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IPS by HARE/Russell Date 04/27/09

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DRAFTED BY PM/NPO:GGOPLINGER:S/P:JKALICKI:AMF

APPROVED BY THE ACTING SECRETARY

ACDA - DR. IKLE

C - MR. SONNENFELDT

PM - MR. VEST

S/P - MR. LORD

OES - MR. BLOOM

EUR - MR. HARTMAN

NSC - DR. ELLIOTT/MR. LOCAL(SUBS)

S -LPBREMER

S/S-O:PJOHNSON

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TOSEC 980

E.O. 11652: GDS

TAGS:OVIP (KISSINGER, HENRY A.), PARR, PFOR, FR, GM

SUBJECT:ACTION MEMORANDUM: NUCLEAR SUPPLIERS' CONFERENCE
(S/S NO.7505728)

REF: STATE 61160 (TOSEC 723)

FOR THE SECRETARY FROM INGERSOLL

1. PROSPECTS FOR A NUCLEAR SUPPLIERS' CONFERENCE HAVE BEEN COMPLICATED FURTHER BY RECEIPT OF AN FRG NOTE DISCUSSED IN PARAS 4-6 BELOW. SONNENFELDT, VEST, IKLE, LORD, AND I HAVE CONSIDERED TOGETHER THE IMPLICATIONS OF THIS AND OF SAU-VAGNARGUES' MESSAGE TO YOU OF MARCH 18 (RETEL) AND HAVE THE FOLLOWING COMMENTS AND RECOMMENDATIONS FOR YOUR CONSIDERATION.

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2. IT IS CLEAR FROM SAUVAGNARGUES' LETTER THAT THE FRENCH, WHILE PREPARED TO AGREE TO A SUBSTANTIAL PART OF OUR SUGGESTIONS, REMAIN RELUCTANT TO COMMIT THEMSELVES EITHER WAY ON THE QUESTION OF FRENCH PARTICIPATION IN A MULTILATERAL MEETING. THEY HAVE EXPRESSED DEEP UNEASINESS OVER THE PROSPECT OF BEING ISOLATED AT A SUPPLIERS' CONFERENCE. A NUMBER OF OTHER FACTORS MIGHT ALSO BE AT PLAY: RESISTANCE TO CHANGING AN ENTRENCHED MODE OF OPERATION, INTERNAL DIFFERENCES ON SUBSTANCE, THE RECENT EMERGENCE OF NUCLEAR POWER AS A DOMESTIC POLITICAL ISSUE IN FRANCE, AND THE OPENING THE

FRENCH MAY SEE TO USE THIS ISSUE AS BARGAINING LEVERAGE ON OTHER QUESTIONS SUCH AS THE PETROLEUM PRODUCERS/CONSUMERS CONFERENCE OR CIVIL AND MILITARY NUCLEAR COOPERATION.

3. WHATEVER THEIR MOTIVES, THE FRENCH RESPONSE POSES A DIFFICULT TACTICAL PROBLEM IN OUR HANDLING OF THE SUPPLIERS CONFERENCE. A MEETING WOULD BE DIFFICULT IN MAY, IN PART BECAUSE OF THE NPT REVIEW CONFERENCE (MAY 5-30). POSTPONEMENT UNTIL JUNE OR JULY RISKS LOSING MOMENTUM TOWARD A CONFERENCE. WE HAVE ASKED OTHER PARTICIPANTS TO HOLD OFF ON CERTAIN SENSITIVE EXPORTS WHICH ARE UNDER CONSIDERATION UNTIL AFTER THE CONFERENCE; FURTHER DELAY, PARTICULARLY WITHOUT A FRENCH COMMITMENT, MAY MAKE IT IMPOSSIBLE TO FORESTALL EXPORT DECISIONS BY OTHER PARTICIPANTS WHICH COULD JEOPARDIZE SOME OF OUR SUBSTANTIVE OBJECTIVES. THE PENDING FRG NUCLEAR ASSISTANCE AGREEMENT WITH BRAZIL IS OF CONCERN HERE, PARTICULARLY IN THE LIGHT OF AN FRG NOTE DELIVERED TO IKLE ON MARCH 21 (SEE PARA 4). ON THE OTHER HAND, PROCEEDING WITHOUT THE FRENCH RISKS REFUSAL OF SOME OTHER COUNTRIES (E.G., THE FRG OR JAPAN) TO ACCEPT JOINT CONSTRAINTS, OR POSSIBLY TO ATTEND THE CONFERENCE AT ALL. MOREOVER, IT MAY BE DIFFICULT TO ARRANGE A CONFERENCE DURING APRIL EVEN IF ALL THE OTHERS WERE IN PRINCIPLE PREPARED TO GO AHEAD WITHOUT FRANCE.

4. ON MARCH 21 IKLE RECEIVED A NOTE FROM VON STADEN INDICATING FRG WILL PROCEED WITH EXPORTS INCLUDING REPROCESSING AND ENRICHMENT CAPABILITIES TO BRAZIL UNDER IAEA SAFEGUARDS (INCLUDING A PNE EXCLUSION) WHICH WOULD APPLY TO SUPPLIED MATERIALS AND FACILITIES, BUT WITH ONLY LIMITED

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AND SOMEWHAT UNCLEAR ASSURANCES OF ADDITIONAL CONDITIONS AND CONTROLS, APPARENTLY INVOLVING SAFEGUARDS OVER DERIVED TECHNOLOGY AND RE-EXPORTS. THE FRG NOTE RECOGNIZED THAT ITS CONDITIONS FALL SHORT OF OUR OWN PREFERRED CONDITIONS AS PRESENTED IN THE US FIVE-POINT AIDE MEMOIRE, BUT EXPRESSED THE VIEW THAT MORE STRINGENT CONDITIONS THAN THEIRS COULD NOT BE OBTAINED MULTILATERALLY.

5. THIS DEVELOPMENT UNDOUBTEOY COMPOUNDS THE SUBSTANTIVE AND PROCEDURAL DIFFICULTIES AHEAD OF US IN COORDINATING UNCLEAR EXPORT POLICIES. WE BELIEVE THAT IT REINFORCES THE NEED FOR MOVING RAPIDLY IN RESPONDING TO THE FRENCH, RESUMING BILATERAL DISCUSSION WITH THE OTHER FIVE KEY SUPPLIERS AND SEEKING TO CONVENE AN INITIAL MULTILATERAL MEETING IN APRIL (OPTION B BELOW).

6. IN ORDER TO PROTECT YOUR FREEDOM OF ACTION, I PLAN TO INDICATE TO VON STADEN WHEN HE CALLS ON MONDAY THAT WE BELIEVE AGREEMENT ON MORE STRINGENT MULTILATERAL CONTROLS

COULD BE ACHIEVED, AND TO REQUEST AN URGENT DISCUSSION OF THIS AND TECHNICAL ASPECTS OF THE PROPOSED SALE BEFORE THEY FINALIZE AGREEMENT WITH BRAZIL. IF YOU SELECT OPTION B AS RECOMMENDED, WE BELIEVE WE WOULD BE IN A REASONABLE POSITION TO GIVE THE FRG ENOUGH OF A READ-OUT ON FRENCH VIEWS AND SUFFICIENT PROSPECTS FOR SUBSTANTIVE PROGRESS, INCLUDING AN INITIAL MULTILATERAL MEETING, TO PERSUADE THE GERMANS TO RECONSIDER WHETHER TO FINALIZE THEIR BILATERAL AGREEMENT WITH THE BRAZILIANS AT AN EARLY DATE. MOREOVER, WE ARE CONFIDENT THAT THE CANADIANS AND PROBABLY THE BRITISH WILL VOICE SIMILAR CONCERNS IF AND WHEN THEY ARE ADVISED ABOUT THE FRG'S PROPOSED COURSE OF ACTION.

7. IN THESE CIRCUMSTANCES, OUR OPTIONS APPEAR TO BE AS FOLLOWS:

A) POSTPONE CONFERENCE PLANNING (BUT NOT CONTINUED BILATERALS) UNTIL FRENCH RESPOND IN APRIL.

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-- MIGHT ENHANCE PROSPECTS FOR CAPTURING THE FRENCH AS FULL PARTICIPANTS, OR AT LEAST FOR CLOSE HARMONIZATION, AND AVOIDS PRESSING OTHER PARTICIPANTS TO PROCEED WITHOUT THE FRENCH.

CONS:

-- REVERSES SIGNALS TO FRENCH SINCE MARTINIQUE, ENCOURAGES FRENCH TEMPORIZING AND WEAKENS MOMENTUM TOWARD CONFERENCE.

-- OTHER COUNTRIES MAY DECIDE TO PROCEED WITH SENSITIVE EXPORTS, THEREBY ADVERSELY AFFECTING SOME SUBSTANTIVE OBJECTIVES. THIS IS OF CONSIDERABLE CONCERN IN VIEW OF THE ADVANCED STAGE OF THE FRG/BRAZIL NUCLEAR SALE.

B) TELL FRENCH THAT WE PROPOSE TO ENTER INTO IMMEDIATE SUBSTANTIVE BILATERALS WITH THE OTHERS WITH A VIEW TOWARD AN EARLY EXPLORATORY MULTILATERAL MEETING, PREFERABLY SOMETHING IN APRIL. OUR OBJECTIVE WOULD BE TO CLARIFY THE EXISTING LEVEL OF CONSENSUS, THE AREAS REMAINING TO BE DISCUSSED AND ORGANIZATION OF SUBSEQUENT MEETINGS WHICH THE FRENCH COULD ATTEND FOR THAT PURPOSE. (IF THE FRENCH DECIDE NOT TO ATTEND THIS MEETING, OUR INTENT WOULD STILL BE TO MAKE THEIR SUBSTANTIVE VIEWS KNOWN; IF THEY CHOOSE NOT TO ATTEND SUBSEQUENT MEETINGS, WE COULD DISCUSS AT THAT STAGE PROCEDURES FOR HARMONIZING THEIR POLICIES WITH THOSE OF THE OTHER SIX.)

PROS:

-- KEEPS OPEN POSSIBILITY OF FRENCH ATTENDANCE AT APRIL OR LATER MEETING, WHILE EXERTING SOME TIME PRESSURE ON GOF TO DECIDE WHETHER AND HOW TO PARTICIPATE.

-- PERMITS COORDINATION AND THOROUGH DISCUSSIONS BY OTHER SIX OF SUBSTANTIVE PROPOSALS IN LIGHT OF FRENCH POSITION, WITHOUT NECESSITY FOR EARLY AGREEMENT ON ALL PROPOSALS.

CONS:

-- SUBSTANTIVE MULTILATERAL DISCUSSIONS WITHOUT FRANCE EVEN

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ON THIS BASIS MAY BE UNACCEPTABLE TO OTHERS, ESPECIALLY FRG AND JAPAN.

-- MIGHT ENCOURAGE LOWEST COMMON DENOMINATOR AGREEMENTS CORRELATED TO FRENCH ABSENTEE'S POLICY POSITIONS, WHILE REDUCING OPPORTUNITY TO EXERT IMMEDIATE NEGOTIATING PRESSURES ON FRENCH POSITION.

8. WHILE NEITHER OF THE COURSES OF ACTION OUTLINED ABOVE IS WITHOUT DRAWBACKS, WE BELIEVE THAT OPTION B OFFERS THE BEST BALANCE BETWEEN THE VARIOUS RISKS INHERENT IN THE SITUATION CREATED BY SAUVAGNARGUES' REPLY AND BY THE FRG NOTE ADDRESSED IN PARAS 4-6. IF YOU APPROVE THIS OPTION, WE RECOMMEND THAT YOU SEND THE MESSAGE IN PARAGRAPH 10 TO SAUVAGNARGUES, TO BE DELIVERED BY AMBASSADOR RUSH AS SOON AS POSSIBLE. AFTER ALLOWING 4 DAYS FOR A POSSIBLE RESPONSE, WE RECOMMEND THAT WE THEN PROPOSE TO THE OTHER FIVE AN IMMEDIATE ROUND OF SUBSTANTIVE BILATERALS EXPLAINING THE SITUATION VIS-A-VIS FRANCE, AND PROPOSING FOR THEIR CONSIDERATION THE APPROACH OUTLINED ABOVE, INCLUDING AN INITIAL EXPLORATORY CONFERENCE IN MID APRIL WITH THE POSSIBILITY OF FRENCH PARTICIPATION IN SUBSEQUENT MEETINGS IF FRANCE DECIDES NOT TO ATTEND FROM THE OUTSET.

9. IF OUR RECOMMENDED APPROACH IS ADOPTED, WE SHOULD BE PREPARED FOR THE VERY REAL POSSIBILITY THAT THE OTHER SUPPLIERS WOULD NOT BE PREPARED TO ATTEND AN INITIAL CONFERENCE IN MID APRIL. WHILE THE ATTRACTIVENESS OF AN INITIAL EXPLORATORY MEETING WITHOUT FRANCE WOULD BE INCREASED IF WE ARE ABLE TO OFFER MORE DETAILS OF THE FRENCH SUBSTANTIVE POSITIONS, IT IS POSSIBLE THAT THE FRENCH MAY OBJECT TO DISCUSSION OF THEIR VIEWS IN A MULTILATERAL MEETING WHICH THEY HAD ELECTED NOT TO ATTEND. HOWEVER, EVEN IF AN INITIAL MEETING IN APRIL IS REJECTED BY OTHER COUNTRIES, WE WOULD HAVE BEGUN MORE DETAILED SUBSTANTIVE BILATERALS IN THE NEAR

FUTURE. IT WOULD BE VERY IMPORTANT TO CONTINUE THOSE IN ORDER TO KEEP THE GROUP TOGETHER, AFFECT THE DISPOSITION OF URGENT NUCLEAR EXPORT CASES, AND MAINTAIN MOMENTUM TOWARD REACHING COMMON SUPPLY POLICIES. THE WORDING OF THE

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PROPOSED MESSAGE TO SAUVAGNARGUES HAS BEEN DESIGNED TO AVOID ANY EMBARRASSMENT OR LOSS OF CREDIBILITY IF THE EFFORT TO CONVENE AN APRIL MEETING PROVES UNSUCCESSFUL.

10. PROPOSED CABLE TO EMBASSY PARIS FOLLOWS: PLEASE DELIVER FOLLOWING MESSAGE FROM THE SECRETARY TO SAUVAGNARGUES AS SOON AS POSSIBLE. BEGIN TEXT. DEAR MR. MINISTER: THANK YOU FOR YOUR MESSAGE OF MARCH 18. I AM GLAD THAT WE HAVE BEEN ABLE TO MAKE PROGRESS ON THE QUESTION OF EXPORT POLICY UNDERSTANDINGS AMONG NUCLEAR SUPPLIERS. I WILL OF COURSE BE PREPARED TO PURSUE THIS WITH YOU EARLY NEXT MONTH. IN THE MEANTIME, WE AND OTHER COUNTRIES WHICH WE HAVE APPROACHED CONCERNING A SUPPLIERS MEETING FEEL THE NEED TO MAKE FURTHER PROGRESS TOWARD A COMMON UNDERSTANDING AS SOON AS POSSIBLE. I CONSEQUENTLY BELIEVE THAT WE HAVE REACHED A STAGE IN OUR CONSULTATIONS WHERE WE SHOULD TAKE THE NEXT STEP TOWARD SUBSTANTIVE AND MULTILATERAL EXCHANGES OF VIEWS. WE THEREFORE PLAN WITHIN THE NEXT WEEK TO CONTACT THE OTHER FIVE GOVERNMENTS TO ARRANGE IMMEDIATE BILATERAL CONSULTATIONS ON THE SUBSTANTIVE PROPOSALS UNDER DISCUSSION, AND ON APPROPRIATE NEXT STEPS WHICH COULD LEAD TO AN EXPLORATORY MULTILATERAL MEETING PREFERABLY AS SOON AS THE MIDDLE PART OF APRIL. THE VIEWS AND POSITIONS OF FRANCE ARE OF COURSE AN IMPORTANT ELEMENT IN DISCUSSIONS OF POSSIBLE MULTILATERAL SUPPLIER UNDERSTANDINGS, AND I AM SURE YOU WILL WISH YOUR VIEWS TO BE KNOWN. I VERY MUCH HOPE THAT YOU WILL FIND IT POSSIBLE TO JOIN US IN THIS EFFORT, AND I LOOK FORWARD TO TALKING WITH YOU ABOUT THIS AFTER YOUR RETURN TO PARIS. WITH WARM REGARDS. END TEXT. IN DELIVERING THIS LETTER, EMBASSY IS INSTRUCTED TO INDICATE TO GOF THAT WE PROPOSE TO BEGIN CONSULTATIONS WITH OTHER SUPPLIERS IN A FEW DAYS. YOU SHOULD ALSO INDICATE THAT THE OBJECTIVE OF THE EXPLORATORY MULTILATERAL MEETING WOULD BE TO CLARIFY EXISTING AREAS OF CONSENSUS, IDENTIFY AREAS REMAINING TO BE DISCUSSED AND CONSIDER SUBSEQUENT MEETINGS TO ACHIEVE THAT PURPOSE. END OF PROPOSED CABLE.

11. RECOMMENDATIONS:

A. THAT YOU APPROVE THE APPROACH (OPTION B) RECOMMENDED IN PARA 7.

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IN PARA 7.
APPROVE

DISAPPROVE

B. THAT YOU APPROVE TRANSMITTAL OF CABLE PROPOSED IN PARA 10 TO EMBASSY PARIS.

APPROVE

DISAPPROVE

C. ALTERNATIVELY, THAT WE POSTPONE CONFERENCE PLANNING BUT NO SUBSTANTIVE CONSULTATIONS UNTIL YOU COMMUNICATE WITH SAUVAGNARGUES IN APRIL (OPTION A).

APPROVE

DISAPPROVE

CLEARED BY: ACDA/IKLE; PM/VEST; NSC/DR.ELLIOT AND MR. LODAL; C/SONNENFELDT; S/P-LORO; EUR/HARTMAN, INGERSOLL

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