

PROPOSED PROTOCOL AMENDING THE AGREEMENT
FOR COOPERATION BETWEEN THE UNITED STATES
AND THE KINGDOM OF MOROCCO

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE TEXT OF A 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, PURSUANT TO 42 U.S.C. 2153(b), (d)



OCTOBER 29, 2001.—Message and accompanying papers referred to the
Committee on International Relations and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

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 (42 U.S.C. 2153(b), (d)) (the "Act"), the text of a 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 signed at Washington on May 30, 1980. I am also pleased to transmit my written approval, authorization, and determination concerning the Protocol, and an unclassified Nuclear Proliferation Assessment Statement (NPAS) concerning the Protocol. (In accordance with section 123 of the Act, as amended by title XII of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105-277), a classified Annex to the NPAS, prepared by the Secretary of State in consultation with the Director of Central Intelligence, summarizing relevant classified information, will be submitted to the Congress separately.) The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy and a letter from the Chairman of the Nuclear Regulatory Commission stating the views of the Commission are also enclosed.

I am informed that the proposed Protocol has been negotiated to be in accordance with the Act and other applicable law, to meet all statutory requirements, and to advance the nonproliferation and other foreign policy interests of the United States.

The Protocol amends 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 in two respects:

1. It extends the Agreement, which expired by its terms on May 16, 2001, for an additional period of 20 years, with a provision for automatic extensions thereafter in increments of 5 years each unless either Party gives timely notice to terminate the Agreement; and
2. It updates certain provisions of the Agreement relating to the physical protection of nuclear material subject to the Agreement.

As amended by the proposed Protocol, I am informed that the Agreement will continue to meet all requirements of U.S. law.

Morocco is in the early stages of developing a nuclear research program, with support from the United States and the International Atomic Energy Agency (IAEA). The United States 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. General Atomics' completion of the project cannot occur without an Agreement for Cooperation in force.

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. Morocco is a signatory to (but has not yet ratified) the Convention on the Physical Protection of Nuclear Material, which establishes international standards of physical protection for the storage and transport of nuclear material.

I have considered the views and recommendations of the interested agencies in reviewing the proposed Protocol 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 Protocol and authorized its execution and urge that the Congress give it favorable consideration.

This transmission shall constitute a submittal for purposes of both sections 123 b. and 123 d. of the Atomic Energy Act. My Administration is prepared to begin immediately the consultations with the Senate Foreign Relations Committee and House International Relations Committee as provided in section 123 b. Upon completion of the 30-day continuous session period provided for in section 123 b., the 60-day continuous session period provided for in section 123 d. shall commence.

GEORGE W. BUSH.

THE WHITE HOUSE, *October 24, 2001.*

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

The Government of the United States of America and the
Government of the Kingdom of Morocco ("the Parties");

Desiring to amend 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");

Have agreed as follows:

ARTICLE 1

Paragraph 2 of Article 7 of the Agreement is amended to
read in its entirety:

"2. To fulfill the requirement in paragraph 1, each party
shall apply measures in accordance with levels of physical
protection at least equivalent to the recommendations
published in IAEA document INFCIRC/225/Rev.4 entitled 'The
Physical Protection of Nuclear Material and Nuclear
Facilities,' and subsequent revisions of that document as
agreed by the parties."

ARTICLE 2

Paragraph 1 of Article 12 of the Agreement is amended to
read in its entirety:

"1. This Agreement shall enter into force on the date on
which the parties notify each other by exchange of
diplomatic notes that they have satisfied their legal
requirements. It shall remain in force until May 16, 2021,
and shall continue in force thereafter for additional
periods of five years each. Either party may, by giving at
least six months' written notice to the other party,
terminate this Agreement on May 16, 2021, or at the end of
any subsequent five-year period."

ARTICLE 3

The Annex to the Agreement, the table attached to the Annex, and, in the Agreed Minute to the Agreement, the heading "Transitional Arrangements" and the paragraph following that heading are deleted from the Agreement.

ARTICLE 4

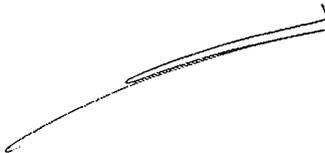
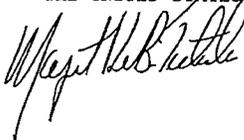
This Protocol shall enter into force on the date on which the Parties exchange diplomatic notes informing each other that they have complied with all applicable requirements for its entry into force.

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

DONE at Rabat, this 20th day of September, 2001, in duplicate, in the English, Arabic and French languages, all texts being equally authentic.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF
THE KINGDOM OF MOROCCO:



THE WHITE HOUSE

WASHINGTON

August 31, 2001

Presidential Determination
No. 2001-25

MEMORANDUM FOR THE SECRETARY OF STATE
THE SECRETARY OF ENERGY

SUBJECT: Presidential Determination on 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

I have considered 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 signed at Washington on May 30, 1980, along with the views, recommendations, and statements of the interested agencies.

I have determined that the performance of the Protocol 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 Protocol and authorize you to arrange for its execution.

The Secretary of State is authorized and directed to publish this determination in the Federal Register.



THE SECRETARY OF STATE
WASHINGTON

July 16, 2001

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MEMORANDUM FOR THE PRESIDENT

FROM: Colin L. Powell
Secretary of State

Spencer Abraham
Secretary of Energy

SUBJECT: 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

The United States has negotiated a 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 signed at Washington on May 30, 1980 ("the Agreement"). This memorandum recommends that you sign the determination, approval and authorization at Attachment 1, which, pursuant to section 123 b. of the Atomic Energy Act of 1954, as amended ("the Act"), sets forth: (1) your approval of the proposed Protocol; (2) your determination that performance of the proposed Protocol will promote, and will not constitute an unreasonable risk to, the common defense and security; and (3) your authorization for execution of the Protocol.

If you authorize execution of the Protocol, it will be signed by representatives of the United States and Morocco. Afterward, in accordance with section 123 b. and d. of the Act, it will be submitted to both Houses of Congress. A draft letter of transmittal to the Congress is at Attachment 2 for your signature. (This letter will be held until after the Protocol is signed.) The Protocol must lie before Congress for 90 days of continuous session. Unless a joint resolution of disapproval is enacted, the Protocol may thereafter be brought into force.

The text of the proposed Protocol is at Attachment 3. It amends the Agreement in two respects:

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1. It extends the Agreement, which expired by its terms on May 16, 2001, for an additional period of 20 years, with a provision for automatic extensions thereafter in increments of five years each unless either Party gives timely notice to terminate the Agreement; and

2. It updates certain provisions of the Agreement relating to the physical protection of nuclear material subject to the Agreement.

As amended by the proposed Protocol, the Agreement will continue to meet all requirements of U.S. law.

In accordance with the provisions of section 123 of the Act, the proposed Protocol was negotiated by the Department of State, with the technical assistance and concurrence of the Department of Energy. The proposed Protocol has also been reviewed by the members of the Nuclear Regulatory Commission. Their views are at Attachment 4.

Morocco is in the early stages of developing a nuclear research program, with support 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. General Atomics' completion of the project cannot occur without an Agreement for Cooperation in force.

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 (but has not yet ratified) the Convention on the Physical Protection of Nuclear Material, which establishes international standards of physical protection for the storage and transport of nuclear material. A more detailed discussion of Morocco's nuclear non-proliferation policies is provided in the Nuclear Proliferation Assessment Statement ("NPAS") at Attachment 5, and in a classified Annex to the NPAS submitted to you separately.

In our judgment, continued U.S. cooperation with Morocco in the peaceful uses of nuclear energy under a long-term extension of the Agreement will be supportive of U.S. non-proliferation, foreign policy and commercial interests. We

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recommend, therefore, that you determine, pursuant to section 123 b. of the Act, that performance of the Protocol will promote, and will not constitute an unreasonable risk to, the common defense and security; and that you approve the Protocol and authorize its execution.

RECOMMENDATION

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

Attachments:

1. Draft Determination, Approval and Authorization
2. Draft Transmittal to the Congress (to be held until after the Protocol is signed)
3. 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
4. Views of the Members of the Nuclear Regulatory Commission
5. Unclassified Nuclear Proliferation Assessment Statement
6. Text of 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 May 30, 1980

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CHAIRMAN

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

April 4, 2001

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

Dear Mr. President:

In accordance with the provisions of Section 123 of the Atomic Energy Act, as amended, the Nuclear Regulatory Commission has reviewed the proposed Agreement for Cooperation with Morocco and supporting draft documents. It is the view of the Commission that the proposed Agreement includes all of the provisions required by Section 123 of the Atomic Energy Act, as amended. The Commission therefore recommends that you make the requisite statutory determination, approve the Protocol to extend the current Agreement, and authorize its execution.

Because physical protection measures have not been fully implemented at the site of the TRIGA reactor now under construction in Morocco, the Commission recommends that the U.S. conduct a physical protection assessment at the appropriate time.

Respectfully,

A handwritten signature in black ink, appearing to read "Richard A. Meserve".

Richard A. Meserve

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 ("the Act"), as amended by Title XII of the Foreign Affairs Reform and Restructuring Act of 1998 (P.L. 105-277), 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 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. General Atomics' completion of the project cannot occur without an Agreement for Cooperation in force. 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. In 1994 CNESTEN 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 (but has not yet

ratified) 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 Act.

The primary purpose of the Protocol is to extend the duration of the Agreement, which expired by its terms on May 16, 2001. The Protocol will 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 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

In Article IV of the NPT, the United States undertook "to facilitate...the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy" and to cooperate in contributing to the further development of the applications of nuclear energy for peaceful purposes. 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 signed 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.

ATOMIC ENERGY
Peaceful Uses of Nuclear Energy

Agreement Between the
UNITED STATES OF AMERICA
and MOROCCO

Signed at Washington May 30, 1980



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 86-497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—

"... the Treaties and Other International Acts Series issued by the Department of State shall be competent evidence of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the courts and tribunals of the United States, and of the several States, without any further proof or authentication thereof."

MOROCCO

Atomic Energy: Peaceful Uses of Nuclear Energy

Agreement signed at Washington May 30, 1980;
Entered into force May 16, 1981.

For sale by the Superintendent of Documents, U.S. Government Printing Office,
Washington, D.C. 20540. Subscription Price: \$145 per year, \$181.25
for foreign mailing. Single copies vary in price. This issue #3.

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TIAS 10018

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

The Government of the United States of America and the Government of the Kingdom of Morocco,

Reaffirming their commitment to ensuring that the international development and use of nuclear energy for peaceful purposes are carried out under arrangements which will, to the maximum extent possible, further the objectives of the Treaty on the Non-Proliferation of Nuclear Weapons ("NPT"),¹

Reaffirming their support for the objectives of the Statute of the International Atomic Energy Agency ("IAEA")² 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:

Article I
Scope of Cooperation

1. The United States of America and the Kingdom of Morocco shall cooperate in the use of nuclear energy for peaceful purposes in accordance with the provisions of this agreement and the agreed minutes which form an integral part thereof, the international treaties to which they are parties, and their national laws and regulations, including required import and export licenses.

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 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 the Kingdom of Morocco, under its jurisdiction, or carried out under its control anywhere. This requirement shall be considered to be fulfilled by the implementation of a safeguards agreement concluded pursuant to Article III(4) of the NPT.

4. An amendment to this agreement shall be required for any transfer of sensitive nuclear technology, sensitive nuclear facilities or major critical components.

¹ TIAS 6839; 21 UST 483.
² TIAS 3573, 6284, 7068; 8 UST 1093; 14 UST 135; 24 UST 1487.

Article 2
Definitions

For the purposes of this agreement:

- (A) "Authorized person" means any person authorized by either party to receive, possess, use, or transfer material, equipment, or components.
- (B) "Byproduct material" means any radioactive material (except special nuclear material) obtained or made radioactive by exposure to the radiation resulting from the process of producing or utilizing special nuclear material.
- (C) "Component" means any component part of equipment or any other item so designated by agreement of the parties.
- (D) "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.
- (E) "High enriched uranium" means uranium enriched to at least twenty percent in the isotope 235.
- (F) "Low enriched uranium" means uranium enriched to less than twenty percent in the isotope 235.
- (G) "Major critical component" means any part or group of parts essential to the operation of a sensitive nuclear facility.
- (H) "Material" means source material, special nuclear material, byproduct material, radioisotopes other than byproduct material, moderator material, or any other such substance so designated by agreement of the parties.

- (I) "Moderator material" means heavy water, as well as graphite or beryllium of a purity suitable for use in a reactor to slow down high velocity neutrons and increase the possibility of further fission, or any other such material so designated by agreement of the parties.
- (J) "Parties" means the Government of the United States of America and the Government of the Kingdom of Morocco.
- (K) "Peaceful purposes" include the use of information, material, equipment, and components in such fields as research, power generation, medicine, agriculture, industry, mining and geology, but do not include use, research, or development relating to any nuclear explosive device or for any military purpose.
- (L) "Person" means any individual or entity subject to the jurisdiction of either party, but does not include the parties to this agreement.
- (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 material 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, thorium, or any combination thereof.

- (C) "Sensitive nuclear facility" means any facility designed or used primarily for uranium enrichment, the reprocessing of nuclear fuel, the production of heavy water, or the fabrication of nuclear fuel containing plutonium.
- (F) "Sensitive nuclear technology" means any information (including information incorporated in equipment or an important component) which has not been made public 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.
- (G) "Source material" means (1) uranium, thorium, or any other material so designated by agreement of the parties; or (2) ores containing one or more of the foregoing materials in such concentrations as the parties may agree from time to time.
- (H) "Special nuclear material" means (1) plutonium, uranium 233, or uranium enriched in the isotope 235; or (2) any other material so designated by agreement of the parties.
- (I) "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 on the development and use of nuclear science and technology for peaceful purposes shall be communicated as may be agreed by the parties. This includes information relating to such fields as:

- (A) Development, design, construction, operation, maintenance, and use of reactors and experiments conducted with reactors.
 - (B) The use of material in physical and biological research, medicine, agriculture, and industry.
 - (C) Geology and mining technology.
 - (D) Fuel cycle studies of ways to meet future worldwide civil nuclear needs, including multilateral approaches to quarantining nuclear fuel supply, and appropriate techniques for the management of nuclear wastes.
 - (E) Safeguards and physical security of materials, equipment, and components.
 - (F) Health, safety, and environmental considerations relating to the foregoing.
 - (G) Assessment of the role nuclear energy may play in national energy plans.
2. This agreement does not require the transfer of any information not permitted by international treaties or national laws and regulations.
3. The United States or America shall not transfer under this agreement any Restricted Data, as defined in its Atomic Energy Act of 1954, as amended. [1]

Article 4
Transfer of Special Nuclear Material, Equipment,
and Components

1. Material, equipment, and components shall be transferred as may be agreed by the parties for activities consistent with this agreement. Any special nuclear material transferred to the Kingdom of Morocco under this agreement shall be low enriched uranium, except as provided in paragraph 4 of this article.
2. Low enriched uranium shall be transferred as may be agreed by the parties for use as reactor fuel, for reactor experiments, for conversion or fabrication, or for such other purposes as may be agreed by the parties. The separative work required to produce the low enriched uranium transferred by the United States of America for use as fuel in power reactors in the Kingdom of Morocco shall not exceed that necessary to support the fuel cycles of those reactors.
3. The quantity of source material or special nuclear material transferred to the Kingdom of Morocco under this agreement shall at no time exceed the quantity agreed to by the parties as necessary for any of the following purposes: the loading of research and power reactors or use in reactor experiments, the efficient and continuous operation of such reactors or the conduct of any such experiments, and the accomplishment of other purposes as may be agreed by the parties.

TIAS 1008

4. The United States of America shall transfer, as may be agreed by the parties, small quantities of special nuclear material sufficient for use as samples, standards, detectors and targets and for any other purposes as the parties may agree. Transfers of small quantities of special nuclear material pursuant to the provisions of this paragraph shall not be subject to the quantity limitations stipulated in paragraph 3 of this article.
 5. The United States of America shall take any such actions as may be necessary and feasible to ensure a reliable supply of nuclear fuel for the Kingdom of Morocco, including the export of nuclear material on a timely basis and the availability of enrichment capacity permitting this undertaking to be carried out in accordance with the provisions of this agreement.
- Article 5
Storage and Retransfers
1. Material transferred pursuant to this agreement and material used in any equipment transferred pursuant to this agreement or produced through the use of any material or equipment so transferred 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 under its 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 no such material, equipment, components, or special nuclear material under its jurisdiction shall 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 any equipment transferred to and under its jurisdiction pursuant to this agreement or produced through the use of any material or equipment so transferred and under its jurisdiction shall not be reprocessed unless the parties agree. Each party guarantees that no plutonium, uranium 233, high enriched uranium, or irradiated source or special nuclear material transferred to and under its jurisdiction pursuant to this agreement, or used in any equipment transferred to and under its jurisdiction pursuant to this agreement or produced through the use of any material or equipment so transferred and under its jurisdiction shall be altered in form or content, except by irradiation or by further irradiation, unless the parties agree.

7. Each party guarantees that no uranium transferred to and under its jurisdiction pursuant to this agreement or any uranium used in any equipment transferred to and under its jurisdiction pursuant to this agreement shall 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 any equipment transferred to and under its jurisdiction pursuant to this agreement or produced through the use of any material or equipment so transferred and under its jurisdiction.

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. Such 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," or in any revision of that document as may be agreed to by the parties.

3. Upon the request of either party, the parties shall exchange information concerning the physical security measures maintained pursuant to this article and shall consult concerning their adequacy.

4. Each party shall designate those agencies or authorities responsible for ensuring the proper application of the levels of physical security and for coordinating protective and recovery measures in the event of unauthorized use or handling of material subject to this article. Each party shall also designate competent 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, delaying, or interfering unduly in the parties' nuclear activities and to be consistent with prudent management practices required for the economic and safe conduct of their nuclear programs.

Article 8
Exclusion of Military or Explosive 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 any equipment or components transferred to and under its jurisdiction pursuant to this agreement or produced through the use of any material, equipment, or components so transferred 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 military purpose.

Article 9
Safeguards

1. Material transferred to the Kingdom of Morocco pursuant to this agreement and any source material or special nuclear material used in any equipment or component transferred pursuant to this agreement or produced through the use of any material, equipment, or component so transferred shall be subject to safeguards in accordance with the agreement signed on January 30, 1973 [] between the Kingdom of Morocco and the IAEA for the application of safeguards as provided for in the NPT.

2. If the United States of America or the Kingdom of Morocco becomes aware of circumstances which demonstrate that, for any reason, the IAEA is not applying or will not be applying safeguards in accordance with the safeguards agreement referred to in paragraph 1 of this article, to ensure effective continuity of safeguards, the parties shall immediately enter into arrangements which conform with IAEA safeguards principles and procedures and with the measures required by that paragraph and which provide assurance equivalent to that intended to be secured by the system they replace.

3. Each party guarantees that it shall take all necessary measures to maintain the safeguards required by this article and that it will facilitate the application thereof.

4. Each party shall establish and maintain a system of inventory and control of all material transferred pursuant to this agreement and material used in any equipment or component transferred pursuant to this agreement or produced through the use of any material, equipment, or component so transferred, the procedures of which shall be comparable to those set forth in IAEA document INFCIRC/153 (corrected), or in any revision of that document agreed to by the parties.

5. Upon the request of either party, the other party shall report or permit the IAEA to report to the requesting party on the status of all inventories of any material subject to paragraph 1 of this article.

6. Available design information relevant to safeguards of equipment to be safeguarded under this agreement shall be supplied to the IAEA at its request and in a timely fashion.

7. The provisions of this article shall be implemented in such a way as to avoid hampering, delaying, or interfering unduly in the parties' nuclear activities and so as to be consistent with prudent management practices required for the economic and safe conduct of their nuclear programs.

Article 10
Cessation of Cooperation

1. In the event that either party 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, or
- (b) terminates, abrogates, or materially violates an IAEA safeguards agreement,

the other party shall have the right to cease further cooperation under this agreement and the right to require the return of any material, equipment, or component transferred under this agreement and of any special nuclear material produced through their use.

2. In the event that the Kingdom of Morocco at any time following entry into force of this agreement detonates a nuclear explosive device, the United States of America shall have the same rights as those stipulated in paragraph 1 of this article.

3. If either party exercises its rights under this article to require the return of any material, equipment, or component transferred in accordance with this agreement, or any special nuclear material produced through their use, said party shall, after removal from the territory of the other party, reimburse the other party for the fair market value of such material, equipment, or components. If this right is exercised, the parties shall make such other appropriate arrangements as may be required which shall not be subject to any further agreement between the parties with respect to storage, retransfer, reprocessing, alteration in form or content, or enrichment.

Article 11
Consultations and Environmental Protection

1. The parties agree to consult periodically and at the request of either party concerning the implementation of the agreement and the development of their cooperation in the field of peaceful uses of nuclear energy.

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

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Article 12
Entry into Force and Duration

1. This agreement shall enter into force on the date on which the parties notify each other by exchange of notes that they have satisfied their legal requirements, [] and it shall remain in force for a period of twenty (20) years.
2. Notwithstanding the suspension, termination, or expiration of this agreement or of any cooperation hereunder for whatever reason, articles 5, 6, 7, 8, 9, and 10 shall remain in force as long as any material, equipment, or component 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 component is no longer usable for any nuclear activity relevant from the point of view of safeguards.

May 16, 1981.

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

Done at Washington, this thirtieth day of May, 1980, in duplicate, in the English and French languages, the two texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Matthew Nimetz []

FOR THE GOVERNMENT OF THE KINGDOM OF MOROCCO:

[Signature] []

Matthew Nimetz,
Al Bungalou.

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 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 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, 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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The parties note that the provisions of the Agreement do not apply to material, equipment, and components which are not transferred pursuant to the Agreement unless such material is either used in any equipment or component so transferred or produced through the use of any material, equipment, or component so transferred.

The parties also note that any action and cooperation pursuant to the Agreement shall not require an amendment to the Agreement unless an amendment is specifically provided for in the Agreement.

Cooperation in the Area of Research

The United States of America recognizes the intention of the Kingdom of Morocco to acquire a nuclear research reactor and to establish a nuclear research program for peaceful purposes in the near future. The United States of America notes its firm intention to cooperate fully with the Kingdom of Morocco in supplying information which may be accomplished by such means as reports, conferences, visits, assignments of experts and other technical and scientific exchanges. The United States of America also notes its firm intention to cooperate fully with the Kingdom of Morocco in supplying equipment and material needed for nuclear research programs for peaceful purposes in Morocco, including the supply of nuclear fuel in a timely fashion.

Transitional Arrangements

With reference to Paragraphs 1 and 2 of article 7, while most facilities in the United States of America provide physical protection comparable to that specified for materials classified as Categories II and III in the table attached to the Annex, the

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United States of America has not completed the necessary procedures with respect to physical protection of these materials. Pending completion of these procedures, if any proposed recipient of category II or III material transferred pursuant to the Agreement does not provide physical protection at a minimum comparable to that set forth in NRC/REG-225/rev. 1, the United States of America shall so inform the Kingdom of Morocco prior to shipment of such material and will propose provisional measures satisfactory to both parties.

Safeguards

If either party becomes aware of circumstances referred to in Paragraph 2 of article 9, consistent with the terms and conditions of the Agreement, the Kingdom of Morocco shall retain the rights and obligations which it has pursuant to its safeguards agreement with the IAEA referred to in Paragraph 1 of article 9. The United States of America shall assume the rights which the IAEA has pursuant to the safeguards agreement with respect to material subject to the Agreement, including the following:

1. To review in a timely fashion the design of any equipment transferred pursuant to the Agreement, or of any facility which is to use, fabricate, process, or store any material so transferred or any special nuclear material used in any equipment or component so transferred or produced through the use of any material, equipment or component so transferred.

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2. To require the maintenance and production of records for the purpose of assisting the parties in ensuring accountability for material transferred pursuant to the agreement and for any source material or special nuclear material used in any equipment or component so transferred or produced through the use of any material, equipment or component so transferred.

3. To designate personnel, in consultation with the Kingdom of Morocco, who shall have the necessary access to all places and information to account for the material mentioned in paragraph 2, to inspect any equipment or facility referred to in paragraph 1, and to install any relevant devices for the purposes of safeguards and make any measurements as may be deemed necessary to account for such material. Such personnel shall be accompanied by personnel designated by the Kingdom of Morocco.

ACCORD DE COOPERATION
ENTRE
LES ETATS-UNIS D'AMERIQUE
ET
LE ROYAUME DU MAROC
CONCERNANT LES UTILISATIONS DE L'ENERGIE NUCLEAIRE
A DES FINS PACIFIQUES