

NUCLEAR PROLIFERATION ASSESSMENT STATEMENT

Pursuant to Section 123 a. of the
Atomic Energy Act of 1954, as Amended,
With Respect to the
Proposed Protocol Amending the Agreement for Cooperation
Between the Government of the United States of America
And the Government of the Kingdom of Morocco
Concerning Peaceful Uses of Nuclear Energy

A. Introduction

This Nuclear Proliferation Assessment Statement (NPAS) relates to the proposed Protocol ("the Protocol") Amending the Agreement for Cooperation Between the Government of the United States of America and the Government of the Kingdom of Morocco Concerning Peaceful Uses of Nuclear Energy, signed at Washington on May 30, 1980 ("the Agreement"). The Protocol is being submitted to the President jointly by the Secretary of State and Secretary of Energy for his approval and authorization for signature.

Section 123 a. of the Atomic Energy Act, as amended by Title XII of the Foreign Affairs Reform and Restructuring Act of 1998 (P.L. 105-277) ("the Act") provides that an NPAS be submitted by the Secretary of State to the President on each new or amended agreement for cooperation concluded pursuant to that section. Pursuant to Section 123 a., the NPAS shall analyze the consistency of the text of the proposed agreement with all the requirements of the Act, with specific attention to whether the proposed agreement is consistent with each of the criteria set forth in this subsection, and address the adequacy of the safeguards and other control mechanisms and the peaceful use assurances contained in the agreement for cooperation to ensure that any assistance furnished thereunder will not be used to further any military or nuclear explosive purpose.

The Agreement was signed in 1980 and brought into force in 1981 pursuant to the requirements of the Act, as amended by the Nuclear Non-Proliferation Act of 1978 ("the NNPA"). At that time, the U.S. Arms Control and Disarmament Agency ("ACDA"), as authorized and required by law at that time, prepared a detailed NPAS, which concluded that the Agreement met all statutory requirements and advanced U.S. nuclear non-proliferation policy goals. U.S. law has added

no new substantive requirements for agreements of this type since 1978, and there has been no material change in Moroccan nuclear non-proliferation policies since ACDA prepared the earlier NPAS. Moreover, the proposed Protocol being submitted to the President concurrently with this NPAS makes no substantive change to the Agreement, except to extend its duration and update the physical protection provisions. As a result, there is no need to repeat in this NPAS the detailed legal analysis prepared earlier, which concluded that the Agreement fully complied with U.S. law. Other sections of this NPAS will also be briefer and offer only an overview and update of relevant information. The sections that follow provide background on Morocco's nuclear program and nuclear non-proliferation policies, address a few relevant legal issues, review pertinent policy questions, and set forth the assessment, conclusions, views and recommendations of the Department of State as contemplated by Section 123 a.

B. Background on Morocco's Nuclear Program and Non-Proliferation Policy

Morocco is in the early stages of developing a nuclear research program, with technical assistance from the United States and the International Atomic Energy Agency ("IAEA"). The U.S. firm General Atomics is currently building the country's first reactor, a small (2 megawatt) TRIGA Mark II research reactor that will use low enriched uranium fuel. Extension of the Agreement is a U.S. legal prerequisite for completion of the project. Morocco's National Center for Nuclear Energy, Sciences and Technology (CNESTEN) currently operates a collection of five nuclear laboratories on the outskirts of Rabat, constructed with assistance from the IAEA that was substantially funded by the United States. CNESTEN will also be the operator of the TRIGA reactor, to be sited in an isolated area at Maamora about 25km northeast of Rabat. CNESTEN has also entered into a laboratory-to-laboratory ("sister lab") arrangement with the U.S. Department of Energy's Lawrence Livermore National Laboratory under which the United States is providing technical assistance to a variety of nuclear research projects in Morocco.

Morocco is a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and has an agreement with the IAEA for the application of full-scope safeguards to its nuclear program. It is a signatory to the Convention on the Physical Protection of Nuclear Material, which establishes international standards of physical protection for the storage and transport of nuclear material.

C. Legal Issues

As noted above, the legal analysis contained in the earlier ACDA NPAS concluded that the Agreement met all the requirements of the Act. Since that time, there have been no changes or additions to the requirements specified in the Act for such agreements for cooperation, and the Protocol does not reduce the substantive undertakings by Morocco contained in the Agreement. Thus, the Agreement as amended by the Protocol will continue to meet all the requirements of the Atomic Energy Act.

The primary purpose of the Protocol is to extend the duration of the existing Agreement, which otherwise would expire by its terms on May 16, 2001. The Protocol would extend the duration of the Agreement for a period of twenty years, and has a provision for automatic extensions thereafter of five years each unless either Party gives timely notice that it intends to terminate the Agreement.

The Protocol also updates the language in the Agreement in which each Party guarantees that adequate physical protection will be applied to material and equipment subject to the Agreement. It also eliminates an Annex to the Agreement that listed levels of physical protection, in favor of a reference to the levels contained in the most recent guidelines published by the IAEA Agency or in any revision of those guidelines agreed to by both Parties. These changes do not alter the substantive commitment of Morocco to provide a guarantee of adequate physical protection over U.S. supply under the Agreement.

D. Policy Issues

Article IV of the NPT obliges its parties to engage in peaceful nuclear cooperation with other NPT parties so long as such activity is consistent with the basic principles of nuclear non-proliferation contained in Articles I and II of the Treaty. Establishing bilateral civil nuclear trading relationships with NPT parties like Morocco strongly serves the goals of the NPT and provides a firm foundation on which the United States and Morocco can cooperate on nuclear non-proliferation matters. As noted, extension of the Agreement is also necessary if U.S. cooperation with

Morocco in constructing the latter's first research reactor is to be successfully completed. This project is an important component in the overall U.S.-Morocco bilateral relationship. Thus entry into force of the Protocol at the earliest possible date is strongly in the interest of the United States.

When assessing nuclear non-proliferation factors in connection with a civil nuclear cooperation agreement, it is usual to go beyond the specific terms of such an agreement to consider the credibility of a country's commitment to the NPT and what the future might hold. It is impossible to predict with absolute certainty what the position of Morocco or any other country will be on nuclear non-proliferation over the twenty years or more that the extended Agreement will likely remain in force. However, like the United States, Morocco joined the NPT on July 1, 1968 -- the day it was opened for signature -- and its commitment to the Treaty and its underlying principles has never wavered since. There is no reason at this moment to believe that Morocco's steadfast commitment will falter in the future.

E. Conclusion

Extension of the Agreement will keep in place a framework for mutually beneficial civil nuclear cooperation between the two countries and provide a foundation for continued collaboration on nuclear non-proliferation goals.

On the basis of the analysis in this NPAS and all pertinent information of which it is aware, the Department of State has arrived at the following assessment, conclusions, views and recommendations:

1. The safeguards and other control mechanisms and the peaceful use assurances in the Agreement as amended by the proposed Protocol are adequate to ensure that any assistance furnished thereunder will not be used to further any military or nuclear explosive purpose.
2. The Agreement as amended by the proposed Protocol meets all the legal requirements of the Act and the NNPA.

3. Execution of the proposed Protocol would be compatible with the non-proliferation program, policy, and objectives of the United States.

4. It is recommended that the President determine that the performance of the proposed Protocol will promote, and will not constitute an unreasonable risk to, the common defense and security; and that the President approve and authorize the execution of the proposed Protocol.