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PASS TO LONDON FOR MYRON KRATZER AND NELSON SIEVERING

E.O. 116521 GDS

TAGS: TECH, ENRG, IR

SUBJECT: NUCLEAR POWER AGREEMENT WITH IRAN

REF: TEHRAN 55427 STATE 132760

FOLLOWING ARE SUGGESTED DETAILED TALKING POINTS FOR EMBASSYS  
USE IN DISCUSSING TEXT OF REVISED AGREEMENT FOR COOPERATION  
AND ACCOMPANYING NOTE WITH ETEMAD. WHILE WE ARE ONLY  
HITTING THE HIGHLIGHTS, IT SHOULD BE STRESSED TO ETEMAD  
THAT WE ARE PREPARED TO SEND STATE AND ERDA REPS TO  
TEHRAN WHENEVER IT IS MUTUALLY AGREEABLE SHOULD THIS BE  
FACILITATIVE TO EXPEDITING THE NEGOTIATIONS. WE ALSO ARE  
POUCHING A TYPED VERSION OF THE AGREEMENT AND THE NOTE

PAGE 1

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STATE DEPT. IMMEDIATE  
CLASSIFICATION REVIEW  
 Maintain Classification  Change to  
 Declassify in part and expire as shown  
EO 12958, 25X  
 Declassify  Alter  
 With commentary  
IPS by: [Signature] Date: 6/25/08

# DEPARTMENT OF DEFENSE

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PAGE 2

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71131

WHICH UNDERLINES THE CHANGES. POINTS THE AMBASSADOR MAY WISH TO MAKE ARE AS FOLLOWS: BEGIN TEXT.

1. USG HAS GENERALLY ENDEAVORED TO ADHERE QUITE CLOSELY IN DETAILED TEXT TO THE "PRINCIPLES OF A SUGGESTED APPROACH" THAT WE AND ETEMAD DEvised DURING HIS LAST VISIT. WHILE SEVERAL MINOR TEXTUAL CHANGES HAVE BEEN MADE FROM EARLIER DRAFTS, IT WAS NOT OUR INTENTION TO DEVIATE FROM THE PRINCIPLES THAT GUIDED OUR MOST RECENT DISCUSSIONS AND WE WOULD WELCOME ETEMAD'S PROMPT REACTIONS. WE ALSO FOUND THE WASHINGTON DISCUSSIONS TO BE MOST ENCOURAGING AND WE WOULD HOPE THE URBAN CHARACTER AND MOMENTUM OF THE TALKS COULD BE PRESERVED.

2. THE PRINCIPAL REVISIONS IN THE TEXTS OF THE AGREEMENT AND/OR NOTE ARE AS FOLLOWS:

A. REPROCESSING -- ARTICLE VII, PARAGRAPH C OF THE AGREEMENT AND THE FOURTH, FIFTH AND SIXTH PARAGRAPHS OF THE NOTE REFLECT THE PRINCIPLES WHICH WE DISCUSSED IN APRIL RELATING TO REPROCESSING. DR. ETEMAD WILL NOTE THAT WE HAVE CONTINUED TO INCLUDE THE BASIC LEGAL PROVISIONS ON REPROCESSING IN THE AGREEMENT AND PROVISIONS RELATING TO IMPLEMENTATION IN THE NOTE. AS WE EXPLAINED DURING OUR DISCUSSIONS, WE HAVE FAVORED THIS APPROACH IN THE HOPE THAT THE PROVISIONS IN OUR AGREEMENT WITH IRAN WOULD FORM THE BASIS FOR SIMILAR PROVISIONS IN FUTURE AGREEMENTS WITH OTHER COUNTRIES IN ORDER TO MAINTAIN AS MUCH UNIFORMITY AS POSSIBLE, WITH ANY DIFFERENCES IN IMPLEMENTATION REFLECTED IN ACCOMPANYING NOTES. WE RECOGNIZE, HOWEVER, DR. ETEMAD'S PREFERENCE FOR CONSOLIDATION IN THE AGREEMENT OF ALL THE OPERATIVE PROVISIONS RELATING TO REPROCESSING AND THE HANDLING OF SENSITIVE MATERIAL. AS INDICATED DURING OUR DISCUSSIONS, WE WOULD BE PREPARED TO FURTHER EXAMINE THIS APPROACH IF SUITABLE HIGH-LEVEL COMMUNICATIONS SETTING FORTH OUR MUTUAL NON-PROLIFERATION OBJECTIVES AND COMMITMENTS (INCLUDING THOSE PERTAINING TO THE BINATIONAL/MULTINATIONAL REPROCESSING CONCEPT) ARE AGREED ON AND EXCHANGED IN ASSOCIATION WITH THE PROPOSED AGREEMENT.

AS DR. ETEMAD IS AWARE, THE PURPOSE OF THE FIFTH PARAGRAPH OF THE NOTE, IN RESPONSE TO IRAN'S REQUEST, IS TO INDI-

PAGE 2

CONFIDENTIAL

01000010

# DEPARTMENT OF DEFENSE

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PAGE 3

C O N F I D E N T I A L

71131

CATE, IN ADVANCE, CERTAIN CONDITIONS UNDER WHICH PERFORMANCE IN IRAN (PURSUANT TO ARTICLE VIII, C.) OF REPROCESSING, INVOLVING U.S. SUPPLIED FUEL OR OTHER FUEL IN A U.S. REACTOR, WOULD BE ACCEPTABLE. PLEASE NOTE THAT SUBPOINT (B) OF THE FIFTH PARAGRAPH IN THE NOTE HAS BEEN MODIFIED SOMEWHAT BY DELETION OF THE PARENTHETICAL PHRASE "(IN THE CASE OF A REPROCESSING FACILITY)" WHICH WAS INCLUDED IN THE DRAFT DISCUSSED IN APRIL, THEREBY RESULTING IN INCLUSION OF PLUTONIUM HANDLING FACILITIES (I.E., CONVERSION, FABRICATION AND STORAGE) ASSOCIATED WITH REPROCESSING, AS A LOGICAL EXTENSION OF THE CONCEPT INVOLVED. THIS APPROACH IS CONSISTENT WITH THE RECOGNITION ACCORDED TO THE SENSITIVITY OF THESE TYPES OF FACILITIES WHICH HAS BEEN REFLECTED IN PARAGRAPH C OF ARTICLE VIII IN EARLIER DRAFTS OF THE AGREEMENT. THE PARAGRAPH OF THE NOTE, STARTING WITH THE PHRASE "IN LIGHT OF", HAS ALSO BEEN MODIFIED TO INCLUDE SPECIFIC REFERENCE TO SUCH PLUTONIUM HANDLING FACILITIES.

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NEW LANGUAGE HAS ALSO BEEN ADDED TO THE SECOND SENTENCE OF THE SIXTH PARAGRAPH OF THE NOTE TO REFLECT OUR UNDERSTANDING OF IRAN'S CONCERN THAT ITS ACCESS TO FUEL MATERIAL FROM THE UNITED STATES NOT BE PREJUDICED WITH RESPECT TO IMPLEMENTATION OF ARTICLE VIII, PARAGRAPH C OF THE AGREEMENT.

WITH RESPECT TO COMPENSATION TO IRAN FOR IRRADIATED MATERIAL WHICH MAY BE TRANSFERRED TO THE UNITED STATES PURSUANT TO SUBPARAGRAPH C(2) OF ARTICLE VIII, WE HAVE MADE PERFECTING CHANGES TO PARAGRAPH C(2)B RELATING TO FINANCIAL COMPENSATION FOR SUCH MATERIAL. WE HAVE ALSO ADDED AN ALTERNATIVE FOR THE FUTURE, WHEREBY COMPENSATION, AT THE OPTION OF THE U.S., MIGHT ALSO BE IN THE FORM OF FABRICATED PLUTONIUM FUEL FOR A COMMERCIAL FAST BREEDER REACTOR CONSTRUCTED IN IRAN, UPON AGREEMENT OF THE PARTIES. WE BELIEVE THIS CHANGE ADDS DESIRED FLEXIBILITY TO THE PROPOSED ARRANGEMENTS. ALSO, SINCE WE SENSE THAT IRAN HAS NOT FIRMLY DECIDED TO PROCEED WITH A REPROCESSING FACILITY, WE HAVE INTRODUCED MINOR REVISIONS TO THE THIRD AND FOURTH PARAGRAPHS OF NOTE THAT SERVE TO CHARACTERIZE IRAN'S INTENTIONS TO PROCEED IN THESE DIRECTIONS IN MORE CON-

PAGE 3

C O N F I D E N T I A L

01000010

DEPARTMENT OF DEFENSE

JOINT CHIEFS OF STAFF

MESSAGE CENTER

PAGE 4

CONFIDENTIAL

71131

DITIONAL TERMS.

FINALLY, AND ALSO WITH REFERENCE TO PARAGRAPH 5 OF THE NOTE, DR. ETEMAD WILL OBSERVE THAT WE HAVE INCLUDED A REFERENCE TO THE POSSIBILITY THAT THE PARTIES MAY AGREE TO HAVE DEPOSITED WITH THE IAEA FOR TEMPORARY STORAGE ANY PLUTONIUM THAT MAY BE IN EXCESS OF IRAN'S CIVIL NEEDS. THIS IS IN RECOGNITION OF THE POSSIBLE ACTIVATION, AT SOME POINT IN TIME, OF THE RELEVANT PROVISION IN ARTICLE XII OF THE IAEA STATUTE. WHILE WE DID NOT DISCUSS THIS CONCEPT IN ANY FORMAL SENSE WITH ETEMAD DURING THE NEGOTIATIONS, WE ALLUDED IN INFORMAL CONVERSATIONS TO OUR INTEREST IN SEEING THE STORAGE PROVISIONS OF ARTICLE XII SERIOUSLY REEXAMINED FOR POSSIBLE ACTIVATION. THIS IS A CONCEPT WE ARE EXPLORING WITH A NUMBER OF STATES, AND WE WOULD HOPE ETEMAD COULD ACCEPT THE ADDITIONAL LANGUAGE.

B. BREEDERS -- THE EIGHTH PARAGRAPH OF THE NOTE IS BASED ON THE DRAFT LANGUAGE OF THE PRINCIPLES WE DISCUSSED WITH RESPECT TO FAST BREEDER REACTORS.

C. PHYSICAL SECURITY -- THE NINTH PARAGRAPH OF THE NOTE RELATES TO PHYSICAL SECURITY, IN CONJUNCTION WITH ARTICLE VIII, PARAGRAPH E OF THE AGREEMENT. AFTER VERY CAREFUL CONSIDERATION WITHIN OUR GOVERNMENT, WE HAVE

INCLUDED MODIFIED LANGUAGE IN THIS PARAGRAPH WHICH IS DESIGNED TO MEET DR. ETEMAD'S CONCERNS REGARDING THE NEED FOR BASIC PHYSICAL SECURITY GUIDELINES AND YET AVOID POTENTIAL CONFUSION OR UNCERTAINTY REGARDING THE CRITERIA TO BE EMPLOYED. OUR MODIFICATION INVOLVES USE OF THE TERM PHYSICAL SECURITY "MEASURES" RATHER THAN "STANDARDS" (THE LATTER PHRASE HAD BEEN CONTEMPLATED DURING DISCUSSIONS WITH ETEMAD) AS MORE DESCRIPTIVE OF THE APPROACH WE BELIEVE IS ACHIEVABLE AND WHICH IS CONSISTENT WITH THRUST OF OUR DISCUSSIONS WITH ETEMAD. WE FULLY RECOGNIZE IRAN'S INTEREST IN KNOWING NOW WHAT THE U.S. COULD CONSIDER AS AN ACCEPTABLE BASIS FOR DEVELOPMENT OF PHYSICAL SECURITY MEASURES, AND WE BELIEVE OUR PROPOSED CHANGES ACCOMPLISH THIS OBJECTIVE. AS DR. ETEMAD MUST APPRECIATE, OUR BASIC CONCERN IS THAT SUCH MEASURES BE ADEQUATE TO PROTECT U.S. SUPPLIED MATERIAL AND EQUIPMENT FROM UN-

PAGE 4

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# DEPARTMENT OF DEFENSE

JOINT CHIEFS OF STAFF  
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PAGE 5

C O N F I D E N T I A L

71131

AUTHORIZED USES, THEFT AND SABOTAGE. WE BELIEVE THAT THE PROVISIONS OF INFCIRC 225 (CORRECTED), PRINTED BY THE IAEA IN FEBRUARY 1976, WOULD AT THIS TIME, PROVIDE A SATISFACTORY BASIS FOR THE PHYSICAL SECURITY MEASURES TO ENSURE SUCH ADEQUATE PROTECTION, AND WE HAVE, ACCORDINGLY, INCLUDED SPECIFIC REFERENCE TO THIS DOCUMENT IN THE NINTH PARAGRAPH OF THE NOTE. WE HOPE DR. ETEMAD WILL AGREE THAT REFERENCE TO INFCIRC 225 WILL MEET OUR JOINT NEEDS IN THIS REGARD.

D. PEACEFUL NUCLEAR EXPLOSIONS -- THE TENTH PARAGRAPH OF THE NOTE CONTAINS THE LANGUAGE DISCUSSED IN APRIL RELATIVE TO THE POTENTIAL BENEFITS OF THE PEACEFUL APPLICATION OF NUCLEAR EXPLOSIONS.

E. IAEA SAFEGUARDS IMPLEMENTATION -- THE ELEVENTH PARAGRAPH OF THE NOTE, RELATING TO THE PROVISION OF INFORMATION CONCERNING IMPLEMENTATION OF IAEA SAFEGUARDS, REFLECTS A STANDARD REQUEST WE ARE NOW MAKING OF ALL PARTIES WITH WHICH WE ARE, OR WILL BE, NEGOTIATING NEW OR REVISED AGREEMENTS FOR COOPERATION. IT RELATES TO OUR NEED AS A PRINCIPAL SUPPLIER TO BE ABLE TO HAVE A CLEAR INDICATION AS TO HOW EFFECTIVELY SAFEGUARDS ARE BEING APPLIED TO OUR ASSISTANCE. DR. ETEMAD WILL APPRECIATE THAT THIS HAS PARTICULAR RELEVANCE, INTER ALIA, TO THE REPROCESSING CLAUSES OF OUR ACCORD. WHILE WE DID NOT FLAG THIS POINT FOR HIM DURING OUR DISCUSSIONS, WE HOPE THAT IT WILL NOT CAUSE HIM ANY DIFFICULTIES.

F. DEFINITION OF "TRANSFER" -- FINALLY, THE DEFINITION IN ARTICLE I (15) IN THE AGREEMENT RELATING TO "TRANSFER" HAS BEEN REVISED SOMEWHAT TO CLARIFY THAT IT APPLIES IN THE CONTEXT OF TRANSFERS BETWEEN THE UNITED STATES AND IRAN. WE BELIEVE THIS CLARIFICATION IS

PARTICULARLY NECESSARY IN RELATION TO ARTICLE VIII.C, SINCE DIFFERENT CIRCUMSTANCES INVOLVING TRANSFERS NEED TO BE PROVIDED FOR, SUCH AS TRANSFERS OF TITLE AND TRANSFERS TO THIRD COUNTRIES. WITH THIS CLARIFICATION OF THE DEFINITION, WE BELIEVE IT IS NO LONGER NECESSARY TO USE THE WORD "RETRANSFER" IN THE AGREEMENT OR NOTE (ARTICLES VII.C AND VIII.D, AND NINTH PARAGRAPH OF THE NOTE, RESPECTIVELY), AND APPROPRIATE CHANGES HAVE BEEN

PAGE 5

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PAGE 6

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MADE ACCORDINGLY.

PARAGRAPH B(1) OF ARTICLE VIII HAS ALSO BEEN MODIFIED TO CLARIFY THAT IT PERTAINS IN RELATION TO TRANSFERS UNDER ARTICLE VI, AS WELL AS ARTICLE VII, FOR PURPOSES OF REACTOR FUELING AND PERFORMANCE OF THIRD-COUNTRY FABRICATION SERVICES. END TEXT.

DEPARTMENT AND ERDA WILL BE HAPPY TO RECEIVE DR. ETEMAD'S PROMPT REACTIONS AND TO ANSWER ANY QUESTIONS HE MAY HAVE ON THESE TEXTS. KISSINGER

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PAGE 6

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