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WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name Roberts, John: Files

Withdrawer

LOJ 7/29/2005

File Folder CHINA--US NUCLEAR AGREEMENT (1 OF 2)

FOIA

2005-139

Box Number CF0578

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1003

ID	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
19457	MEMO	JOHN C. WHITEHEAD TO THE PRESIDENT, RE PROPOSED AGREEMENT FOR COOPERATION BETWEEN THE US AND CHINA	6	7/20/1985	B1
D 6/22/2006					
19458	SUMMARY	TAB A FOR 19457	1	ND	B1
R 6/22/2006					
19459	SUMMARY	US-CHINA DISCUSSION BEIJIN, JUNE 26-27, 1985 - US SUMMARY OF DISCUSSIONS (TAB B FOR 19457)	2	ND	B1
R 6/22/2006					
19460	LETTER	THOMAS M. ROBERTS TO THE PRESIDENT, RE AGREEMENT	3	7/19/1985	B1
D 4/28/2006 2005-139					

Freedom of Information Act - [5 U.S.C. 552(b)]

B-1 National security classified information [(b)(1) of the FOIA]

B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]

B-3 Release would violate a Federal statute [(b)(3) of the FOIA]

B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]

B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]

B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]

B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]

B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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19457 MEMO

6 7/20/1985 B1

JOHN C. WHITEHEAD TO THE PRESIDENT, RE
PROPOSED AGREEMENT FOR COOPERATION
BETWEEN THE US AND CHINA

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~~SECRET~~Assistance which would preclude or terminate cooperation

The U.S. cannot cooperate with another state in the peaceful uses of nuclear energy if that state assists any non-nuclear weapon state to acquire a nuclear explosive device. In that context, assistance means:

- providing material, equipment or technology (including provision of technology through training, visits or exchange of information or personnel) to any non-nuclear weapon state for research on or the design, development, manufacture, acquisition or testing of a nuclear explosive device or any component thereof;
- providing material, equipment, or technology (including provision of technology through training, visits or exchange of information or personnel) for a facility which can produce nuclear material directly usable in nuclear explosive devices, in a non-nuclear weapon state which is known by the providing state or the U.S. to be seeking to acquire such explosive devices; such facilities include those for uranium enrichment or spent nuclear fuel reprocessing;
- providing to any non-nuclear weapon state, without requiring IAEA safeguards, any materials, equipment or technology which, according to standard international practice, call for IAEA safeguards as a condition of supply to such states.

Assistance which could jeopardize continuation of cooperation

Certain other kinds of nuclear assistance, if provided to any non-nuclear weapon state, could lead to interruption in nuclear cooperation by the U.S. with any other state:

- entering into an agreement to transfer certain sensitive nuclear technology (enrichment or reprocessing), in the absence of adequate non-proliferation conditions;
- actually transferring such technology, in the absence of adequate non-proliferation conditions.

DECLASSIFIED

NLS F05-139/1 #19458~~SECRET~~BY LOT NARA, DATE 6/22/06

~~SECRET~~

U.S.-CHINA NUCLEAR DISCUSSIONS
BEIJING, JUNE 26-27, 1985

U.S. SUMMARY OF DISCUSSIONS

During their discussions of June 26-27, 1985, on the proposed Agreement for Cooperation between China and the United States, the two sides exchanged views on the nuclear policies of their respective governments. Based on these discussions, the following summarizes the U.S. understanding of the policies of the Government of China in this area.

1. In accordance with statements made by Premier Zhao and Vice Premier Li Peng, Chinese nuclear policy rests on two principles: first, to promote the widest possible peaceful application of nuclear technology in the areas of industry, agriculture, and so forth, and promote international cooperation in this area; and second, to prevent misuse of nuclear technology for non-peaceful purposes. It is the policy of China not to assist any non-nuclear weapon state to develop or manufacture nuclear weapons, including any nuclear explosive devices.
2. Accordingly, China will not provide nuclear material, equipment or technology to any non-nuclear weapon state for the development or manufacture of nuclear explosive devices, or for military purposes. China will not provide such items to any country where it is the judgment of China that that state would use them for such purposes. To prevent misuse for nuclear explosive devices, China will require assurances against use for military or explosive purposes, the acceptance of IAEA safeguards, adequate physical protection measures, and assurances against retransfers without China's previous written consent, before providing such material, equipment, or technology to any non-nuclear weapon state. If it is the judgment of China that such items were used by such a non-nuclear weapon state for the development of nuclear explosive devices, supply of such items would cease.
3. China is well aware of the sensitivity of exports of enrichment or reprocessing technology and will adopt a serious attitude toward such exports. If a non-nuclear weapon state were to demonstrate a need for reprocessing or enrichment technology, China would require IAEA safeguards before providing such technology to that state. However, China has entered into no agreements for the transfer of such technology, and at present has no plans for such transfers or agreements. China will not provide technology for any enrichment or reprocessing facilities in any case where it is the judgment of China that such would be used for development or manufacture of nuclear explosive devices.

DECLASSIFIED

NLS F05-139/1#19459~~SECRET~~BY LDT NARA, DATE 6/22/06

~~SECRET~~

- 2 -

4. China is considering seriously and positively offering on a voluntary basis to accept IAEA safeguards on some of its civilian nuclear facilities. China neither confirms nor excludes the possibility that these safeguards would apply to facilities provided by the U.S. under the proposed Agreement for Cooperation.

5. In accordance with the provisions of Article 8 of the proposed Agreement for Cooperation, there will be consultations between China and the U.S. on matters of mutual interest.

The Chinese side, after examining the above U.S. Summary of Discussions, stated that it believed that it basically reflects the views of the Chinese delegation as expressed during the discussions.

It also expressed the hope that the U.S. Summary will be used only internally by the U.S. Government, and that, if it is used with the Congress, that it be used only in closed hearings and not made public. The reason for this Chinese request is that Chinese policy should be made public by China herself and not by other parties.

~~SECRET~~

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UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY
WASHINGTON

July 19, 1985

OFFICE OF
THE DIRECTOR

MEMORANDUM FOR THE PRESIDENT

SUBJECT: US-China Peaceful Nuclear Cooperation Agreement

The subject agreement is unique among agreements for peaceful nuclear cooperation concluded since the 1978 Nuclear Non-Proliferation Act. It is the first such agreement with a nuclear-weapon state; and it is with a country that has not, until recently, supported non-proliferation measures. Although the agreement was initialled in April 1984, we needed to clarify certain matters related to implementation of China's nuclear policies. Those discussions concluded successfully last month.

A major threat to our non-proliferation objectives is the potential for "maverick" suppliers to undercut the safeguards and other controls established through international cooperation and consensus. In the past, China's policies were a cause for concern because it neither adhered to that consensus nor accepted other non-proliferation norms.

Over the past two years, however, the Chinese Government has announced a policy (1) that it will not assist other countries to acquire nuclear explosives, and reaffirmed that policy on several occasions, (2) joined the International Atomic Energy Agency (IAEA), and (3) adopted supply policies such as requiring IAEA safeguards on its nuclear exports to non-nuclear weapon states.

In their totality, these actions by China are of historic significance in the international efforts to prevent the spread of nuclear weapons. China's actions will help buttress the critical non-proliferation norms established over the past 25 years. The prospect of peaceful nuclear cooperation and the related discussions with the United States and other suppliers significantly encouraged these steps and increased our opportunities to address non-proliferation issues with China. The agreement itself will facilitate continued dialogue and understanding on non-proliferation matters. In the context of China's evolving non-proliferation posture, the agreement is beneficial and in the United States' interest.

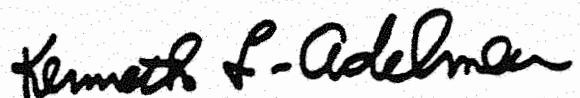
A few of the major provisions in the agreement were subject to long and difficult negotiations. We have had detailed discussions on what it means in practice not to assist other countries to acquire nuclear explosives. The policy statements

by senior Chinese officials, as clarified in our discussions, represent a clear commitment not to assist any non-nuclear-weapon state in the acquisition of nuclear explosives and we understand that China's policy will be implemented in a manner consistent with those basic non-proliferation practices common to the United States and other major suppliers. The agreement rests on that foundation. The Chinese know that peaceful nuclear cooperation with the United States would be precluded by actions inconsistent with the non-proliferation measures that were discussed and clarified during the negotiations with China.

The United States sought China's acceptance of IAEA safeguards on US supply under the agreement, but they adamantly refused to accept that condition. They have taken similar positions with other nuclear-weapon states, even though they have agreed in principle to accept safeguards on material from non-nuclear-weapon states. As a nuclear-weapon state, IAEA safeguards are not required under US law for cooperation.

The agreement does provide, however, for "mutually acceptable arrangements" in connection with transfers under the agreement in order to ensure that its provisions are effectively carried out. Those arrangements, to be established prior to approval of US exports, will include exchanges of information and visits by US Government personnel to relevant sites in China where material or equipment subject to the agreement will be stored or used. The agreement also notes that neither party contemplates reprocessing material provided under the agreement or produced through equipment provided. Should plans change in this regard, the agreement requires that arrangements or measures satisfactory to both sides be in place to assure that any separated material will be used only for purposes consistent with the agreement. Meanwhile reprocessing of US origin material cannot take place without US consent. In all cases, it will be important to ensure that the specific arrangements provide adequate confidence that any material or equipment subject to the agreement will be used only for purposes consistent with the agreement.

In my view, the proposed Agreement meets all the applicable requirements of the Atomic Energy Act and the Nuclear Non-Proliferation Act and its entry into force will substantially benefit US non-proliferation objectives. Therefore, I recommend that you (1) determine that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security, and (2) approve and authorize execution of the agreement.



Kenneth L. Adelman

United States Department of State

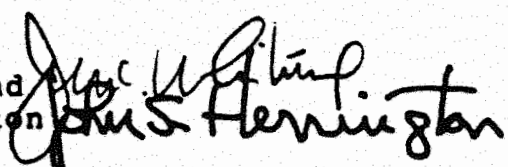
Deputy Secretary of State

Washington, D.C. 20520

July 20, 1985

MEMORANDUM FOR: THE PRESIDENT

FROM:

John C. Whitehead
John S. Herrington

SUBJECT: Proposed Agreement for Cooperation Between the United States and the People's Republic of China Concerning Peaceful Uses of Nuclear Energy

A proposed new agreement for peaceful nuclear cooperation between the United States and the People's Republic of China (PRC), including an accompanying agreed minute which is an integral part of the agreement, is at attachment 3. A summary of the basic provisions of the proposed agreement is at attachment 4.

The agreement was negotiated by the Department of State, with the technical assistance and concurrence of the Department of Energy and in consultation with the Arms Control and Disarmament Agency (ACDA), whose views and recommendations are at attachment 5. The Nuclear Proliferation Assessment Statement concerning the agreement is being submitted to you directly by the Director of ACDA.

The agreement was initialed in Beijing on April 30, 1984. While recent amendments to section 123 of the Atomic Energy Act would permit you to transmit the agreement to Congress for "consultations" before the agreement had been signed, we recommend that you approve the agreement, authorize it for signature, determine that it will promote, and not constitute an unreasonable risk to, the common defense and security and have the agreement signed before it is transmitted to Congress. If you approve our recommendation, the agreement will be signed and then transmitted to Congress for 90 days of continuous session. If you agree with our conclusion that the agreement meets all the applicable requirements of the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978, it may be transmitted to Congress without an exemption of any of those requirements. An agreement without exemptions may be brought into force after 90 days of continuous session unless, during that time, there has been enacted a joint resolution of disapproval (which would require presentation to you for signature or veto).

The Nuclear Non-Proliferation Act of 1978 (NNPA) contains requirements for new or amended agreements for peaceful nuclear cooperation. In our judgment, the proposed agreement meets all the requirements applicable to such agreements with nuclear-weapon states. It is the first peaceful nuclear cooperation agreement with a Communist country and the only such agreement applicable solely to another nuclear-weapon state (the UK and France are covered by U.S. agreements with EURATOM).

China intends to make nuclear power one of its major energy sources by the year 2000. China has announced plans to build, by that year, nuclear power plants with a total capacity of 10,000 MWe. In the first stage of development, the PRC plans to build a Chinese-designed, 300 MWE reactor at Qinshan, Zhejiang (near Shanghai). China also plans on the construction of two much larger reactor projects: the twin 1000 MWE "Sunan" plant, to be built in Southern Jiangsu Province; and the Daya Bay, Guangdong plant, to include twin 900 MWE reactors. China is negotiating with a number of countries for assistance to its program, but it is clear that China regards U.S. nuclear equipment and technology very highly and would like to be able to buy such equipment and technology from the United States.

The purpose of the agreement is to permit such peaceful nuclear cooperation to take place between the United States and the PRC. It has a term of 30 years, subject to extension by the parties in accordance with their respective requirements, and provides for the transfer of facilities (including reactors), components and material (including fuel) for both nuclear research and power purposes. The agreement does not provide for any transfer of sensitive nuclear technology, sensitive nuclear facilities or major critical components.

The agreement contains provisions which satisfy the requirements of section 123 a. of the Atomic Energy Act as they apply to nuclear-weapon states. Paragraph (1) of section 123 (a) requires that safeguards "as set forth in the agreement" will be maintained for the life of items subject to the agreement, irrespective of the duration of the agreement itself. Under the Nuclear Non-Proliferation Treaty and section 127 (1) of the Atomic Energy Act, International Atomic Energy Agency (IAEA) safeguards are only required as a condition for nuclear exports to non-nuclear-weapon states. Therefore, IAEA safeguards are not provided for in the agreement. Article 8 (2), however, provides for arrangements for exchanges of information and visits by U.S. Government officials to material, facilities and components subject to the agreement. Mutually acceptable arrangements on such visits and information exchange will be established prior to the approval of any U.S.

exports under the agreement. This provision, together with article 10 (2), which provides that this provision and others continue for the life of the items to which they apply, meets the requirement of section 123 (a) (1).

Legally required provisions precluding retransfers without U.S. consent and precluding any military or explosive use are contained in article 5 (1) and (3). The required provisions on the physical protection of items subject to the agreement are in article 6. Paragraphs (2) and (4) of section 123 (a) of the Atomic Energy Act, pertaining to IAEA safeguards on all nuclear activities and a right of return of items in certain circumstances, do not by their terms apply to agreements with nuclear-weapon states, and consequently are not reflected in the U.S.-PRC agreement.

Subsections 123 (a) (7) and (8) of the Atomic Energy Act require that the U.S. have prior approval rights with regard to reprocessing, enrichment, alteration in form and content and (for weapons-usable material) storage of material subject to the agreement. These requirements are met in article 5 (2) of the agreement, although the text of this provision is different from the formulations in previous agreements. The effect of the provision is that none of these activities may be undertaken unilaterally; prior approval of the United States is required.

In accordance with section 407 of the Nuclear Non-Proliferation Act, the agreement contains a provision relating to identification of environmental implications and protection of the international environmental aspects of activities under the agreement, and in related matters of health and safety.

The proposed agreement will, in our view, further the non-proliferation and other foreign policy interests of the United States. During the period of our negotiations, China took several important steps which clarify its non-proliferation and nuclear export policies and practices. Chinese Premier Zhao made important statements of China's non-proliferation policy which make clear that China will not contribute to proliferation. The Premier's statements were subsequently endorsed by the National People's Congress, thereby giving them official status. In conjunction with China's membership in the International Atomic Energy Agency effective January 1, 1984, China said that it will require safeguards on its future nuclear export commitments to non-nuclear weapon states and is implementing that policy.

Entry into force of this agreement will provide a framework for a continuation of our discussions on non-proliferation matters with the Chinese. It also will have a significant, positive impact on overall U.S.-China relations, and thus will promote important U.S. foreign policy interests. It will also provide U.S. companies an opportunity to participate in another aspect of China's energy program with possibly substantial economic benefit.

We believe the proposed agreement, including the agreed minute, meets all statutory requirements. It will also serve United States non-proliferation and other foreign policy interests. Therefore, pursuant to section 123 (b) of the Atomic Energy Act, as amended, we recommend that you determine that performance of the agreement will promote, and will not constitute an unreasonable risk to, the common defense and security, approve the agreement, and authorize its execution.

ACDA Director Adelman concurs in this recommendation. His views are at attachment 5.

Recommendation

That you sign the determination, approval and authorization at attachment 1 and the transmittals to the Congress at attachment 2. (The transmittals will be held until the agreement itself is signed.)

Attachments

1. Draft Determination, Approval and Authorization
2. Draft Transmittals to the Congress
3. Proposed Agreement for Cooperation Between the Government of the United States of America and the Government of the People's Republic of China Concerning Peaceful Uses of Nuclear Energy, including Agreed Minute
4. Summary of Basic Provisions
5. Views and Recommendations of Director of the Arms Control and Disarmament Agency

MEMORANDUM FOR: THE SECRETARY OF STATE
 THE SECRETARY OF ENERGY

SUBJECT: Proposed Agreement Between the United States
 and the People's Republic of China Concerning
 Peaceful Uses of Nuclear Energy

I have considered the proposed Agreement for Cooperation Between the United States of America and the Peoples Republic of China Concerning Peaceful Uses of Nuclear Energy, along with the views, recommendations and statements of the interested agencies.

I have determined that the performance of the agreement 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 (42 U.S.C. 2153 (b)), I hereby approve the proposed agreement and authorize you to arrange for its execution.

Ronald Reagan

TO THE CONGRESS OF THE UNITED STATES:

I am pleased to transmit to the Congress, pursuant to sections 123(b) and 123(d) of the Atomic Energy Act of 1954, as amended, the text of the proposed agreement between the United States and the People's Republic of China Concerning Peaceful Uses of Nuclear Energy, with an accompanying agreed minute. The proposed agreement is accompanied by my written determination, approval, and authorization, and the Nuclear Proliferation Assessment Statement by the Director of the Arms Control and Disarmament Agency concerning the agreement. The joint memorandum submitted to me by the Secretaries of State and Energy, which includes a summary analysis of the provisions of the agreement, and the views of the Director of the Arms Control and Disarmament Agency are also enclosed.

The proposed agreement with the People's Republic of China has been negotiated in accordance with the Nuclear Non-Proliferation Act, which sets forth certain requirements for new agreements for cooperation with other countries.

It is the first peaceful nuclear cooperation agreement with a Communist country and the only such agreement with another nuclear-weapon state (the UK and France are covered by U.S. agreements with EURATOM).

During the last several years, the People's Republic of China has developed ambitious plans for the installation of a substantial number of nuclear power stations. The proposed agreement reflects the desire of the Government of the United States and the Government of the People's Republic of China to establish a framework for peaceful nuclear cooperation. During the period of our negotiations and discussions, China took several important steps which clarify its non-proliferation and nuclear export policies. Premier Zhao has made important statements of China's non-proliferation policy which make clear that China will not contribute to proliferation. Those statements have been endorsed by the National People's Congress, thereby giving them official status. Based on our talks with the Chinese, we can expect that China's policy of not assisting a non-nuclear weapon state to acquire nuclear explosives will be implemented in a manner consistent with the basic non-proliferation practices common to the United States and other suppliers. Further, in conjunction with China's membership in the International Atomic Energy Agency, effective January 1, 1984, China has said that it will require IAEA safeguards on its future nuclear export commitments to non-nuclear weapons states.

This agreement will have a significant, positive impact on overall U.S.-China relations. It will provide the U.S. and its companies an opportunity to participate in another aspect of China's energy programs, with possibly substantial economic benefit. The proposed agreement will, in my view, further the non-proliferation and other foreign policy interests of the United States.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution.

I have also found that this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation and therefore I am transmitting it to Congress without exempting it from any requirement contained in section 123(a) of that Act. This transmission shall constitute a submittal for

purposes of both section 123(b) and 123(d) of the Atomic Energy Act. The Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House Foreign Affairs Committees as provided in section 123(b). Upon completion of the 30 continuous session day period provided in section 123(b), the 60 day continuous session period provided for in section 123(d) shall commence.

**Agreement for Cooperation Between
The Government of the United States of America and
The Government of the People's Republic of China
Concerning Peaceful Uses of Nuclear Energy**

The Government of the United States of America and the
Government of the People's Republic of China,

Desiring to establish extensive cooperation in the peaceful uses
of nuclear energy on the basis of mutual respect for sovereignty,
non-interference in each other's internal affairs, equality and
mutual benefit,

Noting that such cooperation is one between two nuclear weapon
states,

Affirming their support of the objectives of the statute of the
International Atomic Energy Agency (IAEA),

Affirming their intention to carry out such cooperation on a
stable, reliable and predictable basis,

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
Definitions

For the purposes of this agreement:

(1) "parties" means the Government of the United States of America and the Government of the People's Republic of China;

(2) "authorized person" means any individual or any entity under the jurisdiction of either party and authorized by that party to receive, possess, use, or transfer material, facilities or components;

(3) "person" means any individual or any entity subject to the jurisdiction of either party but does not include the parties to this agreement;

(4) "peaceful purposes" include the use of information, technology, material, facilities and components in such fields as research, power generation, medicine, agriculture and industry but do not include use in, research specifically on or development of any nuclear explosive device, or any military purpose;

(5) "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;

(6) "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;

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(7) "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;

(8) "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;

(9) "moderator material" means 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;

(10) "high enriched uranium" means uranium enriched to twenty percent or greater in the isotope 235;

(11) "low enriched uranium" means uranium enriched to less than twenty percent in the isotope 235;

(12) "facility" means any reactor, other than one designed or used primarily for the formation of plutonium or uranium 233, or any other item so designated by agreement of the parties;

(13) "reactor" is defined in Annex I, which may be modified by mutual consent of the parties.

(14) "sensitive nuclear facility" means any plant designed or used primarily for uranium enrichment, reprocessing of nuclear fuel, heavy water production or fabrication of nuclear fuel containing plutonium;



(15) "component" means a component part of a facility or other item, so designated by agreement of the parties;

(16) "major critical component" means any part or group of parts essential to the operation of a sensitive nuclear facility;

(17) "sensitive nuclear technology" means any information (including information incorporated in a facility 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 such other information so designated by agreement of the parties.

Article 2
Scope of Cooperation

1. The parties shall cooperate in the use of nuclear energy for peaceful purposes in accordance with the provisions of this agreement. Each party shall implement this agreement in accordance with its respective applicable treaties, national laws, regulations and license requirements concerning the use of nuclear energy for peaceful purposes. The parties recognize, with respect to the observance of this agreement, the principle of international law that provides that a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.

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2. Transfers of information, technology, material, facilities and components under this agreement may be undertaken directly between the parties or through authorized persons. Such cooperation shall be subject to this agreement and to such additional terms and conditions as may be agreed by the parties.

3. Material, facilities and components will be regarded as having been transferred pursuant to this agreement only upon receipt of confirmation by the supplier party, from the appropriate Government authority of the recipient party, that such material, facilities or components will be subject to this agreement and that the proposed recipient of such material, facilities or components, if other than the recipient party, is an authorized person.

4. Any transfer of sensitive nuclear technology, sensitive nuclear facilities, or major critical components will, subject to the principles of this agreement, require additional provisions as an amendment to this agreement.

Article 3
Transfer of Information and Technology

Information and technology concerning the use of nuclear energy for peaceful purposes may be transferred. Transfers of such information and technology shall be that which the parties are permitted to transfer and may be accomplished through various means, including reports, data banks, computer programs, conferences,

visits and assignments of persons to facilities. Fields which may be covered include, but shall not be limited to, the following:

(1) research, development, experiment, design, construction, operation, maintenance and use and retirement of reactors and nuclear fuel fabrication technology;

(2) the use of material in physical and biological research, medicine, agriculture and industry;

(3) nuclear fuel cycle research, development and industrial application to meet civil nuclear needs, including multilateral approaches to guaranteeing nuclear fuel supply and appropriate techniques for management of nuclear wastes;

(4) health, safety, environment, and research and development related to the foregoing;

(5) assessing the role nuclear power may play in international energy plans;

(6) codes, regulations and standards for the nuclear energy industry; and

(7) such other fields as may be agreed by the parties.

Article 4
Transfer of Material, Facilities and Components

1. Material, facilities and components may be transferred pursuant to this agreement for applications consistent with this agreement. Any special nuclear material to be transferred under this agreement shall be low enriched uranium except as provided in paragraph 4 of this article.

2. Low enriched uranium may be transferred for use as fuel in reactors and reactor experiments, for conversion or fabrication, or for such other purposes as may be agreed by the parties.

3. The quantity of special nuclear material transferred under this agreement shall be the quantity which the parties agree is necessary for any of the following purposes: the loading of reactors or use in reactor experiments, the efficient and continuous operation of such reactors or conduct of such reactor experiments, and the accomplishment of such other purposes as may be agreed by the parties.

4. Small quantities of special nuclear material may be transferred for use as samples, standards, detectors, targets, radiation sources and for such other purposes as the parties may agree.

Article 5
Retransfers, Storage, Reprocessing, Enrichment,
Alteration, and No Use for Military Purposes

1. Material, facilities, components or special nuclear material transferred pursuant to this agreement and any special nuclear material produced through the use of such material or facilities may be retransferred by the recipient party, except that any such material, facility, components or special nuclear material shall not be retransferred to unauthorized persons or, unless the parties agree, beyond its territory.



2. Neither party has any plans to enrich to twenty percent or greater, reprocess, or alter in form or content material transferred pursuant to this agreement or material used in or produced through the use of any material or facility so transferred. Neither party has any plans to change locations for storage of plutonium, uranium 233 (except as contained in irradiated fuel elements), or high enriched uranium transferred pursuant to this agreement or used in or produced through the use of any material or facility so transferred. In the event that a party would like at some future time to undertake such activities, the parties will promptly hold consultations to agree on a mutually acceptable arrangement. The parties undertake the obligation to consider such activities favorably, and agree to provide pertinent information on the plans during the consultations. Inasmuch as any such activities will be solely for peaceful purposes and will be in accordance with the provisions of this agreement, the parties will consult immediately and will seek agreement within six months on long-term arrangements for such activities. In the spirit of cooperation the parties agree not to act within that period of time. If such an arrangement is not agreed upon within that period of time, the parties will promptly consult for the purpose of agreeing on measures which they consider to be consistent with the provisions of the agreement in order to undertake such activities on an interim basis. The

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parties agree to refrain from actions which either party believes would prejudice the long-term arrangements for undertaking such activities or adversely affect cooperation under this agreement. The parties agree that the consultations referred to above will be carried out promptly and mutual agreement reached in a manner to avoid hampering, delay or undue interference in their respective nuclear programs. Neither party will seek to gain commercial advantage. Nothing in this article shall be used by either party to inhibit the legitimate development and exploitation of nuclear energy for peaceful purposes in accordance with this agreement.

3. Material, facilities or components transferred pursuant to this agreement and material used in or produced through the use of any material, facility or components so transferred shall not be used for any nuclear explosive device, for research specifically on or development of any nuclear explosive device, or for any military purpose.

Article 6
Physical Security

1. Each party shall maintain adequate physical security with respect to any material, facility or components transferred pursuant to this agreement and with respect to any special nuclear material used in or produced through the use of any material or facility so transferred.

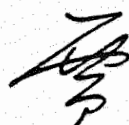
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2. The parties agree to the levels for the application of physical security set forth in Annex II, which levels may be modified by mutual consent of the parties. The parties shall maintain adequate physical security measures in accordance with such levels. These measures, as minimum protection measures, shall be comparable to the recommendations set forth in IAEA document INFCIRC/225/Revision 1 entitled "The Physical Protection of Nuclear Material", or in any revision of that document agreed to by the parties.

3. The parties shall consult at the request of either party regarding the adequacy of physical security measures maintained pursuant to this article.

4. Each party shall identify those agencies or authorities responsible 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 physical security matters of mutual concern.



Article 7
Cessation of Cooperation

1. Each party shall endeavor to avoid taking any actions that affect cooperation under this agreement. If either party at any time following entry into force of this agreement does not comply with the provisions of this agreement, the parties shall promptly hold consultations on the problem, it being understood that the other party shall have the rights to cease further cooperation under this agreement.

2. If either party decides to cease further cooperation under this agreement, the parties shall make appropriate arrangements as may be required.

Article 8
Consultations

1. The parties shall consult at the request of either party regarding the implementation of this agreement, the development of further cooperation in the field of peaceful uses of nuclear energy, and other matters of mutual concern.

2. The parties recognize that this cooperation in the peaceful uses of nuclear energy is between two nuclear-weapon states and that bilateral safeguards are not required. In order to exchange experience, strengthen technical cooperation between the parties,

ensure that the provisions of this agreement are effectively carried out, and enhance a stable, reliable, and predictable nuclear cooperation relationship, in connection with transfers of material, facilities and components under this agreement the parties will use diplomatic channels to establish mutually acceptable arrangements for exchanges of information and visits to material, facilities and components subject to this agreement.

3. The parties shall exchange views and information on the establishment and operation of their respective national accounting and control systems for source and special nuclear material subject to this agreement.

Article 9
Environmental Protection

The parties shall consult, with regard to activities under this agreement, to identify the international environmental implications arising from such activities and shall cooperate in protecting the international environment from radioactive, chemical or thermal contamination arising from peaceful nuclear cooperation under this agreement and in related matters of health and safety.

Article 10
Entry Into Force and Duration

1. This agreement shall enter into force on the date of mutual notifications of the completion of legal procedures by the parties and shall remain in force for a period of thirty years. This term

Annex I -- Definition of "Reactor"

"Reactor" means:

1. 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; or
2. any of the following major parts of an apparatus described in paragraph 1:
 - (1) a pressure vessel designed to contain the core;
 - (2) primary coolant pumps;
 - (3) fuel charging or discharging machines;
 - (4) control rods.

A "reactor" does not include the steam turbine generator portion of a nuclear power plant.

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Annex II

Pursuant to paragraph 2 of article 6, 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 below.

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.

Category I

Material in this category shall be protected with highly reliable systems against unauthorized uses 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, 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^a

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
	– 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 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 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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Agreed Minute

During the negotiation of the Agreement for Cooperation between the United States of America and the People's Republic of China Concerning Peaceful Uses of Nuclear Energy signed today, the following understanding, which shall be an integral part of the agreement, was reached.

The parties agree that the interpretation and implementation of article 5(3) shall not involve any nuclear activities and related research and development carried out by either party, as a nuclear weapon state, through the use of material, facilities, components and technology not subject to the agreement.

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United States - People's Republic of China
Peaceful Nuclear Cooperation Agreement

Summary of Basic Provisions

Article 1 and Annex I contain definitions.

Article 2 sets forth the scope of cooperation in the use of nuclear energy for peaceful purposes. The parties state their intent to cooperate in this area in accordance with the provisions of the agreement. Information, technology, material, facilities and components may be transferred under the agreement directly between the parties or through authorized persons, and shall be subject to the terms of the agreement and to such additional terms and conditions as may be agreed by the parties. Material, facilities and components will be regarded as having been transferred pursuant to the agreement only upon confirmation by the recipient party that such item or items are to be subject to the terms of the agreement. Sensitive nuclear technology, sensitive nuclear facilities, and major critical components cannot be transferred under the agreement; their transfer would require additional provisions as an amendment to the agreement. Each party will implement the agreement in accordance with its respective applicable treaties, national laws, regulations and license requirements concerning the use of nuclear energy for peaceful purposes.

Article 3 provides for the transfer of information in a variety of fields involving the peaceful uses of nuclear energy. These fields include research, development and use of reactors and nuclear fuel fabrication technology, the use of material and physical and biological research, medicine, agriculture and industry, nuclear fuel cycle research, including waste management techniques, health, safety, and environmental research and development, assessing the role nuclear power may play in international energy plans, and codes, regulations and standards for the nuclear energy industry. The agreement limits transfers of information and technology to that which the parties are permitted to transfer, thus excluding the transfer of restricted data, since special procedures under section 144 of the Atomic Energy Act must be followed to authorize such transfers.

Article 4 provides the basic enabling framework for the transfer of material, facilities and components. Except for small quantities of special nuclear material for use as samples, standards, detectors, targets, radiation sources and such other agreed purposes, the agreement limits authorized

transfers of special nuclear material to low-enriched uranium. Low-enriched uranium may be transferred for use as fuel in reactors and reactor experiments, for conversion or fabrication, or for such other purposes as may be agreed by the parties. The quantity of nuclear material transferred shall not at any time be in excess of the quantity necessary for reactors or reactor experiments, and such other purposes as may be agreed by the parties.

Article 5 requires the parties' agreement for the retransfer of any material, facilities, components or special nuclear material transferred pursuant to the agreement and any special nuclear material produced through the use of any such material or facilities.

This article also specifies that neither party has any plans to enrich to 20 percent or greater, reprocess, or alter in form or content material transferred pursuant to the agreement or material used in or produced through the use of any material or facility so transferred. In addition, neither party has any plans to change locations for storage of plutonium, uranium 233 (except as contained in irradiated fuel elements), or high-enriched uranium transferred pursuant to the agreement or used in or produced through the use of any material or facility so transferred. If plans change, the parties will consult immediately and seek agreement within six months on long-term arrangements for such activities. The parties undertake to consider the activities favorably, and agree to provide pertinent information on their plans. Each party agrees not to act during this period. If a long-term arrangement is not agreed, the parties will promptly consult for the purpose of agreeing on an interim arrangement. Both parties agree to refrain from actions which either party believes would prejudice the long-term arrangement or adversely affect cooperation under the agreement. In essence, consequently, none of the activities referred to in this paragraph may be undertaken unilaterally; prior approval of the other party is required.

Finally, article 5 precludes the use of material, facilities or components transferred pursuant to the agreement and material used in or produced through the use of any material, facility or component so transferred for any nuclear explosive device, for research specifically on or development of any nuclear explosive device, or for any military purpose. The agreed minute makes clear that this obligation does not involve any nuclear activities and related research and development carried out by either party, as a nuclear weapon state, through the use of material, facilities, components and technology not subject to the agreement.

Article 6 requires that each party maintain adequate physical security measures, in accordance with the levels of protection set forth in Annex II, with respect to any material, facility or components transferred pursuant to the agreement and with respect to any special nuclear material used in or produced through the use of any material or facility so transferred. The measures applied shall, as a minimum, be comparable to the recommendations set forth in IAEA document INFCIRC/225/Rev.1, "The Physical Protection of Nuclear Material," or in any revision of that document agreed to by the parties. The Annex describes physical security levels applicable with respect to the use, storage, and transport of nuclear materials classified as categories I (requiring the most stringent levels of protection), II, and III. The parties agree to consult at the request of either party regarding the adequacy of physical security measures, and agree to identify those agencies and authorities responsible 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 materials subject to the article.

Article 7 accords each party the right to cease cooperation if the other party does not comply with the provisions of the agreement. Each party undertakes to endeavor to avoid taking actions that would affect cooperation under the agreement.

Article 8 provides that parties shall consult at the request of either party regarding the implementation of the agreement, the development of further peaceful nuclear cooperation, and other matters of mutual concern. It is recognized that since the parties are both nuclear-weapon states, bilateral safeguards are not required. However, in order to exchange experience, strengthen technical cooperation between the parties, ensure that the provisions of the agreement are effectively carried out, and enhance a stable, reliable and predictable nuclear cooperation relationship, in connection with transfers under the agreement the parties will use diplomatic channels to establish mutually acceptable arrangements for exchanges of information and visits to material, facilities and components subject to the agreement. The parties also agree to exchange views and information on the establishment and operation of their respective national accounting and control systems for source and special nuclear material subject to the agreement.

Article 9 provides that the parties shall consult to identify the international environmental implications arising from activities under the agreement, and shall cooperate in protecting the international environment from radioactive,

chemical or thermal contamination arising from such activities and in related matters of health and safety.

Article 10 establishes a thirty-year term for the agreement which may be extended by agreement of the parties in accordance with their respective applicable procedures. In the event of suspension, termination or expiration of the agreement or of cooperation thereunder for any reason, articles 5, 6, 7, and 8 shall continue in effect so long as any material, facility or components subject to these articles remains in the territory of the party concerned or any material, facility or components subject to these articles remain subject to that party's right to exercise jurisdiction or direct disposition elsewhere.