

UNCLASSIFIED

TO: The Secretary

FROM: NP - Robert J. Einhorn

SUBJECT: Circular 175: Extension of the U.S.-Morocco Agreement for Cooperation Concerning Peaceful Uses of Nuclear Energy, signed at Washington May 30, 1980

Issues for Decision

- Whether to (a) approve a 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 Agreement"), and (b) recommend jointly with the Secretary of Energy that the President make the requisite statutory determination regarding the Protocol, that he approve it, and that he authorize its signature and transmittal to the Congress.
- Whether to approve and transmit to the President a classified Annex to the Nuclear Proliferation Assessment Statement (NPAS) relating to the proposed Protocol.

The Protocol, the NPAS, and the 1980 Agreement are attached to the Memorandum for the President at Tab 1. The Protocol extends the Agreement, which will otherwise expire by its terms on May 16, 2001, for a period of 20 years, with provision for additional extensions thereafter; and it updates provisions for the physical protection of nuclear material subject to the Agreement. It makes no other changes. The NPAS classified Annex is attached to the second Memorandum for the President at Tab 2. More detailed information is at Tab 3. A Memorandum of Law is at Tab 4.

Recommendations

1. That you approve the proposed Protocol and co-sign the Memorandum for the President (Tab 1) recommending his approval.

Approve _____ Disapprove _____

2. That you sign the second Memorandum for the President (Tab 2), transmitting to him the NPAS classified Annex.

Approve _____ Disapprove _____

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Agreement for Cooperation Concerning
Peaceful Uses of Nuclear Energy**

Additional Background

Basis for Requested Action

The U.S. Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 and the Foreign Affairs Reform and Restructuring Act of 1998 (AEA), gives the Secretary of State and the Secretary of Energy a statutory role in advising the President on whether to authorize entry into agreements for peaceful nuclear cooperation and amendments to such agreements.

Nuclear Proliferation Assessment Statement

Section 123 of the AEA, as amended by Title XII of the Foreign Affairs Reform and Restructuring Act of 1998 (P.L. 105-277) provides that an unclassified Nuclear Proliferation Assessment Statement (NPAS) be submitted by the Secretary of State to the President, and by the President to Congress, on each new or amended agreement for cooperation concluded pursuant to that section.

Section 123 a. of the AEA, as amended, further provides that "[e]ach Nuclear Proliferation Assessment Statement prepared pursuant to this Act shall be accompanied by a classified annex, prepared in consultation with the Director of Central Intelligence, summarizing relevant classified information." In order to keep the classified Annex separate from the unclassified documents (which will eventually be published by Congress), we ask that you sign the separate Memorandum for the President (Tab 2) transmitting to him the classified Annex for the proposed Agreement, which has been prepared in consultation with the DCI.

Environmental Considerations

Like other agreements for peaceful nuclear cooperation, the Agreement with Morocco, as extended by the proposed Protocol, establishes a legal framework for such cooperation without committing either Party to engage in any specific activity. Environmental documentation under Executive Order 12114 of January 4, 1979 is not required.

Commitment of Resources

The United States will conduct any activities under the extended Agreement subject to the availability of personnel and

appropriated funds. Any overseas assignment of U.S. Government personnel pursuant to the extended Agreement will be done through the procedures established by National Security Decision Directive (NSDD) 38. The Department of State commits no new resources or personnel to the implementation of the extended Agreement.

Submission to the President and Congressional Review

Under the AEA the Protocol may be signed and transmitted to Congress only after the President has authorized its execution and determined in writing that it will promote, and will not constitute an unreasonable risk to, the common defense and security. The joint memorandum from you and the Secretary of Energy at Tab 1 will forward the proposed Protocol and other required documents for the President's consideration.

After Presidential approval, and completion by Morocco of its own domestic requirements, the Protocol may be signed by the two Parties. The signed Protocol, together with the President's determination, must then be transmitted to the Congress for review. (A draft transmittal to the Congress, for signature by the President, is at Attachment 2 of the Memorandum for the President at Tab 1.) The Protocol may be brought into force after 90 days of continuous session unless a joint resolution of disapproval is enacted. We do not expect any opposition to the proposed Protocol.

Other Agency Views

The Nuclear Regulatory Commission recommends approval of the proposed Protocol. Its views are at attachment 4 of the Memorandum for the President at Tab 1.