

**ATOMIC ENERGY**

**Cooperation**

**Agreement Between the  
UNITED STATES OF AMERICA  
and OTHER GOVERNMENTS**

Effected by Exchanges of Notes  
Dated at Washington July 21, 1999

*with*

Annex

*and*

Related Side Letter



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966  
(80 Stat. 271; 1 U.S.C. 113)—

“ . . . the Treaties and Other International Acts Series issued under the authority of the Secretary 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 tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

## **MULTILATERAL**

### **Atomic Energy: Cooperation**

*Agreement effected by exchanges of notes  
Dated at Washington July 21, 1999;  
Entered into force May 1, 2000.  
With annex.  
And related side letter.*

The Department of State refers to the German Embassy's Note dated July 21, 1999 concerning cooperation between the Governments of the Federal Republic of Germany, the Kingdom of the Netherlands, and the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as the Troika) and the Government of the United States of America (the four Governments hereinafter referred to as the Parties) concerning cooperation between the Troika and the Government of the United States of America on the application of non-proliferation assurances to low enriched uranium transferred from the Troika countries to the United States for fabrication into fuel and retransfer to Taiwan for use in Taiwan's light water nuclear reactor programs. The Government of the Federal Republic of Germany proposed that the terms and conditions set forth in the Annex to that Note shall govern that cooperation.

The Department of State confirms that the Government of the Federal Republic of Germany's proposal is acceptable to the Government of the United

States of America and that the Embassy's Note, including its Annex, and this reply, together with the equivalent exchanges of Notes between the Governments of the Kingdom of the Netherlands and the United Kingdom on the one hand and the Government of the United States of America on the other, shall constitute an

Agreement among the Parties, which shall enter into force on the first day of the second month following the date on which the last of the Troika countries has informed the Department of State that the national requirements for the entry into force of the Agreement have been fulfilled and which shall remain in force indefinitely, unless terminated by any Party upon six months' written notice to the other Parties.

Department of State

Washington, July 21, 1999

A handwritten signature in black ink, appearing to be 'T. S. S.', located in the lower right quadrant of the page.

The Department of State refers to the Royal Netherlands Embassy's Note dated July 21, 1999 concerning cooperation between the Governments of the Federal Republic of Germany, the Kingdom of the Netherlands, and the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as the Troika) and the Government of the United States of America (the four Governments hereinafter referred to as the Parties) concerning cooperation between the Troika and the Government of the United States of America on the application of non-proliferation assurances to low enriched uranium transferred from the Troika countries to the United States for fabrication into fuel and retransfer to Taiwan for use in Taiwan's light water nuclear reactor programs. The Government of the Kingdom of the Netherlands proposed that the terms and conditions set forth in the Annex to that Note shall govern that cooperation.

The Department of State confirms that the Government of the Kingdom of the Netherlands' proposal is acceptable to the Government of the United States

of America and that the Embassy's Note, including its Annex, and this reply, together with the equivalent exchanges of Notes between the Governments of the Federal Republic of Germany and the United Kingdom on the one hand and the Government of the United States of America on the other, shall constitute an Agreement among the Parties, which shall enter into force on the first day of the second month following the date on which the last of the Troika countries has informed the Department of State that the national requirements for the entry into force of the Agreement have been fulfilled and which shall remain in force indefinitely, unless terminated by any Party upon six months' written notice to the other Parties.

Department of State

Washington, July 21, 1999

A handwritten signature in black ink, appearing to be 'T. S.', with a long horizontal stroke underneath.

The Department of State refers to Her Britannic Majesty's Embassy's Note dated July 21, 1999 concerning cooperation between the Governments of the Federal Republic of Germany, the Kingdom of the Netherlands, and the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as the Troika) and the Government of the United States of America (the four Governments hereinafter referred to as the Parties) concerning cooperation between the Troika and the Government of the United States of America on the application of non-proliferation assurances to low enriched uranium transferred from the Troika countries to the United States for fabrication into fuel and retransfer to Taiwan for use in Taiwan's light water nuclear reactor programs. The Government of the United Kingdom proposed that the terms and conditions set forth in the Annex to that Note shall govern that cooperation.

The Department of State confirms that the Government of the United Kingdom's proposal is acceptable to the Government of the United States of America and that the Embassy's Note, including its

Annex, and this reply, together with the equivalent exchanges of Notes between the Governments of the Federal Republic of Germany and the Kingdom of the Netherlands on the one hand and the Government of the United States of America on the other, shall constitute an Agreement among the Parties, which shall enter into force on the first day of the second month following the date on which the last of the Troika countries has informed the Department of State that the national requirements for the entry into force of the Agreement have been fulfilled and which shall remain in force indefinitely, unless terminated by any Party upon six months' written notice to the other Parties.

Department of State

Washington, July 21, 1999

A handwritten signature in dark ink, appearing to be "T. Blum", with a horizontal line underneath the name.

## ANNEX

Recognizing that the Governments of the Federal Republic of Germany, the Kingdom of the Netherlands and the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as the Troika) and the Government of the United States of America (hereinafter referred to as the United States) have a common desire to ensure that low enriched uranium transferred to Taiwan for use in peaceful nuclear activities and any special nuclear material produced therefrom is not used to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices;

Recognizing that the Troika seeks to ensure that low enriched uranium produced in the Troika countries and special nuclear material produced therefrom is subject on Taiwan to nuclear non-proliferation assurances consistent with the non-proliferation policies of the Troika;

Recognizing that low enriched uranium transferred from the Troika countries to the territory of the United States for fabrication into fuel and retransfer to Taiwan will be subject to the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy Between the United States of America and the European Atomic Energy Community, signed at Brussels on November 7, 1995 and March 29, 1996 and which entered into force on April 12, 1996 (hereinafter referred to as the "U.S.-EURATOM Agreement"), while it is in the United States of America;

Recognizing that under Article 8.1.(C)(i) of the U.S.-EURATOM Agreement retransfers of low enriched uranium to third parties may be undertaken when carried out according to procedures set out in the Agreed Minute thereto, including consideration, on a case-by-case basis, for nuclear fuel cycle activities other than the production of highly enriched uranium;

In order for the Troika to make low enriched uranium available to Taiwan for use in light water nuclear reactor programs on Taiwan:

1. Prior to the transfer of low enriched uranium from the Troika countries to the United States for retransfer to Taiwan, the Troika shall collaborate with EURATOM in order to notify the United States that such low enriched uranium is intended for fabrication

into fuel and retransfer to Taiwan for use in light water nuclear reactors on Taiwan.

Low enriched uranium that has been the subject of this notification and has been retransferred from the territory of the United States to Taiwan is referred to in this Agreement as "Troika uranium."

2. "Troika uranium" will consist of low enriched uranium as defined in Article 21.7 of the U.S.-EURATOM Agreement.

3. At the time of transfer of low enriched uranium from the Troika countries to the territory of the United States for retransfer to Taiwan, the Troika shall collaborate with EURATOM in accordance with paragraph 4 of the Agreed Minute to the U.S.-EURATOM Agreement in order to obtain the approval for the retransfer of the low enriched uranium from the territory of the United States to Taiwan.

4. The United States shall ensure that "Troika uranium" and special nuclear material produced therefrom are, while on Taiwan, subject to all provisions of the Agreement for Cooperation Between the United States of America and the Republic of China Concerning Civil Uses of Atomic Energy, signed April 4, 1972, as amended and extended (hereinafter referred

to as the 1972 Agreement), while the 1972 Agreement is in force or, in the event that the 1972 Agreement is replaced, to the provisions of any succeeding agreement while such succeeding agreement is in force. The United States shall consult with inter alia the Troika about the amendment, replacement, suspension or termination of the 1972 Agreement or of any succeeding agreement.

5. Except as provided in paragraph 9, the United States shall ensure that "Troika uranium" and special nuclear material produced therefrom are, while on Taiwan, subject to the Safeguards Transfer Agreement, signed December 6, 1971, under which the International Atomic Energy Agency applies safeguards on Taiwan (reproduced in International Atomic Energy Agency document INFCIRC/158 of March 8, 1972 and hereinafter referred to as the Safeguards Agreement), while the Safeguards Agreement is in force or, in the event that the Safeguards Agreement is replaced, to the provisions of any succeeding agreement while such succeeding agreement is in force. The United States shall consult with inter alia the Troika about the amendment, replacement, suspension or termination of the Safeguards Agreement or of any succeeding agreement.

6. For each transfer of "Troika uranium" notified pursuant to paragraph 1, from the territory

of the United States to Taiwan, the United States shall, through appropriate channels, identify such uranium to Taiwan as "Troika uranium."

7. The United States shall approve the retransfer from Taiwan of "Troika uranium" or special nuclear material produced therefrom only to EURATOM or to any third party that has been identified by EURATOM in accordance with Article 8.1(C) of the U.S.-EURATOM Agreement and paragraph 4 of the Agreed Minute to the U.S.-EURATOM Agreement as acceptable under the U.S.-EURATOM Agreement. This commitment applies only when the United States has been advised that "Troika uranium" or special nuclear material produced therefrom is involved.

8. In the event that the consent of the United States is sought for the reprocessing or enrichment to twenty percent or greater in the isotope U-235 of "Troika uranium" or special nuclear material produced therefrom, on Taiwan, the United States shall consult the Troika inter alia with a view to reaching agreement prior to exercising any rights it has to approve enrichment or reprocessing. This commitment applies only when the United States has been advised that "Troika uranium" or special nuclear material produced therefrom is involved.

9. If, for any reason or at any time, the

International Atomic Energy Agency is not applying safeguards pursuant to the Safeguards Agreement, or (in the event that such Agreement is replaced) pursuant to the provisions of any succeeding agreement, the United States shall consult the Troika inter alia to reach agreement on the application of fallback safeguards to "Troika uranium" and special nuclear material produced therefrom. Fallback safeguards may include the invocation by the United States of its existing rights under the 1972 Agreement with a view to ensuring that the safeguards provided for in the 1972 Agreement are applied to "Troika uranium" or special nuclear material produced therefrom.

10. If the United States, after consultation with the Troika, exercises its rights under the 1972 Agreement to require the return from Taiwan of material subject to that Agreement, "Troika uranium" or special nuclear material produced therefrom that is returned to the United States shall become subject to the U.S.-EURATOM Agreement.

11. In the event that the United States finds it necessary to exercise its rights to apply fallback safeguards, in accordance with paragraph 9, or to exercise its right of return, in accordance with paragraph 10, the Troika shall ensure that all necessary steps are taken to require URENCO to share

with the United States the cost of implementing these rights as they apply to "Troika uranium" or special nuclear material produced therefrom on a proportionate basis based on the relative value of the enrichment and fabrication components of the nuclear fuel supplied.

12. The United States shall maintain an inventory of "Troika uranium" on Taiwan, and, based on information received through appropriate channels from Taiwan, of special nuclear material on Taiwan produced therefrom. The United States shall provide this inventory to the Troika annually.

13. The United States shall, to the extent permitted by United States law, consult the Troika inter alia if it has reason to believe:

i. that the United States has not been advised that a request for consent to retransfer from Taiwan, to reprocess in Taiwan, or to enrich to twenty percent or more in the isotope U-235 on Taiwan, "Troika uranium" or special nuclear material on Taiwan produced therefrom, actually involves "Troika uranium" or special nuclear material produced therefrom, or

ii. that "Troika uranium" or special nuclear material produced therefrom is not being identified as from the Troika while on Taiwan.

In the case of (i) or (ii), the United States and the Troika shall seek to reach an agreement on measures that the United States and/or the Troika will take to rectify the problem.

14. The Troika and the United States shall consult at any time at the request of any Party to ensure the effective implementation of this Agreement. Such consultations may take the form of an exchange of correspondence.

15. The Troika and the United States shall seek to resolve any dispute concerning the interpretation or application of this Agreement by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, or other peaceful means as they may mutually agree.

16. The United States confirms that in accordance with an October 26, 1978 letter of assurance from the "Embassy of the Republic of China" to the United States Department of Energy, "Troika uranium" and special fissionable material produced therefrom shall be subject to measures of physical protection in accordance with the criteria set out in Annex C of the Guidelines for Nuclear Transfers as promulgated by the International Atomic Energy Agency in the Appendix to INFCIRC/254/Rev.3/Part 1.

The Troika and the United States shall consult at the request of either concerning matters relating to physical protection, including the application, for the purposes of the preceding paragraph, of the recommendations that may be made from time to time by international expert groups.

17. Notwithstanding the suspension or termination of this agreement, paragraphs 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 shall remain in force:

(i) while any source material or special nuclear material subject to these provisions is on Taiwan, or

(ii) until such time as the Troika and the United States agree that source material or special nuclear material subject to these provisions is no longer usable for any nuclear activity relevant from the point of view of safeguards.

Side Letter

The Department of State refers to the Agreement of July 21, 1999 between the Governments of the Federal Republic of Germany, the Kingdom of the Netherlands, and the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as "the Troika") and the Government of the United States of America (hereinafter referred to as "the U.S.") concerning cooperation between the Troika and the U.S. on the application of non-proliferation assurances to low enriched uranium transferred from the Troika countries to the United States for fabrication into fuel and retransfer to Taiwan for use in Taiwan's light water nuclear reactor programs.

Paragraph 11 of the Annex of that Agreement requires that the Troika shall ensure that all necessary steps are taken to require URENCO to share the costs of the U.S. implementing its right to apply fallback safeguards, in accordance with paragraph 9 of the Agreement, or the costs of the U.S. implementing its right of return, in accordance with paragraph 10 of the Agreement, as they apply to "Troika uranium" or

special nuclear material produced therefrom on a proportionate basis based on the relative value of the enrichment and fabrication components of the nuclear fuel supplied.

The Department of State would like to confirm that "a proportionate basis based on the relative value of the enrichment and fabrication components of the nuclear fuel supplied" means that URENCO will assume 70 percent of all costs incurred by the U.S. in its exercise of the enumerated rights, while the U.S. will assume 30 percent of all these costs. This allocation of costs is predicated on the basis that no other parties are contributing, directly or indirectly through URENCO, to the cost of U.S. exercise of the enumerated rights. Should, following negotiation, additional parties assume a share of the exercise of the enumerated rights, the U.S. will seek to agree with the Troika on a different allocation of costs between the U.S. and URENCO. Such additional parties would include, for example, those supplying the natural uranium feed material or the conversion services for material enriched by URENCO or the party supplying the conversion services for the enriched product from URENCO.

The Department of State would like to further confirm the understanding that the cost of the return of the nuclear fuel, whether irradiated or

unirradiated, would include any required compensation to Taiwan, transportation costs, storage costs, and disposal costs. These costs would be offset by any revenue that may be accrued from the sale of the fuel.

Department of State

Washington, July 21, 1999

*TJW*

**Note No: 46**

Her Britannic Majesty's Embassy presents its compliments to the Department of State and has the honour to refer to discussions between officials of the Governments of the Federal Republic of Germany, the Kingdom of the Netherlands and the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as the Troika) and the Government of the United States of America (the four Governments hereinafter referred to as the Parties) concerning cooperation between the Troika and the Government of the United States of America on the application of non-proliferation assurances to low enriched uranium transferred from the Troika countries to the United States for fabrication into fuel and retransfer to Taiwan for use in Taiwan's light water nuclear reactor programmes. Pursuant to these discussions, the Government of the United Kingdom proposes that the terms and conditions set forth in the Annex to this Note shall govern that cooperation.

The Government of the United Kingdom has the further honour to propose that this Note, including its Annex, and the Department of State's reply confirming that the foregoing is acceptable to the Government of the United States of America, together with the equivalent exchanges of Notes between the Governments of the Federal Republic of Germany and the Kingdom of the Netherlands on the one hand and the Government of the United States of America on the other, shall constitute an Agreement among the parties, which shall enter into force on the first day of the second month following the date on which the last of the Troika countries has informed the Department of State that the national requirements for the entry into force of the Agreement have been fulfilled and which shall remain in force indefinitely, unless terminated by any Party upon six month's written notice to the other Parties.

The British Embassy avails itself of this opportunity to renew to the Department of State the assurances of its highest consideration.

BRITISH EMBASSY

Washington

21 July 1999



**NOTE: Annex to Note will not be printed in this publication.**

DER BOTSCHAFTER  
DER  
BUNDESREPUBLIK DEUTSCHLAND  
WASHINGTON, D. C.

Wiss 466.44

Frau Ministerin,

*ich beehre mich, im Namen der Regierung der Bundesrepublik Deutschland gegenüber dem Außenministerium der Vereinigten Staaten von Amerika Bezug zu nehmen auf Gespräche zwischen Vertretern der Regierungen der Bundesrepublik Deutschland, des Königreichs der Niederlande sowie des Vereinigten Königreichs Großbritannien und Nordirland (im folgenden als Troika bezeichnet) und der Regierung der Vereinigten Staaten von Amerika (im folgenden werden die vier Regierungen als Vertragsparteien bezeichnet) über die Zusammenarbeit zwischen der Troika und der Regierung der Vereinigten Staaten von Amerika bei der Anwendung von Nichtverbreitungszusicherungen auf schwach angereichertes Uran, das aus den Troika-Ländern zur Herstellung von Brennelementen in die Vereinigten Staaten geliefert und zur Verwendung im Rahmen der taiwanesischen Leichtwasser-Kernreaktorprogramme an Taiwan weitergegeben wird. Aufgrund dieser Gespräche schlägt die Regierung der Bundesrepublik Deutschland vor, daß diese Zusammenarbeit sich nach den in der Anlage zu dieser Note niedergelegten Bedingungen richten soll.*

*Die Regierung der Bundesrepublik Deutschland beehrt sich ferner, vorzuschlagen, daß diese Note einschließlich der zugehörigen Anlage und die das Einverständnis der Regierung der Vereinigten Staaten von Amerika zum Ausdruck bringende Antwortnote des Außenministeriums der Vereinigten Staaten zusammen mit den entsprechenden Notenwechseln zwischen den Regierungen des Königreichs der Niederlande und des Vereinigten Königreichs einerseits und der Regierung der Vereinigten Staaten andererseits eine Vereinbarung zwischen den Vertragsparteien bilden, die am ersten Tag des zweiten Monats nach dem Datum in Kraft tritt, an dem das letzte Troika-Land dem*

*Ihrer Exzellenz  
der Außenministerin der Vereinigten Staaten  
Frau Madeleine Albright  
Washington, D.C.*

*Außenministerium der Vereinigten Staaten von Amerika mitgeteilt hat, daß die innerstaatlichen Voraussetzungen für das Inkrafttreten erfüllt sind, und die auf unbegrenzte Zeit in Kraft bleibt, sofern sie nicht von einer der Vertragsparteien unter Einhaltung einer Frist von sechs Monaten gegenüber den anderen Vertragsparteien schriftlich gekündigt wird.*

*Genehmigen Sie, Frau Ministerin, die Versicherung meiner ausgezeichnetsten Hochachtung.*

A handwritten signature in black ink, appearing to read "J. P. ...". The signature is written in a cursive style.

*Washington, D.C., 21. Juli 1999*

**NOTE: Annex to Note will not be printed in this publication.**



De Ambassade van het Koninkrijk der Nederlanden biedt haar complimenten aan het Ministerie van Buitenlandse Zaken aan en heeft de eer te verwijzen naar besprekingen tussen functionarissen van de Regeringen van de Bondsrepubliek Duitsland, het Koninkrijk der Nederlanden en het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland (hierna te noemen de Troika) en de Regering van de Verenigde Staten van Amerika (de vier Regeringen hierna te noemen de Partijen) inzake de samenwerking tussen de Troika en de Regering van de Verenigde Staten van Amerika met betrekking tot de toepassing van non-proliferatie-waarborgen voor laagverrijkt uraan dat van de Troika-landen naar de Verenigde Staten wordt overgebracht om tot brandstof te worden verwerkt en naar Taiwan wordt herovergedragen voor gebruik in de programma's van Taiwan voor lichtwater-kernreactoren. In vervolg op deze besprekingen stelt de Regering van het Koninkrijk der Nederlanden voor dat deze samenwerking onderworpen is aan de in de Bijlage bij deze nota vermelde bepalingen en voorwaarden.

De Regering van het Koninkrijk der Nederlanden heeft voorts de eer voor te stellen dat deze nota, met inbegrip van haar Bijlage, en het antwoord van het Ministerie van Buitenlandse Zaken waarin wordt bevestigd dat het vorenstaande voor de Regering van de Verenigde Staten van Amerika aanvaardbaar is, samen met de equivalente uitwisselingen van nota's tussen de Regeringen van de Bondsrepubliek Duitsland en het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland enerzijds en de Regering van de Verenigde Staten anderzijds, een verdrag tussen Partijen vormen, dat in werking zal treden op de eerste dag van de tweede maand volgend op de datum waarop de laatste van de Troika-landen het Ministerie van Buitenlandse Zaken van de Verenigde Staten van Amerika medegedeeld heeft dat aan de voor het van kracht worden van het verdrag noodzakelijke nationale vereisten voldaan is, en dat voor onbepaalde tijd van kracht zal blijven, tenzij het door een van de Partijen schriftelijk met inachtneming van een termijn van zes maanden aan de andere Partijen wordt opgezegd.

De Ambassade van het Koninkrijk der Nederlanden wil van deze gelegenheid gebruik maken om het Ministerie van Buitenlandse Zaken van de Verenigde Staten van Amerika van de meeste hoogachting te betuigen.

Washington, D.C., 21 juli 1999



**NOTE: Annex to Note will not be printed in this publication.**