuclear explosive technology for peaceful or non-peaceful purposes, *but also* other nuclear technology and assistance that could "assist, encourage or induce" non-nuclear-weapon states "to manufacture or otherwise acquire" nuclear explosive technology.⁷

Furthermore, the NPT's Article III requires each non-nuclear-weapon signatory to conclude a comprehensive safeguard agreement with the IAEA:

for the exclusive purpose of *verification of the fulfillment of its obligations assumed under this Treaty* with a view to preventing the diversion of nuclear energy

from peaceful purposes to nuclear weapons and other nuclear explosive devices.⁸

By requiring non-nuclear-weapon signatories to submit to full-scope IAEA safeguards to verify the fulfillment of their obligations under Articles I and II, as well as other parts of the NPT, Article III effectively establishes a third legally-binding qualification on the “nuclear energy for peaceful purposes” to which signatories have an “inalienable right” under Article IV. That is, to develop “research, production and use” of peaceful nuclear energy “in conformity with articles I and II” necessarily implies full “conformity with Article III.”⁹ Thus, Article IV’s third qualification appears to recognize the “inalienable right” of a signatory to peaceful nuclear energy only when the signatory’s nuclear activities are *effectively* safeguardable by the IAEA, and the signatory complies fully with its obligations under Article III of the NPT and related IAEA comprehensive safeguards agreements.¹⁰

ARTICLE IV’S THREE QUALIFICATIONS AND NUCLEAR EXPLOSIONS FOR PEACEFUL PURPOSES

With respect to “nuclear explosions for peaceful purposes,” the majority of the NPT negotiators understood that, at the time of their negotiations and for the foreseeable future, nuclear explosive technology in civilian projects not only lacked clear and immediate economic benefits, especially when compared to non-nuclear alternatives; but also possessed an unacceptable risk of nuclear proliferation since such technology *could not be effectively safeguarded by the IAEA*. Hence, the final text of the NPT denies non-nuclear-weapon

signatories access both to nuclear explosive technology and its peaceful applications.

In conformity with the preamble's "benefits-without-discrimination" principle, though, the NPT's Article V outlines the framework by which non-nuclear-weapon signatories could avail themselves of "the potential benefits" of nuclear explosive technology's peaceful application, if such economic benefits should ever materialize. The relevant part of Article V reads:

Each Party to the Treaty undertakes to take appropriate measures to ensure that, in accordance with this Treaty, under appropriate international observation and through appropriate international procedures, *potential benefits* from any peaceful applications of nuclear explosions will be made available to non-nuclear-weapon States Party to the Treaty on a *non-discriminatory basis* and that the charge to such Parties for the explosive devices used will be as low as possible and exclude any charge for research and development. Non-nuclear-weapon States Party to the Treaty shall be able to obtain such benefits, pursuant to a special international agreement or agreements, through an appropriate international body with adequate representation of non-nuclear-weapon States. . . .¹¹

As the NPT's negotiation history reveals, many of the non-nuclear-weapon states represented at the ENDC did not view either the denial of nuclear explosive technology and its peaceful applications, or Article V's framework for providing the "potential benefits" of the denied nuclear explosive technology's peaceful applications, as discriminatory per se.¹² For example, in late January 1968 Polish delegate Mieczyslaw Blusztajn remarked to the ENDC:

I should like once again to stress that *the right of all countries to conduct peaceful nuclear explosions is not at*

stake. The only matter to be settled is the procedure and the conditions to be observed so that countries which forgo the manufacture of nuclear devices shall not be deprived of *the benefits* that may be derived from the use of nuclear explosives.¹³

Bulgarian delegate Kroum Christov echoed the Polish delegate's sentiments:

[I]t seems to us quite clearly impossible to admit and to include in the non-proliferation treaty the right to manufacture nuclear devices and to carry out nuclear explosions. *There is no question in this case of denying a right; nor should the prohibition of all activity of this nature be regarded as an infraction of that right.* Account is taken of a state of facts which, for reasons which cannot be refuted and which have been explained here at length, renders the manufacture of nuclear devices incompatible with a non-proliferation treaty.¹⁴

In retrospect, the efforts of NPT negotiators to limit the spread of nuclear explosive technology for peaceful purposes proved to be well-founded. Indeed, the "potential benefits" of so-called peaceful nuclear explosives ("PNEs") never materialized as non-nuclear explosive alternatives for mining, excavation, and canal-digging operations emerged as safer and more economical choices.¹⁵ In fact, in May 1995 the quadrennial NPT review conference reached the following conclusions about PNEs:

The Conference records that *the potential benefits* of the peaceful applications of nuclear explosions envisaged in article V of the Treaty *have not materialized*. In this context, the Conference notes that the potential benefits of the peaceful applications of nuclear explosions have not been demonstrated and that serious concerns have been expressed as to the environmental consequences that could result from the release of

radioactivity from such applications and on the risk of possible proliferation of nuclear weapons. Furthermore, no requests for services related to the peaceful applications of nuclear explosions have been received by IAEA since the Treaty entered into force. The Conference further notes that no State party has an active programme for the peaceful application of nuclear explosions.¹⁶

Moreover, though the *Comprehensive Nuclear-Test-Ban Treaty* has not entered into force, it has nonetheless established an international norm against the use of nuclear explosions, whether for non-peaceful or allegedly peaceful purposes.¹⁷

By prohibiting non-nuclear-weapon states from developing, accessing, and using so-called peaceful nuclear explosive devices, the NPT reinforces the importance of the following principle: When the IAEA cannot effectively safeguard the nuclear material involved in an allegedly peaceful application of nuclear technology, then the NPT does not protect the right of states to develop, access, or use that allegedly peaceful application of nuclear technology.

ARTICLE IV'S THREE QUALIFICATIONS AND NUCLEAR ENERGY FOR PEACEFUL PURPOSES

In conformity with Article IV's three qualifications, then, both (a) the "benefits-without-discrimination" principle of the NPT's preamble, and (b) the framework by which Article V allows non-nuclear-weapon signatories to avail themselves of the "potential benefits" of nuclear explosive technology's peaceful applications without providing them actual access to the technology or its peaceful application, can be applied to enrichment, reprocessing, and other

sensitive nuclear fuel-making activities. Under a sustainable reading of the NPT, it is both plausible and consistent for governments to interpret Article IV as affirming the “inalienable right” of nuclear signatories to develop “research, production and use” of nuclear fuel-making only to the extent that such nuclear fuel-making activities: (1) are economically beneficial in accordance with the treaty’s preamble (Article IV’s first qualification); (2) possess a low risk of proliferation in accordance with Articles I and II (Article IV’s second qualification); and (3) are *effectively* safeguardable and undertaken in full compliance with NPT and IAEA safeguard obligations in accordance with Article III (Article IV’s third qualification).¹⁸ Moreover, it is both plausible and consistent with the treaty to forbid signatories from developing, acquiring, and using nuclear fuel-making technologies (especially those related to nuclear materials that the IAEA cannot effectively safeguard) that can assist them in manufacturing nuclear weapons under some circumstances – at the very least, when they fail to comply with their obligations under the NPT’s Article III and related IAEA safeguards agreements – as long as the benefits of peaceful applications of such nuclear fuel-making technologies are made available to them.¹⁹

As the NPT’s negotiation history reveals, ENDC delegations from both nuclear-weapon states and non-nuclear-weapon states viewed nuclear fuel making in a manner similar to nuclear explosives for peaceful purposes: that is, as potentially aiding and even constituting the manufacture of nuclear weapons. For example, in September 1962 British delegate Sir Michael Wright told the ENDC:

The thing which is unique to a nuclear weapon is its

warhead. And what is there in a nuclear warhead that is found in no other weapons? . . . It is the fissile material in the warhead; that is to say, the plutonium and uranium-235, the two fissile materials now most commonly used in nuclear weapons.

If we are to deal effectively with nuclear weapons, we must concentrate on the fissile material which every nuclear weapon has and which no other weapon has.²⁰

In another example, in February 1966 Swedish delegate Alva Myrdal argued before the ENDC:

[T]o block the road to nuclear weapon development as early as possible . . . what we are facing is a long ladder with many rungs, and the practical question is: on which of these is it reasonable and feasible to introduce the international blocking? . . . *To prohibit just the final act of "manufacture" would seem to come late in these long chains of decisions.* . . . Could a middle link be found on which the prohibitory regulation should most definitely be focused?²¹

A month later, during a speech to the ENDC, Burmese delegate U. Maung Maung Gyi answered Myrdal's question:

An undertaking on the part of the non-nuclear weapon Powers not to manufacture nuclear weapons would in effect mean forgoing the production of fissionable material . . . and such production is the first essential step for the manufacture of these weapons and constitutes an important dividing line between restraint from and pursuit of the nuclear path.²²

Proponents of the per se right or unqualified per se right reading of Article IV might counter the NPT's sustainable reading by claiming that Article IV's second paragraph necessarily obliges signatories to transfer any and all nuclear technology, materials,

and assistance—including nuclear fuel making—in an unqualified and unfettered manner. The relevant part of that paragraph states:

All the Parties of the Treaty undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy.²³

It is important to note, though, that this paragraph is carefully worded to call not for “the fullest exchange,” but rather for only “the fullest *possible* exchange,” and thus actually encourages NPT signatories to exchange nuclear technology, materials, and know-how with great care, caution, and restraint.²⁴ In May 2005, during a speech to the quadrennial NPT review conference, Christopher Ford (at the time the Principal Deputy Assistant Secretary of State for Verification, Compliance and Implementation) elaborated this point:

The use of the term “fullest possible” is an acknowledgement that cooperation may be limited. Parties are not compelled by Article IV to engage in nuclear cooperation with any given state—or to provide any particular form of nuclear assistance to any other state. The NPT does not require any specific sharing of nuclear technology between particular State Parties, nor does it oblige technology-possessors to share any specific materials or technology with non-possessors.²⁵

“[T]o conform both to the overall objective of the NPT—strengthening security by halting nuclear proliferation—and to any Article I and III obligations,” Ford added, “supplier states must consider whether certain types of assistance, or assistance to certain countries, are consistent with the nonproliferation purposes and obligations of the NPT, other interna-

tional obligations, and their own national requirements." NPT signatories, Ford concluded,

should withhold assistance if they believe that a specific form of cooperation would encourage or facilitate proliferation, or if they believe that a state is pursuing a nuclear weapons program in violation of Article II, is not in full compliance with its safeguards obligations, or is in violation of Article I.²⁶

Moreover, by establishing no *per se* obligation or duty of nuclear exporters to give any specific nuclear technology, material or assistance, Article IV's second paragraph suggests that nuclear importers, at the same time, have no reciprocal *per se* right to receive or otherwise acquire any specific nuclear technology, material or assistance.²⁷

In sum, the analysis in this chapter suggests that the NPT does not affirm the "inalienable right" of signatories to nuclear materials and activities that the IAEA cannot effectively safeguard. In fact, this explains why the treaty prohibits non-nuclear-weapon signatories from developing, accessing, or using so-called "nuclear explosions for peaceful purposes," the most military-relevant of civilian applications of nuclear technology. Instead, the NPT appears to establish three qualifications of Article IV which condition the extent to which signatories have an "inalienable right" to develop and use peaceful nuclear energy – key qualifications being a signatory's full compliance with its obligations under the NPT and IAEA comprehensive safeguards agreements, and the actual ability of the IAEA to administer *effective* safeguards on nuclear materials in a given civilian application of nuclear technology. But while the NPT may be understood as prohibiting non-nuclear-weapon signatories

from unsafeguardable nuclear materials and activities, the treaty also provides for mechanisms by which nuclear-weapon signatories can provide, individually or through multilateral frameworks, *the benefits* of proscribed, unsafeguardable peaceful applications of nuclear technology in a nondiscriminatory manner to non-nuclear-weapon signatories in full compliance.

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1. *The Treaty on the Non-Proliferation of Nuclear Weapons* (NPT), Art. IV, para. 1, available from www.state.gov/www/global/arms/treaties/npt1.html.

2. NPT, Art. III, para. 1, emphasis added.

3. The NPT's negotiation history confirms that the "benefits-without-discrimination" principle is meant to be understood in relation to Article IV. In August 1967, when American delegate William Foster (along with Soviet delegate Alexey Roshchin) introduced the first version of what we know today as Article IV, he said that the article's two paragraphs "are *specific elaborations of the principle stated in the preamble* 'that the benefits of peaceful applications of nuclear technology should be available for peaceful purposes to all Parties . . . whether nuclear-weapon or non-nuclear-weapon States'." See "Statement by ACDA Director [William] Foster to the Eighteen Nation Disarmament Committee: Draft Nonproliferation Treaty," ENDC/PV. 325, August 24, 1967, *Documents on Disarmament, 1967*, Washington, DC: U.S. Arms Control and Disarmament Agency, p. 345, emphasis added.

4. NPT, preamble, para. 7, emphasis added.

5. NPT, Art. I.

6. NPT, Art. II.

7. Albert Wohlstetter and colleagues stressed this point in studies conducted for a number of U.S. government agencies in the 1970s. In a 1979 report for ACDA, for example, they argued,

“Article IV explicitly states that the inalienable right of all parties to the Treaty to the peaceful use of nuclear energy has to be in conformity with Articles I and II . . . [T]hese Articles are what make the Treaty a treaty against proliferation.” See Albert Wohlstetter, Greg Jones, and Roberta Wohlstetter, *Towards a New Consensus on Nuclear Technology*, Vol. 1, 1979, PH 78-04 - 832-33, a summary report prepared for the U.S. Arms Control and Disarmament Agency, Contract #AC7 NC-106, Los Angeles, CA: Pan-Heuristics, July 6, 1979, pp. 34-35. A few years later, Eldon V. C. Greenberg reiterated this point in a legal memorandum on the NPT’s relation to plutonium fuel-making and use:

There is, in short, a dynamic tension in the Treaty between its prohibitions and its injunctions to cooperate in peaceful uses of nuclear energy. An analysis of the language and history of the NPT, and particularly the key phrase “in conformity with [articles I and II]” in Article IV, paragraph 1, which is the link between the Treaty’s promises and its prohibitions, tends to support the conclusion that Articles I, II and IV must be read together in such a way that assistance or activities which are ostensibly peaceful and civilian in nature do not as a practical matter lead to proliferation of nuclear weapons. The NPT, in other words, can and should be read as permitting the evaluation of such factors as proliferation risk, economic or technical justification, and safeguards effectiveness in assessing the consistency of specific or generic types of assistance and activities with the Treaty’s restrictions, to ensure that action is not taken in the guise of peaceful applications of nuclear energy under Article IV which in fact is violative of the prohibitions of Articles I and II.

See Eldon V. C. Greenberg, “The NPT and Plutonium,” Washington, DC: Nuclear Control Agency, 1993, p. 10.

8. NPT, Art. III, para. 1, emphasis added.

9. It is of interest to note that both the 2000 NPT Review Conference and 2006 summit of the Non-Aligned Movement released a politically-binding final document affirming that “nothing in the 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, II and III of the Treaty.”

See 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, *Final Document*, NPT/CONF.2000/28 (Parts I and II), p. 8, para. 2, available from disarmament2.un.org/wmd/npt/finaldoc.html; and Fourteenth Summit Conference of the Heads of State or Government of the Non-Aligned Movement, *Final Document*, NAM 2006/Doc.1/Rev. 3, September, 16, 2006, para. 95. I am grateful to Andreas Persbo, a nuclear law and policy researcher at the Verification Research, Training and Information Centre ("VERTIC") in London, UK, who first drew my attention to this passage of the 2000 NPT Review Conference's *Final Document*.

10. Cf. Henry D. Sokolski and George Perkovich, "It's Called Nonproliferation," *Wall Street Journal*, April 29, 2005, p. A16, available from <http://www.npec-web.org/Frameset.asp?PageType=Single&PDFFile=OpEd50429ItsCalledNonprolife&PDFFolder=OpEds>; and George Perkovich, "Defining Iran's Nuclear Rights," Washington, DC: Carnegie Endowment for International Peace, September 7, 2006, available from www.carnegieendowment.org/npp/publications/index.cfm?fa=view&id=18687.

11. NPT, Art. V, emphases added.

12. Exceptions included Brazil, the government of which had argued before the ENDC that non-nuclear-weapon states should be allowed to develop peaceful nuclear explosive devices. For example, see "Brazilian Amendments to the Draft Nonproliferation Treaty," ENDC/201, October 31, 1967, U.S. Arms Control and Disarmament Agency, *Documents on Disarmament, 1967*, Publication No. 46, Washington, DC: U.S. Government Printing Office, July 1968, p. 546.

13. ENDC/PV. 359 (January 25, 1968), p. 6, emphasis added, available from www.hti.umich.edu/e/encd/.

14. ENDC/PV. 360 (January 30, 1968), p. 7, emphasis added, available from www.hti.umich.edu/e/encd/.

15. On the comparative economics and proliferation dangers of PNEs, see Thomas Blau, *Rational Policy-Making and Peaceful Nuclear Explosives*, Doctoral Dissertation, Department of Political Science, University of Chicago, December 1972.

16. *Report of Main Committee III, Treaty on the Nonproliferation of Nuclear Weapons Review and Extension Conference, May 5, 1995, NPT/CONF.1995/MC.III/1, sec. I, para. 2, emphasis added, available from www.un.org/Depts/ddar/nptconf/162.htm.*

17. *Comprehensive Nuclear-Test-Ban Treaty, Opened for signature, September 24, 1996, 35 I.L.M. 1430, available from www.state.gov/www/global/arms/treaties/ctb.html.*

18. Here, I use what I view to be Article IV's three qualifications on the "nuclear energy for peaceful purposes" to which NPT signatories have an "inalienable right," to elaborate Eldon V. C. Greenberg's argument for the specific facts and circumstances under which peaceful nuclear energy should not be permissible:

If the [proliferation] risks are great, if there can be no reasonable civilian justification for particular forms of assistance or activities, and if there can be no certainty that safeguards would be effective with respect to such assistance or activities, then a presumption should arise under the Treaty that such assistance or activities are not for a permissible, peaceful purpose but are rather for a weapons or explosive purpose and therefore in violation of Articles I and II. Only in this way can there be any assurance that the NPT's objectives will be achieved.

See Greenberg, p. 13.

19. *Cf. Eldon V. C. Greenberg's legal memorandum on the NPT and plutonium fuel-making, which argues:*

[T]he distinction between permissible and impermissible activities must come down ultimately to quite pragmatic considerations. Activities must not be free from the Treaty's prohibitions just by virtue of being denominated "peaceful," "civilian," "power" or "research." The Treaty must be interpreted as viewing proliferation through something more than an "explosive lens." Rather, depending upon the facts and circumstances, assistance and activities relating to declared "peaceful," "civilian," "power" or "research" purposes may be subject to the NPT's restrictions, if an evaluation of all the facts and circumstances, including such factors as economic or technical justification or effectiveness of safeguards, would indicate that the legitimacy of the assistance

and/or activity is questionable. Such a pragmatic, rather than a formalistic reading of the Treaty, is most consistent with the overriding purpose of stemming the proliferation of nuclear weapons.

See Greenberg, "The NPT and Plutonium," p. 24.

20. ENDC/PV. 82 (September 7, 1962), p. 37, emphasis added, available from www.hti.umich.edu/e/encd/. See also "British Paper Submitted to the Eighteen Nation Disarmament Committee: Technical Possibility of International Control of Fissile Material Production," ENDC/60, August 31, 1962 (Corr. 1, November 27, 1962), in U.S. Arms Control and Disarmament Agency, *Documents on Disarmament, 1962*, Publication No. 19, Vol. 2 of 2, Washington, DC: U.S. Government Printing Office, November 1963, pp. 834-852.

21. "Statement by the Swedish Representative [Alva Myrdal] to the Eighteen Nation Disarmament Committee: Nonproliferation of Nuclear Weapons," ENDC/PV. 243, February 24, 1966, in U.S. Arms Control and Disarmament Agency, *Documents on Disarmament, 1966*, Publication No. 43, Washington, DC: U.S. Government Printing Office, September 1967, p. 56, emphasis added.

22. ENDC/PV. 250, March 22, 1966, p. 28, emphasis added, available from www.hti.umich.edu/e/encd/.

23. NPT, Art. IV, para. 2, emphasis added.

24. As strategist Albert Wohlstetter and colleagues argued in a 1979 report for the U.S. Arms Control and Disarmament Agency:

If the "fullest possible exchange" were taken to include the provision of stocks of highly concentrated fissile material within days or hours of being ready for incorporation into an explosive, this would certainly "assist" an aspiring nonnuclear weapons state in making such an explosive. No reasonable interpretation of the Nonproliferation Treaty would say that the Treaty intends, in exchange for an explicitly revocable promise by countries without nuclear explosives not to make them or acquire them, to transfer to them material that is within days or hours of being

ready for incorporation into a bomb. . . . The NPT is, after all, a treaty against proliferation, not for nuclear development.

See Wohlstetter *et al.*, *Towards a New Consensus on Nuclear Technology*, pp. 34-35.

25. Christopher Ford, "NPT Article IV: Peaceful Uses of Nuclear Energy," Statement of the Principal Deputy Assistant Secretary of State for Verification, Compliance and Implementation, to the 2005 Review Conference of the Treaty on the Nonproliferation of Nuclear Weapons, New York, NY, May 18, 2005, available from www.state.gov/t/oci/rls/rm/46604.htm.

26. *Ibid.*

27. According to Henry D. Sokolski,

[The Principal Deputy Assistant Secretary of State for Verification, Compliance and Implementation] had attempted, to my knowledge, to get more cleared than what he was able to say [at the 2005 NPT Review Conference]. What he was able to say and what was cleared was that the United States at least is under no duty or obligation under Article IV to supply enrichment and re-processing technologies to anyone. I think what he wanted to say might have included that countries really don't have a *per se* right to acquire this from others or to develop it even indigenously, but that was not approved.

See "Statement of Henry D. Sokolski," in *Assessing "Rights" Under the Nuclear Nonproliferation Treaty*, a hearing before the Subcommittee on International Terrorism and Nonproliferation, Committee on International Relations, U.S. House of Representatives, 109th Cong., 2nd Sess., Serial No. 109-148, March 2, 2006, Washington, DC: U.S. Government Printing Office, 2006, p. 28, available from www.foreignaffairs.house.gov/archives/109/26333.pdf.