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July 21, 1978

SECY-78-401

COMMISSIONER ACTION

For: The Commissioners

From: James R. Shea, Director
Office of International Programs *W. J. Davis*

Thru: *f* Executive Director for Operations

Subject: PROPOSED AGREEMENT FOR COOPERATION WITH IRAN

Purpose: To obtain Commission concurrence in the proposed Agreement for Cooperation with Iran and approve a proposed response to the State Department.

Discussion: On July 17, the Commission received the attached letter (Appendix A) from the State Department which requested NRC concurrence in a proposed Agreement for Cooperation with Iran along with an accompanying proposed exchange of notes.

On July 19, the Commission was briefed by the State Department on the US/Iranian negotiations which led to the proposed agreement and on the content of the proposed agreement itself. The staff and the Commission have also been kept informed of the status of the US/Iranian negotiations through previous contacts with the Executive Branch and through various reporting cables.

The proposed agreement meets all the applicable requirements of the Nuclear Nonproliferation Act. As noted in State's briefing, however, the Iranians insisted on inserting a most favored nation provision in the proposed exchange of notes which could require the US to approve

Contact:

W. J. Davis
W.R. Peterson (492-8155)
G.G. Oplinger (492-7866)

Classified by

(name)

Assistant Director, IP:EI

(title)

NATIONAL SECURITY
INFORMATION

Unauthorized Disclosure Subject To
Criminal Sanctions.

SUBJECT TO GENERAL DECLASSIFICATION SCHEDULE OF
EXECUTIVE ORDER 11652 AUTOMATICALLY DOWNGRADED
AT TWO YEAR INTERVALS AND DECLASSIFIED ON DEC. 31

1984

(insert year)

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U.S. NRC Declassification Review

1st REVIEW - DATE: 20250609

REVIEWER: 3591/
AUTHORITY: ☐ DC ☒ DD

2nd REVIEW - DATE: 20250609

REVIEWER: 3470
AUTHORITY: ☒ DD

DETERMINATION (CIRCLE NUMBER) SX

1. CLASSIFICATION RETAINED
2. CLASSIFICATION CHANGE
3. CONTAINS NO NRC CLASSIFIED INFO
4. COORDINATE WITH
5. DECLASSIFIED
6. CLASSIFIED INFO BRACKETED
7. OTHER (SPECIFY):

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the reprocessing in the United Kingdom or France of US-supplied nuclear fuel if the US had, subsequent to the entry into force of this agreement, approved reprocessing of US-controlled material in any other country under comparable circumstances and conditions. Any subsequent disposition of the separated plutonium would be subject to US approval.

The MFN provision has major potential implications for US ability to control the disposition of spent fuel derived from US exports. It would extend to Iran any concessions the US might have made to other nations permitting US-supplied or derived fuel to be reprocessed in the UK or France. This would reduce US flexibility to deal with special circumstances in other countries where we might feel such concessions were otherwise warranted. Moreover, if the MFN precedent is accepted in the Iranian agreement, the pressures for similar treatment in other agreements yet to be negotiated could be irresistible. The US might then have to adopt a more rigid posture in considering MB-10 requests. The staff understands, for example, that an MB-10 request from Japan has been received by the Executive Branch which attempts to meet the "demonstrated need" criterion purely on political grounds, since adequate storage space remains available in the reactor cooling pond. Approval of such a request, in combination with widespread MFN provisions, could be damaging to US policy objectives.

At the same time, the stakes involved in concluding the Iran agreement are very high, and could have major implications for our overall competitive position as a nuclear supplier. The risks cited above are remote in time (Iran will not accumulate substantial quantities of spent fuel until the late 1980's), and there may be ample time to achieve an international consensus on the reprocessing issue well before they become imminent.

On balance, it is the staff's view that the most favored nation provision as qualified is acceptable, provided that future decisions on MB-10 requests take fully into account their potential spillover effects in countries with whom we have concluded MFN understandings of this kind. The staff also believes that

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such provisions should be avoided in future agreements for cooperation unless absolutely necessary.

Recommendation: That the Commission approve the proposed response to State at Appendix B, which encloses the Chairman's letter to the President containing the Commission's views on the proposed agreement.

Coordination: ELD has concurred in this paper.


James R. Shea, Director
Office of International Programs

Enclosures:

1. Appendix A - Ltr from State to Chairman Hendrie dtd 7/14/78
2. Appendix B - Proposed response to State w/attachment

NOTE: Commissioner comments should be provided directly to the Office of the Secretary by c.o.b. Friday, August 4, 1978.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT July 31, 1978, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

DISTRIBUTION:

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Exec. Dir. for Ops.
Secretariat

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APPENDIX A



DEPARTMENT OF STATE

Washington, D.C. 20520

BUREAU OF OCEANS AND INTERNATIONAL
ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

July 14, 1978

LIMITED OFFICIAL USE

Dear Chairman Hendrie:

I am pleased to forward, for consideration by the Commission, the attached copy of the proposed Agreement for Cooperation Between the United States and Iran Concerning the Peaceful Uses of Nuclear Energy, along with a copy of the proposed exchange of notes to accompany the agreement. The attached package also includes a draft memorandum from the Secretaries of State and Energy seeking the President's approval of the proposed agreement.

As you know, the negotiations on this agreement have proceeded in consultation with the staffs of the interested agencies, including the NRC. The attached proposed agreement was initialed ad referendum by the negotiating teams on July 11, 1978.

As you also know, the proposed agreement will be the first to be submitted for Presidential approval and then Congressional review under the provisions of the recently enacted Nuclear Non-Proliferation Act. Under these provisions, the joint submission of the proposed agreement for the President's approval, by the Secretaries of State and Energy, is to be accompanied by the views and recommendations of the ACDA and the Commission, as well as by the ACDA's Nuclear Proliferation Assessment Statement (which will be circulated shortly). As indicated in the attached package, we would be happy to incorporate any summary Commission views in the memorandum to the President and/or to ~~attach a separate paper with~~ Commission views.

Mr. Joseph M. Hendrie,
Chairman,
Nuclear Regulatory Commission,
Washington, D.C. 20555.

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~~CONFIDENTIAL ATTACHMENT~~

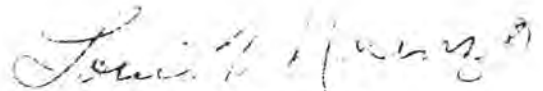
U.S. NRC Declassification Review

1 ST REVIEW - DATE: <u>20250609</u>	DETERMINATION (CIRCLE NUMBER(S))
REVIEWER <u>3591</u>	1. CLASSIFICATION RETAINED
AUTHORITY: <input type="checkbox"/> DC <input checked="" type="checkbox"/> DD	2. CLASSIFICATION CHANGED TO: _____
2 ND REVIEW - DATE: <u>20250609</u>	3. CONTAINS NO NRC CLASSIFIED INFO
REVIEWER <u>3470</u>	4. COORDINATE WITH: _____
AUTHORITY: <input checked="" type="radio"/> DD	5. DECLASSIFIED
	6. CLASSIFIED INFO BRACKETED
	7. OTHER (SPECIFY): _____

The Department believes that the US should be prepared to sign the agreement and submit it to Congress as soon as possible. To accomplish this objective, we wish to forward the agreement for the President's consideration by July 31. We are asking for Executive Branch Agency views by July 24. While we recognize that this is a short response time, we would appreciate the Commission's views within that time period if possible.

I look forward to discussing the proposed agreement with the Commission at the briefing scheduled for Tuesday, July 18.

Sincerely,



Louis V. Nosenzo
Deputy Assistant Secretary

Attachment:

Proposed Package for the President
on US-Iran Agreement for Cooperation

*Agreement for Cooperation
Between the United States of America and Iran
Concerning Peaceful Uses of Nuclear Energy*

The Government of the United States and the Imperial Government of Iran,

Considering their close cooperation in the development, use and control of peaceful uses of nuclear energy pursuant to the Agreement for Cooperation between the United States and Iran Concerning the Civil Uses of Atomic Energy, signed March 5, 1957, as amended;

Reaffirming their commitment to ensuring that the international development and use of nuclear energy for peaceful uses are carried out under arrangements which will to the maximum extent further the objectives of the Treaty on the Non-Proliferation of Nuclear Weapons ("NPT");

Desiring to continue and expand their cooperation in this field;

Affirming their support of the objectives of the Statute of the International Atomic Energy Agency ("IAEA") and their desire to promote universal adherence to the NPT; and,

Mindful that peaceful nuclear activities must be undertaken with a view to protecting the international environment from radioactive, chemical and thermal contamination;

Have agreed as follows:

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Article 1 - Scope of Cooperation

1. The United States and Iran shall cooperate in the use of nuclear energy for peaceful purposes in accordance with the provisions of this agreement and their applicable treaties, national laws, regulations and license requirements.
2. Transfers of information, material, equipment and components under this agreement may be undertaken directly between the parties or through authorized persons. Such transfers shall be subject to this agreement and to such additional terms and conditions as may be agreed by the parties.
3. Cooperation under this agreement shall require the application of IAEA safeguards with respect to all nuclear activities within the territory of Iran, under its jurisdiction or carried out under its control anywhere. Implementation of a safeguards agreement pursuant to article III(4) of the NPT shall be considered to fulfill the requirement stated in the foregoing sentence.

Article 2 - Definitions

For the purposes of this agreement:

- (a) "Byproduct material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.
 - (b) "Component" means a component part of equipment or other item, so designated by agreement of the parties.
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- (c) "Equipment" means any production or utilization facility (including uranium enrichment and nuclear fuel reprocessing facilities), or any facility for the production of heavy water or the fabrication of nuclear fuel containing plutonium, or any other item so designated by agreement of the parties.
- (d) "High enriched uranium" means uranium enriched to twenty percent or greater in the isotope 235.
- (e) "Low enriched uranium" means uranium enriched to less than twenty percent in the isotope 235.
- (f) "Major critical component" means any part or group of parts essential to the operation of a sensitive nuclear facility.
- (g) "Material" means source material, special nuclear material or byproduct material, radioisotopes other than byproduct material, moderator material, or any other such substance so designated by agreement of the parties.
- (h) "Moderator material" means any heavy water, or graphite or beryllium of a purity suitable for use in a reactor to slow down high velocity neutrons and increase the likelihood of further fission, or any other such material so designated by agreement of the parties.
- (i) "Parties" means the Government of the United States of America and the Imperial Government of Iran.
- (j) "Person" means any individual or any entity subject to the jurisdiction of either party but does not include the parties to this agreement.

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- (k) "Peaceful purposes" include the use of information, material, equipment and components in such fields as research, power generation, medicine, agriculture and industry but do not include use in, research on or development of any nuclear explosive device, or any other military purpose.
- (l) "Previous agreement" means the Agreement for Cooperation between the United States and Iran Concerning the Civil Uses of Atomic Energy, signed March 5, 1957, as amended.
- (m) "Production facility" means any nuclear reactor designed or used primarily for the formation of plutonium or uranium 233, any facility designed or used for the separation of the isotopes of uranium or plutonium, any facility designed or used for the processing of irradiated materials containing special nuclear material, or any other item so designated by agreement of the parties.
- (n) "Reactor" means any apparatus, other than a nuclear weapon or other nuclear explosive device, in which a self-sustaining fission chain reaction is maintained by utilizing uranium, plutonium or thorium, or any combination thereof.
- (o) "Restricted data" means all data concerning (i) design, manufacture or utilization of nuclear weapons, (ii) the production of special nuclear material, or (iii) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the category of restricted data by the United States.

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- (p) "Sensitive nuclear facility" means any facility designed or used primarily for uranium enrichment, reprocessing of nuclear fuel, heavy water production, or fabrication of nuclear fuel containing plutonium.
- (q) "Sensitive nuclear technology" means any information (including information incorporated in equipment or an important component) which is not in the public domain and which is important to the design, construction, fabrication, operation or maintenance of any sensitive nuclear facility, or other such information which may be so designated by agreement of the parties.
- (r) "Source material" means (i) uranium, thorium, or any other material so designated by agreement of the parties, or (ii) ores containing one or more of the foregoing materials, in such concentration as the parties may agree from time to time.
- (s) "Special nuclear material" means (i) plutonium, uranium 233, or uranium enriched in the isotope 235, or (ii) any other material so designated by agreement of the parties.
- (t) "Utilization facility" means any reactor other than one designed or used primarily for the formation of plutonium or uranium 233.

Article 3 - Transfer of Information

1. Information concerning the use of nuclear energy for peaceful purposes may be transferred, including information relating to such fields as:

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- (a) development, design, construction, operation, maintenance and use of reactors and reactor experiments;
 - (b) the use of material in physical and biological research, medicine, agriculture and industry;
 - (c) fuel cycle studies of ways to meet future worldwide civil nuclear needs, including multilateral approaches to guaranteeing nuclear fuel supply and appropriate techniques for management of nuclear wastes;
 - (d) safeguards and physical security of materials, equipment and components;
 - (e) health, safety and environmental considerations related to the foregoing; and,
 - (f) assessing the role nuclear power may play in national energy plans.
2. This agreement does not require the transfer of any information which the parties are not permitted to communicate.
3. Restricted data shall not be communicated under this agreement.
4. Sensitive nuclear technology shall not be transferred under this agreement unless provided by an amendment to this agreement.

Article 4 - Transfer of Material, Equipment and Components

1. Material, equipment and components may be transferred for applications consistent with this agreement .
However, sensitive nuclear facilities and major critical

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components shall not be transferred under this agreement unless provided by an amendment to this agreement.

2. Low enriched uranium may be transferred for use as fuel in reactors and in reactor experiments or for conversion or fabrication. The separative work required to produce the low enriched uranium transferred by the United States for use as fuel in power reactors in Iran shall not exceed that necessary to support the fuel cycles of reactors having a total installed capacity of ten thousand (10,000) megawatts electric. In the event that Iran enters into any agreement with the United States entitling it to a portion of the separative work output of any uranium enrichment facility in the United States in which Iran has invested, the quantity of separative work required to produce the uranium enriched in the isotope 235 to be transferred under this agreement shall also include that amount of separative work to which Iran is entitled pursuant to such agreement or agreements.
3. Special nuclear material other than low enriched uranium and material contemplated under paragraph 6 may, if the parties agree, be transferred for specified applications where technically and economically justified or where justified for the development and demonstration of reactor fuel cycles to meet energy security and non-proliferation objectives.
4. The quantity of special nuclear material transferred to Iran under this agreement shall not at any time be in excess of the quantity the parties agree is necessary for the following purposes: the loading of reactors or use in reactor experiments, the efficient and continuous operation of such reactors

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or conduct of such reactor experiments, and the accomplishment of other purposes as may be agreed by the parties.

In the event of any such excess of high enriched uranium, the United States shall have the right to require the return of any high enriched uranium transferred pursuant to this agreement (including irradiated high enriched uranium) which contributes to this excess. If this right is exercised, the parties shall make appropriate commercial arrangements which shall not be subject to any further agreement between the parties as otherwise contemplated under articles 5 and 6.

5. Any high enriched uranium transferred to Iran pursuant to this agreement shall not be at a level of enrichment in the isotope 235 in excess of levels to which the parties agree are necessary for the purposes described in paragraph 4.
6. The United States may transfer small quantities of material, including special nuclear material, for use as samples, standards, detectors, targets and such other purposes as the parties may agree. Transfers pursuant to this paragraph shall be in addition to the quantities in paragraphs 2 and 4.
7. The United States shall endeavor to take such actions as may be necessary to ensure a reliable supply of nuclear fuel to Iran, including the export of nuclear material on a timely basis and having available the capacity to carry out this undertaking during the period of this agreement. The United States shall endeavor to assure that Iran derives the full benefit pursuant to the terms of any additional bilateral or multilateral fuel assurances that may evolve during the period of this agreement.

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Article 5 - Storage and Retransfers

1. Material transferred pursuant to this agreement and material used in or produced through the use of any material or equipment transferred pursuant to this agreement may be stored by either party, except that each party guarantees that no such plutonium or uranium 233 (except as contained in irradiated fuel elements), or high enriched uranium, over which it has jurisdiction, shall be stored in any facility that has not been agreed to in advance by the parties.
2. Material, equipment or components transferred pursuant to this agreement and any special nuclear material produced through the use of any such material or equipment may be transferred by the recipient party, except that such party guarantees that any such material, equipment, components or special nuclear material, over which it has jurisdiction, shall not be transferred to unauthorized persons or, unless the parties agree, beyond its territorial jurisdiction.

Article 6 - Reprocessing and Enrichment

1. Each party guarantees that material transferred to and under its jurisdiction pursuant to this agreement and material used in or produced through the use of any material or equipment transferred to and under its jurisdiction pursuant to this agreement will not be reprocessed unless the parties agree. Each party guarantees that it will not, unless the parties agree, alter in form or content, except by irradiation or further irradiation, any plutonium, uranium 233, high enriched uranium or other irradiated materials transferred to and under its jurisdiction pursuant

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to this agreement, or produced through the use of any material or equipment transferred to and under its jurisdiction pursuant to this agreement.

2. Iran guarantees that no uranium transferred to and under its jurisdiction pursuant to this agreement, and no uranium used in any material or equipment so transferred and under its jurisdiction, will be enriched after transfer unless the parties agree.

Article 7 - Physical Security

1. Each party guarantees that adequate physical security shall be maintained with respect to any material and equipment transferred to and under its jurisdiction pursuant to this agreement and with respect to any special nuclear material used in or produced through the use of any material or equipment transferred to and under its jurisdiction pursuant to this agreement.
 2. The parties agree to the levels for the application of physical security set forth in the Annex, which levels may be modified by mutual consent of the parties. The parties shall maintain adequate physical security measures in accordance with such levels. These measures shall as a minimum provide protection comparable to that set forth in document INFCIRC/225/Rev. 1 of the IAEA entitled, "The Physical Protection of Nuclear Material", as it may be updated.
 3. The adequacy of physical security measures maintained pursuant to this article shall be reviewed by the parties periodically and whenever either party is of the view that revised measures may be required to maintain adequate physical security.
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4. Each party shall identify those agencies or authorities having responsibility for ensuring that levels of physical security are adequately met and having responsibility for coordinating response and recovery operations in the event of unauthorized use or handling of material subject to this article. Each party shall also designate points of contact within its national authorities to cooperate on matters of out-of-country transportation and other matters of mutual concern.
5. The provisions of this article shall be implemented in such a manner as to avoid hampering, delay or undue interference in the parties' nuclear activities and so as to be consistent with prudent management practices required for the economic and safe conduct of the parties' nuclear programs.

Article 8 - No Explosive or Military Application

Each party guarantees that no material, equipment or components transferred to and under its jurisdiction pursuant to this agreement and no material used in or produced through the use of any such material, equipment or components so transferred to and under its jurisdiction shall be used for any nuclear explosive device, for research on or development of any nuclear explosive device, or for any other military purpose.

Article 9 - Safeguards

1. The United States shall have the right to review the design of any equipment which is to be transferred pursuant to this agreement to Iran, or of any facility in Iran which is to use, fabricate, process or store any material so transferred, or

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any special nuclear material used in or produced through the use of such material or equipment.

2. The United States shall have the right to require the maintenance and production of records and to request and receive relevant reports for the purpose of assisting in ensuring the accountability for any material transferred to Iran by the United States pursuant to this agreement and any source material or special nuclear material used in or produced through the use of any material, equipment or components so transferred.
3. For purposes of ensuring there is compliance with this agreement, the United States shall, as necessary to account for the material subject to paragraph 2, have the right to:
 - (a) designate personnel acceptable to Iran, who, accompanied, if either party so requests, by personnel designated by Iran, shall have access in Iran to all relevant places and data, it being understood that Iran shall not unreasonably withhold its acceptance of such personnel designated by the United States;
 - (b) inspect any relevant equipment or facility in Iran;
 - (c) install any relevant devices in Iran; and,
 - (d) make such relevant independent measurements in Iran as may be deemed necessary.
4. Material, equipment and facilities utilizing components required to be safeguarded under paragraphs 1, 2 and 3 shall be subject to safeguards under an agreement between Iran and the IAEA.

The rights of the United States to apply safeguards under paragraphs 1, 2 and 3 shall be suspended if the United States agrees that the need to exercise such rights is being satisfied by the application of IAEA safeguards under such an agreement. The application of safeguards under the agreement between Iran and the IAEA pursuant to article III(4) of the NPT currently satisfies this need.

5. Each party shall establish and maintain a system of accounting for and control of all material transferred pursuant to this agreement and any material used in or produced through the use of any material or equipment so transferred, to be based on a structure of material balance areas and to include such measures as:
- (a) a measurement system, which conforms to the international standards or is equivalent in quality to such standards, for the determination of the quantities of material received, produced, shipped, lost or otherwise removed from inventory, and the quantities on inventory;
 - (b) the evaluation of precision and accuracy of measurements and the estimation of measurement uncertainty;
 - (c) procedures for identifying, reviewing and evaluating differences between shipper and receiver measurements;
 - (d) procedures for taking a physical inventory;
 - (e) procedures for the evaluation of accumulations of unmeasured inventory and unmeasured losses;
 - (f) a system of records and reports showing, for each material balance area, the inventory of nuclear material

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and the changes in that inventory including receipts into and transfers out of the material balance area;

(g) provisions to ensure that the accounting procedures and arrangements are being operated correctly; and,

(h) other systems of measurement containment and surveillance as are necessary to facilitate the application of safeguards.

The agreement between Iran and the IAEA pursuant to article III(4) of the NPT satisfies this requirement.

6. Upon the request of the United States, Iran shall permit the IAEA to report to the United States on the status of all inventories of any materials subject to paragraph 2 of this article.
7. Iran guarantees it shall take such measures as are necessary to maintain and facilitate the application of safeguards provided for under this article.
8. The provisions of this article shall be implemented in such a manner as to avoid hampering, delay or undue interference in Iran's nuclear activities and so as to be consistent with prudent management practices required for the economic and safe conduct of Iran's nuclear programs.

Article 10 - Multiple Supplier Controls

If an agreement between either party and another nation or group of nations provides such other nation or group of nations rights equivalent to any or all of those set forth under articles 5, 6 or 7 with respect to material, equipment or components subject to

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this agreement, the parties may, upon the request of either of them, agree that any such rights will be exercised exclusively by such other nation or group of nations.

Article 11 - Cessation of Cooperation

1. In the event Iran, at any time following entry into force of this agreement:

(a) does not comply with the provisions of articles 5, 6, 7, 8 or 9;

(b) detonates a nuclear explosive device; or

(c) terminates, abrogates or materially violates its IAEA safeguards agreement;

the United States shall have the right to:

(i) cease further cooperation under this agreement; and,

(ii) require the return of any material, equipment and components transferred under this agreement and any special nuclear material produced through the use thereof.

2. In the event the United States exercises its rights under this article to require the return of any material, equipment or components, the United States shall pay the cost of shipment and, after removal from Iran, shall reimburse Iran the fair market value of such material, equipment or components, less the reasonable cost of shipment.

In the event this right is exercised, the parties shall make

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such other appropriate arrangements as may be required which shall not be subject to any further agreement between the parties as otherwise contemplated under articles 5 and 6.

Article 12 - Previous Agreement Terminated

1. The "Agreement for Cooperation between the Government of the United States of America and the Government of Iran Concerning Civil Uses of Atomic Energy" signed on March 5, 1957, as amended, shall terminate on the date this agreement enters into force.
2. Cooperation initiated under the previous agreement shall continue in accordance with the provisions of the present agreement. The provisions of this agreement shall apply to material and equipment subject to the previous agreement.

Article 13- Consultations

The parties undertake to consult at the request of either party regarding the implementation of this agreement and the development of further cooperation in the field of peaceful uses of nuclear energy and related matters of health, safety and protection of the international environment.

Article 14 - Entry into Force and Duration

1. Each of the parties shall provide the other party with written notification that it has complied with its applicable requirements for entry into force of this agreement. This agreement shall enter into force on the date on which the latter of such notification is received, and shall remain

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in force for a period of fifteen (15) years. This term may be extended for such additional periods as may be agreed between the parties in accordance with their applicable requirements.

2. Notwithstanding the suspension, termination or expiration of this agreement or any cooperation hereunder for any reason, articles 5, 6, 7, 8 and 9 shall continue in effect so long as any material, equipment or components subject to these articles remains in the territory of the party concerned or under its jurisdiction or control anywhere, or until such time as the parties agree that such material, equipment or components are no longer useable for any nuclear activity relevant from the point of view of safeguards.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this agreement.

Done at Tehran, this day of ,
1978, in duplicate, in the English and Farsi languages, both
equally authentic.

For the Government of
the United States of America:

For the Imperial
Government of Iran:

Y.M. B.H.

ANNEX

Pursuant to paragraph 2 of article 7, the agreed levels of physical security to be ensured by the competent national authorities in the use, storage and transportation of the materials listed in the attached table shall as a minimum include protection characteristics as follows:

Category III

Use and storage within an area to which access is controlled.

Transportation under special precautions including prior arrangements among sender, recipient and carrier, and prior agreement between entities subject to the jurisdiction and regulation of supplier and recipient States, respectively, in case of international transport specifying time, place and procedures for transferring transport responsibility.

Category II

Use and storage within a protected area to which access is controlled, i.e., an area under constant surveillance by guards or electronic devices, surrounded by a physical barrier with a limited number of points of entry under appropriate control, or any area with an equivalent level of physical protection.

Transportation under special precautions including prior arrangements among sender, recipient and carrier, and prior agreement between entities subject to the jurisdiction and regulation of supplier and recipient States, respectively, in case of international transport, specifying time, place and procedures for transferring transport responsibility.

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Category I

Material in this category shall be protected with highly reliable systems against unauthorized use as follows.

Use and storage within a highly protected area, i.e., a protected area as defined for category II above, to which, in addition, access is restricted to persons whose trustworthiness has been determined, and which is under surveillance by guards who are in close communication with appropriate response forces. Specific measures taken in this context should have as their objective the detection and prevention of any assault, short of war, unauthorized access or unauthorized removal of material.

Transportation under special precautions as identified above for transportation of categories II and III materials and, in addition, under constant surveillance by escorts and under conditions which assure close communication with appropriate response forces.

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TABLE: CATEGORIZATION OF NUCLEAR MATERIAL^c

Material	Form	Category		
		I	II	III
1. Plutonium ^{a,f}	Unirradiated ^b	2 kg or more	Less than 2 kg but more than 500 g	500 g or less ^c
2. Uranium-235 ^d	Unirradiated ^b			
	— uranium enriched to 20% ²³⁵ U or more	5 kg or more	Less than 5 kg but more than 1 kg	1 kg or less ^c
	— uranium enriched to 10% ²³⁵ U but less than 20%	—	10 kg or more	Less than 10 kg ^c
	— uranium enriched above natural, but less than 10% ²³⁵ U	—	—	10 kg or more
3. Uranium-233	Unirradiated ^b	2 kg or more	Less than 2 kg but more than 500 g	500 g or less ^c

^a All plutonium except that with isotopic concentration exceeding 80% in plutonium-238.

^b Material not irradiated in a reactor or material irradiated in a reactor but with a radiation level equal to or less than 100 rads/hour at one meter unshielded.

^c Less than a radiologically significant quantity should be exempted.

^d Natural uranium, depleted uranium and thorium and quantities of uranium enriched to less than 10% not falling in Category III should be protected in accordance with prudent management practice.

^e Irradiated fuel should be protected as Category I, II or III nuclear material depending on the category of the fresh fuel. However, fuel which by virtue of its original fissile material content is included as Category I or II before irradiation should only be reduced one Category level, while the radiation level from the fuel exceeds 100 rads/h at one meter unshielded.

^f The State's competent authority should determine if there is a credible threat to disperse plutonium malevolently. The State should then apply physical protection requirements for category I, II or III of nuclear material, as it deems appropriate and without regard to the plutonium quantity specified under each category herein, to the plutonium isotopes in those quantities and forms determined by the State to fall within the scope of the credible dispersal threat.

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The Ambassador of the United States of America presents his compliments to _____ of the Imperial Government of Iran, and has the honor to refer to the proposed agreement for cooperation signed today between the Government of the United States and the Imperial Government of Iran, concerning peaceful uses of nuclear energy ("agreement") of which this exchange of notes shall be an integral part.

In the course of negotiations leading to this agreement understandings on several points were reached.

The United States fully understands that Iran plans a vigorous national nuclear power program which will require timely delivery of nuclear reactors and an assured fuel supply for these reactors. Recognizing Iran's leadership role in the field of non-proliferation, the United States intends to implement the agreement in a way that assures that Iran as a most favored nation enjoys, inter alia, the same benefits and opportunities and freedoms of action as may be available to any other party with which the United States cooperates. Moreover, the United States intends to implement the provisions of the agreement in such a manner as to facilitate the efficient and economic operation of Iran's nuclear program and the satisfaction of Iran's legitimate needs for technology transfer.

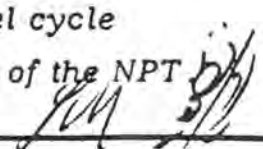
It is the policy of the United States that nuclear export licenses be issued promptly. In particular, the United States wishes to confirm the readiness of its Executive Branch and Nuclear Regulatory Commission to process expeditiously export license applications made pursuant to the agreement upon the selection by Iran of United States vendors.

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The Government of the United States wishes to assure the Government of Iran that it shall take such actions as may be necessary and feasible to ensure a reliable supply of low enriched uranium to those nations and groups of nations which may seek to utilize the benefits of nuclear energy for peaceful purposes, including the generation of electricity, and which adhere to non-proliferation objectives. In this regard, the United States notes that the increased United States enrichment capacity which the President has ordered to be developed will permit the United States to meet new export demands. Also the United States shall, inter alia, explore with other concerned governments, including the Government of Iran, those steps that may be necessary to promote international arrangements for the provision of nuclear fuel, including the concept of an international fuel authority which would permit access to fuel by consumers who meet all their non-proliferation commitments, should they encounter difficulties with individual suppliers in satisfying legitimate nuclear fuel needs. Should such international arrangements be established, the United States shall endeavor to assure that Iran derives the full benefit pursuant to the terms thereof.

The United States also notes with pleasure Iran's desire to exercise leadership in furtherance of the objectives of the Treaty on the Non-Proliferation of Nuclear Weapons ("NPT"), to which Iran is a party, and its intention to conduct its overall fuel cycle activities, particularly those relating to storage, processing or other disposition of irradiated spent fuel under conditions which demonstrate that such activities are in accordance with the NPT. In this regard, the United States is pleased that Iran, as it has demonstrated by the leading role it has assumed in the International Nuclear Fuel Cycle Evaluation, is willing to participate with other concerned countries in international fuel cycle studies which have as one of their objectives the exploration of effective and economical ways to manage the back end of the fuel cycle that might better meet the non-proliferation objectives of the NPT.



The United States notes that Iran plans to store irradiated fuel covered by this agreement for a period of time sufficient for appropriate subsequent disposition, and to consult closely with the United States at such time as it appears that any such material requires subsequent disposition. The specific arrangements that would be selected would take into account the requirements and the effective and economic operation of Iran's nuclear program, and Iran's continued adherence to the NPT as well as mutually acceptable recommendations that may result from international studies undertaken to further the objectives of the NPT.

In light of these considerations, the Government of the United States is pleased to inform the Government of Iran that in the event Iran wishes to enter into arrangements for subsequent disposition of irradiated special nuclear material resulting from material which has been transferred from the United States to Iran or which has been used in equipment supplied by the United States, the United States would agree that Iran would be free to choose from the following alternatives:

- A. storage of spent fuel in Iran;
- B. storage of spent fuel in the United States for a fixed fee with reimbursement to Iran of net fuel value if such fuel value is extracted (fuel equivalent or financial compensation less processing costs);
- C. storage, processing or other disposition of spent fuel in accordance with internationally accepted arrangements to which both Iran and the United States subscribe. This alternative would include the processing of spent fuel in the United Kingdom, France or other mutually agreed States and return of recovered plutonium in the form of fabricated fuel to Iran, under arrangements which are deemed to be more

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proliferation resistant than those which currently exist utilizing existing technology and to which both Iran and the United States subscribe.

With respect to the foregoing, the Government of the United States recognizes that at the time when Iran may wish to enter into arrangements for disposition of spent fuel, conditions, such as technical, economic or political, could be such that Iran finds it impracticable to provide storage in Iran. Moreover, no internationally accepted arrangements for storage, processing or other disposition to which both Iran and the United States subscribe may be available. Furthermore, at that point in time, conditions, such as ~~was~~ technical, economic or political, could be such that the parties also find it impracticable to provide storage of such spent fuel in the United States. Under these circumstances, the Government of the United States would approve the reprocessing of such material in the United Kingdom, France or other mutually agreed States utilizing existing technology, with disposition of any resulting separated plutonium subject to future agreement of the parties in light of the requirements of Iran's nuclear energy program. With specific reference to Iranian plutonium requirements for advanced reactor fuels as contemplated, among other things, by paragraph 3 of article 4 of the agreement, the Government of the United States is prepared to consult with the Government of Iran in order to meet Iran's needs.

Notwithstanding the previous paragraphs, when the need arises for Iran to arrange for disposition of its spent fuel, if the United States has, subsequent to the date of entry into force of this agreement, approved the reprocessing of any other cooperating State's spent fuel to accommodate that State's fuel cycle management, the United States would approve reprocessing of Iranian spent fuel to meet comparable Iranian needs, in the United Kingdom, France or other mutually agreed States under arrangements which provide

Iran with benefits comparable to those provided to such other State and under terms and conditions no less favorable than those applicable to such other State.

The parties shall review the understandings set forth above concerning the disposition of plutonium and irradiated special nuclear material with a view to making any mutually agreeable modifications. The parties agree to meet whenever new developments call for adjustment in the terms of their cooperation in light of the underlying principle of this note.

With reference to any material, equipment or components transferred by the United States pursuant to the agreement, or produced through the use thereof, the United States will act on a timely basis on requests from Iran for agreement to transfer such material, equipment or components to or from Iran. Moreover, the United States intends to act expeditiously on any request for agreement to transfer to intermediate destinations for purposes of conversion, enrichment, fabrication or other processing in the preparation of fuel elements for use in Iran where such transfers have been identified in an applicable export license application. The United States will promptly advise Iran of its agreement to transfer requests or of the reasons for any other action on such requests.

The United States notes that Iran is a party to a safeguards agreement with the International Atomic Energy Agency ("IAEA"). The United States agrees that the application of IAEA safeguards under such agreement currently satisfies the need for the exercise of rights envisaged for the United States in paragraphs 1, 2 and 3 of article 9 of the agreement. The parties shall review the adequacy of the application of IAEA safeguards whenever either party is of the view that modification may be required.

JM 5/2

The parties affirm their intention to implement the agreement and this note in good faith and in a spirit of close cooperation, in accordance with their applicable treaties, national laws, regulations and license requirements.

The Government of the United States confirms that nothing in the agreement would preclude Iran from receiving any potential benefits under articles IV and V of the NPT, other applicable international agreements and United States laws and regulations.

Upon receipt of _____'s note confirming that the Imperial Government of Iran shares the above understandings, this exchange of notes shall constitute the formal record of these mutual understandings and shall be an integral part of the agreement.

Y.H. 5/2/

~~CONFIDENTIAL~~ DRAFT

MEMORANDUM FOR: THE PRESIDENT

FROM: Cyrus R. Vance
James R. Schlesinger

SUBJECT: Agreement for Peaceful Nuclear
Cooperation Between the United
States and Iran

In December 1977 we gave Iran a new U. S. draft nuclear cooperation agreement reflecting your policy decisions in PD-8 and your April 7 and 27 statements, as well as the requirements which we expected would be required, and now are required, by enactment of the Nuclear Non-Proliferation Act. In January 1978 you and the Shah agreed to proceed with the agreement and that the United States would accord Iran "most-favored-nation" treatment. After negotiating sessions in February and July 1978, our negotiators on July 11 initialled the agreement ad referendum. The proposed agreement and accompanying Exchange of Notes are at Tab D. The required Non-Proliferation Assessment Statement, prepared by ACDA on the adequacy of the safeguards and other controls in the proposed agreement, is at Tab C.

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The proposed agreement would authorize the sale to Iran of U. S. nuclear power reactors, components, and power reactor fuel. It also allows other cooperation in areas not involving sensitive nuclear technology. The agreement contains all the control provisions, safeguards (including full-scope safeguards), and consent rights required by the Nuclear Non-Proliferation Act of 1978. We believe that its execution is in the United States non-proliferation and other foreign policy interest.

While formulating mutually agreed "most-favored-nation" (MFN) provisions turned out to be quite difficult, we believe the results as contained in the ~~Exchange of~~ ~~Notes~~ that would accompany the proposed agreement are sound. First, there is a general statement that the United States intends to implement the agreement in a way that ensures Iran the same benefits, opportunities and freedoms of action available to any other cooperating party. Second, with specific regard to reprocessing, the notes provide that if the United States, at any time after entry into force of the agreement, approves reprocessing for another state to meet its fuel cycle management needs, the United States would approve reprocessing of Iranian spent fuel to meet comparable Iranian needs. This reprocessing could take place in the United Kingdom, France, or other agreed state, under no less favorable terms and conditions than the other cooperating party received.

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These provisions guarantee Iran MFN treatment, but with some flexibility for the United States to determine if the Iranian situation is "comparable" to other cases. Even if the MFN treatment for reprocessing is applied, there would be no direct proliferation risk that necessarily would lead to the spread of reprocessing technologies, since the reprocessing would take place in the United Kingdom, France, or other state subject to U. S. approval and the disposition of any resulting plutonium would be subject to U. S. approval.

Under the Atomic Energy Act, before sending the agreement to Congress, you must approve the agreement and authorize its execution, after having determined that its performance will promote and will not constitute an unreasonable risk to the common defense and security. We recommend that you take this action. ACDA concurs.

The NRC _____

An appropriate document for your signature is at Tab A.

After you have authorized the execution of the agreement, two actions will bring it into effect. First,

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when the Iranians are also ready, the agreement will be signed and the notes exchanged in Tehran. Second, the agreement must lie before the Congress for 60 days of continuous session without a concurrent resolution of disapproval being passed. Since this is the first agreement to be considered by Congress under the new law, we expect very close Congressional scrutiny, particularly of the MFN assurances in the note. We expect, however, that the proposed agreement will be favorably considered by Congress.

RECOMMENDATION

1. That you make the necessary determination, approve the authorization of execution of the proposed agreement at Tab A.

2. That, after the agreement is signed and the notes exchanged, you sign the transmittal to Congress at Tab B.

Attachments:

- Tab A - Memorandum for your signature approving the agreement and authorizing its execution.
- Tab B - Proposed transmittal to Congress
- Tab C - ACDA Non-Proliferation Assessment Statement
- Tab D - Proposed U.S.-Iran agreement with accompanying Exchange of Notes.
- Tab E - (Any additional agency views)

DRAFT

TAB A
(Attached to Tab 2)

WHITE HOUSE

Washington, D. C.

Proposed Agreement for Cooperation Between
the United States and Iran Concerning
Peaceful Uses of Nuclear Energy

I have considered the proposed Agreement for Cooperation between the United States and Iran Concerning Peaceful Uses of Nuclear Energy, along with the views, recommendations and statements of the interested agencies, as submitted by the Secretary of State and Secretary of Energy.

I have determined that its performance will promote and will not constitute an unreasonable risk to the common defense and security. Pursuant to section 123 b of the Atomic Energy Act of 1954, as amended, I hereby approve the proposed agreement, and authorize the execution of this agreement.

Jimmy Carter

TRANSMITTAL TO THE CONGRESS

TO THE CONGRESS OF THE UNITED STATES:

The Nuclear Non-Proliferation Act of 1978, which I signed into law on March 10, 1978, calls upon me to initiate a program immediately to renegotiate existing peaceful nuclear cooperation agreements in order to obtain the new provisions set forth in that law. Today I submit to the Congress the first agreement.

The proposed agreement for cooperation between the United States and Iran, together with its accompanying exchange of notes, fully meets all the statutory requirements. It demonstrates the resolve of both the Government of the United States and the Imperial Government of Iran, to join together in an expanded program of peaceful nuclear cooperation, under a series of prudent new controls and conditions. I believe that execution of the proposed agreement will serve the non-proliferation and other foreign policy interests of the United States.

When I met with H.I.M. Shahanshah of Iran on January 1, 1978, we reaffirmed our conviction "in the strength of the unshakeable alliance existing between Iran and the United States of America, based on a wide community of mutual interests." At that time, our communique indicated our expectation that an agreement between the two governments for peaceful nuclear cooperation would be signed soon after the Congress of the

United States had completed its work on nuclear non-proliferation legislation.

With that work done, and with the final aspects of the agreement fully conformed to meet the requirements of the legislation, I have approved the agreement and determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. I am hereby transmitting to the Congress the agreement and accompanying exchange of notes, along with my written determination and the Non-Proliferation Assessment Statement prepared by the Director of the Arms Control and Disarmament Agency.

Attachments:

Tab 1 - Proposed Agreement for Cooperation Between
the United States and Iran Concerning the
Peaceful uses of Nuclear Energy, and
proposed accompanying Exchange of Notes.

Tab 2 - Presidential Determination

Tab 3 - ACDA Non-Proliferation Assessment Statement

APPENDIX B

[DRAFT]

Mr. Louis V. Nosenzo
Deputy Assistant Secretary for Nuclear
Energy and Energy Technology Affairs
U.S. Department of State
OES/NET Room 7830
Washington, D.C. 20520

In response to your letter of July 14, I am attaching for forwarding to the President the Commission's views on the proposed Agreement for Cooperation and exchange of notes with Iran.

Sincerely,

James R. Shea, Director
Office of International Programs

Enclosure:
As stated above

APPENDIX B

[DRAFT]

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

The Nuclear Regulatory Commission concurs in the proposed Agreement for Cooperation with Iran and the proposed exchange of notes to accompany the agreement as forwarded to the Commission by the State Department on July 14.

The Commission remains concerned about the "most favored nation" provisions of the proposed exchange of notes with respect to reprocessing approvals, since this provision would extend to Iran any concessions made to other nations on this question, and thereby reduce our flexibility in dealing with special circumstances elsewhere. The Commission, however, fully appreciates the difficulties concerning this aspect of the negotiations with Iran, and the importance of this agreement for our overall posture as a nuclear supplier and, accordingly, our influence in non-proliferation matters. The Commission agrees that the proposed formulation adequately protects US nonproliferation interests, provided that in considering future requests from other countries to permit reprocessing of US-supplied or derived fuel, the implications of most favored nation understandings with other recipient countries is taken fully into account. The Commission believes that including such provisions in future agreements with other countries should be avoided unless determined to be essential in concluding the agreement.

Respectfully,

Joseph M. Hendrie
Chairman