

04-396

The Department of State of the United States of America presents its compliments to the Embassy of the Russian Federation in the United States of America and has the honor to propose the following Agreement concerning the transfer of source material from the United States of America to the Russian Federation pursuant to the Agreement between the United States Department of Energy and the Ministry of the Russian Federation for Atomic Energy Concerning the Transfer of Source Material to the Russian Federation ("the Transfer Agreement"), signed March 24, 1999.

1. The agreement proposed hereinafter shall constitute the Agreement Between the Government of the United States of America and the Government of the Russian Federation ("the Parties") regarding assurances concerning the source material transferred from the United States to the Russian Federation ("the Assurances Agreement"), in implementation of the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, signed on February 18, 1993 ("the HEU-LEU Agreement").

2. The Government of the Russian Federation agrees that no special nuclear material shall be produced by the Russian Federation or under the jurisdiction or control of the Russian Federation through the use of source material transferred pursuant to the Transfer Agreement.

3. The Department of Energy of the United States of America ("DOE") and the Ministry of the Russian Federation for Atomic Energy ("MINATOM") are establishing an Administrative Arrangement in order to provide for the effective implementation of the

provisions of the Assurances Agreement. This Administrative Arrangement may be amended by written agreement between DOE and MINATOM. The principles of fungibility, equivalence and proportionality shall apply to nuclear material subject to the Assurances Agreement and the Transfer Agreement and the detailed provisions thereof shall be set out in the Administrative Arrangement.

4. The Government of the Russian Federation agrees that:

(a) Source material transferred pursuant to the Transfer Agreement, or any nuclear material that is substituted for such material pursuant to the Administrative Arrangement, shall be subject to agreed bilateral tracking and monitoring arrangements.

(b) Source material transferred pursuant to the Transfer Agreement, or any nuclear material that is substituted for such material pursuant to the Administrative Arrangement, shall not be used for any nuclear explosive device or for research on, or development of, any nuclear explosive device, or for any other military purpose.

(c) Adequate physical protection measures shall be maintained with respect to source material transferred pursuant to the Transfer Agreement or any nuclear material that is substituted for such material pursuant to the Administrative Arrangement. To fulfill this requirement, such measures shall be applied in accordance with levels of physical protection at least equivalent to the recommendations published in the IAEA document INFCIRC/225/Rev.4 entitled "The Physical Protection of Nuclear Material," or a subsequent revision accepted by the Parties.

(d) Source material transferred pursuant to the Transfer Agreement, or any nuclear material that is substituted for such material pursuant to the Administrative Arrangement, shall not be transferred to

unauthorized persons or beyond the jurisdiction or control of the Russian Federation without the prior consent of the Government of the United States of America.

(e) Source material transferred pursuant to the Transfer Agreement, or any nuclear material that is substituted for such material pursuant to the Administrative Arrangement, shall not be reprocessed or altered in form or content without the prior consent of the Government of the United States of America.

(f) Source material transferred pursuant to the Transfer Agreement, or any nuclear material that is substituted for such material pursuant to the Administrative Arrangement, shall not be enriched without the prior consent of the Government of the United States of America.

5. The Government of the United States of America agrees that source material transferred pursuant to the Transfer Agreement and low enriched uranium substituted for source material transferred pursuant to the Transfer Agreement may, pursuant to contracts existing on the date of entry into force of the Transfer Agreement, be retransferred by the Russian Federation to countries or groups of countries with which the United States of America has in force an agreement for peaceful nuclear cooperation and that are otherwise acceptable to the United States. The list of acceptable countries or groups of countries is set forth in the Annex to the Assurances Agreement. The Government of the United States of America may add eligible countries or groups of countries to the list at any time, and may delete countries or groups of countries from the list following consultations with the Government of the Russian Federation. MINATOM shall keep records of such retransfers and shall promptly notify an agency designated by the Government of the United States of America of each retransfer. Prior to each retransfer, MINATOM shall confirm in writing to the aforesaid agency of the Government of

the United States of America that the nuclear material to be retransferred will be subject to an agreement for peaceful nuclear co-operation between the United States of America and the countries or groups of countries receiving the nuclear material.

6. The Parties agree that if the Transfer Agreement is terminated, any source material transferred pursuant to the Transfer Agreement, or any nuclear material that is substituted for such material pursuant to the Administrative Arrangement, will continue to be subject to the conditions set forth in the Assurances Agreement.

7. Subject to the above, source material transferred pursuant to the Transfer Agreement may be used, as specified in Article 7 of the Transfer Agreement, for diluting HEU for delivery as LEU to the United States of America under the HEU-LEU Agreement or for sale in accordance with the Commercial Agreement and paragraph 5 of the Assurances Agreement.

If these proposals are acceptable to the Government of the Russian Federation, it is further proposed that this note, together with the Embassy's affirmative note of reply, on behalf of the Government of the Russian Federation, shall constitute an agreement between the Government of the United States of America and the Government of the Russian Federation (the "Assurances Agreement"), which shall enter into force on the date of the Embassy's note in reply.

Enclosure: One page as indicated.

SRS

Department of State,
Washington, March 24, 1999.

**List of Countries and Groups of Countries Specified in Accordance with
Paragraph 5 of the Assurances Agreement**

The Argentine Republic
Australia
The Republic of Bulgaria
Canada
The People's Republic of China
The Czech Republic
European Atomic Energy Community
The Republic of Hungary
Japan
The Republic of Korea
Norway
The Republic of Poland
The Slovak Republic
The Republic of South Africa
Switzerland

EMBASSY OF THE
RUSSIAN FEDERATION
IN THE U.S.A.

No. 23

The Embassy of the Russian Federation in the United States of America presents its compliments to the Department of State of the United States of America and has the honor to refer to the Department's note of March 24, 1999, which reads as follows:

[quotation from U.S. note]

The Embassy has the honor to communicate, on behalf of the Government of the Russian Federation, that the proposal contained in the aforementioned note from the Department of State of the United States of America is acceptable to the Government of the Russian Federation, and further, that the note from the Department of State of the United States of America and this note shall constitute an Agreement between our two Governments which shall enter into force on the date of this note.

The Government of the Russian Federation in the United States of America avails itself of this opportunity to convey to the Department of State of the United States of America renewed assurances of its high esteem.

Enclosure: as stated, one page.

Washington, March 24, 1999
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DEPARTMENT OF STATE
OF THE UNITED STATES OF AMERICA
Washington