114th Congress, 2d Session – – – – – – – – – – – – House Document 114–142

TEXT OF A PROPOSED AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND NORWAY CONCERNING PEACEFUL USES OF NUCLEAR ENERGY

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE TEXT OF THE PROPOSED AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE KINGDOM OF NORWAY CONCERNING PEACEFUL USES OF NUCLEAR ENERGY AND ALSO THE PRESIDENT'S WRITTEN APPROVAL, AUTHORIZATION, AND DETERMINATION OF THE PROPOSED AGREEMENT; AND AN UNCLASSIFIED NUCLEAR PROLIFERATION ASSESSMENT STATEMENT, PURSUANT TO 42 U.S.C. 2153(d); AUG. 1, 1946, CH. 724, TITLE I, SEC. 123 (AS AMENDED BY PUBLIC LAW 109–401, SEC. 104(e)); (120 STAT. 2734); AND 42 U.S.C. 2153(b)

JUNE 15, 2016.—Message and accompanying papers referred to the Committee on Foreign Affairs and ordered to be printed

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U.S. GOVERNMENT PUBLISHING OFFICE
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To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)) (the "Act"), the text of a proposed Agreement for Cooperation Between the Government of the United States of America and the Government of the Kingdom of Norway Concerning Peaceful Uses of Nuclear Energy (the "Agreement"). I am also pleased to transmit my written approval, authorization, and determination concerning the Agreement, and an unclassified Nuclear Proliferation Assessment Statement (NPAS) concerning the proposed Agreement. (In accordance with section 123 of the Act, as amended by Title XII of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277), a classified annex to the NPAS, prepared by the Secretary of State, in consultation with the Director of National Intelligence, summarizing relevant classified information, will be submitted to the Congress separately.) The joint memorandum submitted to me by the Secretaries of State and Energy and a letter from the Chairman of the Nuclear Regulatory Commission stating the views of the Commission are also enclosed. An addendum to the NPAS containing a comprehensive analysis of Norway's export control system with respect to nuclear-related matters, including interactions with other countries of proliferation concern and the actual or suspected nuclear, dual-use, or missile-related transfers to such countries, pursuant to section 102A(w) of the National Security Act of 1947 (50 U.S.C. 3024(w)), is being submitted separately by the Director of National Intelligence.

The proposed Agreement has been negotiated in accordance with the Act and other applicable law. In my judgment, it meets all applicable statutory requirements and will advance the nonproliferation and other foreign policy interests of the United States.

The proposed Agreement contains all the provisions required by section 123 a. of the Act, and provides a comprehensive framework for peaceful nuclear cooperation with Norway based on a mutual commitment to nuclear nonproliferation. It would permit the transfer of unclassified information, material, equipment (including reactors), and components for nuclear research and nuclear power production. Norway has no nuclear power program, and no current plans for establishing one, but the proposed Agreement would facilitate cooperation on such a program if Norway's plans change in the future. Norway does have an active nuclear research program and the focus of cooperation under the proposed Agreement, as under the previous agreement, is expected to be in the area of nuclear research. The proposed Agreement would not permit transfers of Restricted Data, sensitive nuclear technology, sensitive nuclear facilities or major critical components of such facilities.

The proposed Agreement would provide advance, long-term (programmatic) consent to Norway for the retransfer for storage or re-

processing of irradiated nuclear material (spent fuel) subject to the Agreement to France, the United Kingdom, or other countries or destinations as may be agreed upon in writing. The United States has given similar advance consent to various other partners, including to Norway under the previous U.S.-Norway Peaceful Nuclear Cooperation Agreement that was in force from 1984 to 2014. The proposed Agreement would give the United States the option to revoke the advance consent if it considers that it cannot be continued without a significant increase of the risk of proliferation or without jeopardizing national security.

The proposed Agreement will have a term of 30 years from the date of its entry into force, unless terminated by either party on 1 year's advance written notice. In the event of termination or expiration of the proposed Agreement, key nonproliferation conditions and controls will continue in effect as long as any material, equipment, or component subject to the proposed Agreement remains in the territory of the party concerned or under its jurisdiction or control anywhere, or until such time as the parties agree that such items are no longer usable for any nuclear activity relevant from the point of view of safeguards.

Norway is a non-nuclear-weapon State party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). Norway has concluded a safeguards agreement and additional protocol with the International Atomic Energy Agency. Norway is a party to the Convention on the Physical Protection of Nuclear Material, which establishes international standards of physical protection for the use, storage, and transport of nuclear material. It is also a member of the Nuclear Suppliers Group, whose non-legally binding guidelines set forth standards for the responsible export of nuclear commodities for peaceful use. A more detailed discussion of Norway's domestic civil nuclear activities and its nuclear nonproliferation policies and practices is provided in the NPAS and the NPAS classified annex submitted to the Congress separately.

I have considered the views and recommendations of the interested departments and agencies in reviewing the proposed Agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the proposed Agreement and authorized its execution and urge that the Congress give it favorable consideration.

This transmission shall constitute a submittal for purposes of both sections 123 b. and 123 d. of the Act. My Administration is prepared to begin immediately consultations with the Senate Foreign Relations Committee and the House Foreign Affairs Committee as provided in section 123 b. Upon completion of the 30 days of continuous session review provided for in section 123 b., the 60 days of continuous session review provided for in section 123 d. shall commence.

BARACK OBAMA.

THE WHITE HOUSE, *June 14, 2016.*

AGREEMENT FOR COOPERATION
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE KINGDOM OF NORWAY
CONCERNING
PEACEFUL USES OF NUCLEAR ENERGY

The Government of the United States of America and the Government of the Kingdom of Norway (hereinafter referred to individually as "Party" and collectively as "Parties"),

Mindful that both the United States of America and Norway are parties to the Treaty on the Non-Proliferation of Nuclear Weapons done at Washington, London, and Moscow July 1, 1968 ("NPT");

Reaffirming their commitment to ensuring that the international development and use of nuclear energy for peaceful purposes are carried out under arrangements which will to the maximum possible extent further the objectives of the NPT;

Affirming their support of the objectives of the International Atomic Energy Agency ("IAEA") and their desire to promote universal adherence to the NPT;

Noting the Parties' support for ongoing bilateral and multilateral efforts, including by the Nuclear Suppliers Group, to combat the proliferation of enrichment and reprocessing technologies;

Noting also the Parties' contributions to the strengthening of nuclear safety and security worldwide, including the protection of the environment and the enhancement of international emergency preparedness and response capabilities;

Considering their close cooperation in the development, use and control of peaceful uses of nuclear energy pursuant to the Revised Agreement for Cooperation Between the Government of the United States of America and the Government of Norway Concerning Peaceful Uses of Nuclear Energy, done at Oslo January 12, 1984;

Desiring to continue and expand their cooperation in this field; and

Mindful that peaceful nuclear activities must be undertaken with a view to protecting the international environment from radioactive, chemical and thermal contamination;

Have agreed as follows:

Article 1
Scope of Cooperation

1. The Parties shall cooperate in the use of nuclear energy for peaceful purposes in

accordance with the provisions of this Agreement and their applicable treaties, national laws, regulations and license requirements.

2. Transfers of information, material, equipment and components under this Agreement may be undertaken directly between the Parties or through authorized persons. Such transfers shall be subject to this Agreement and to such additional terms and conditions as may be agreed by the Parties.

3. Material, equipment and components transferred from the territory of one Party to the territory of the other Party for peaceful purposes, whether directly or through a third country, will be regarded as having been transferred pursuant to the Agreement only upon confirmation, by the appropriate government authority of the recipient Party to the appropriate government authority of the supplier Party, that such material, equipment or components shall be subject to this Agreement.

Article 2
Definitions

For the purposes of this Agreement:

(a) "Authorized person" means any individual or any entity subject to the jurisdiction of the authorities represented by either Party and authorized by that Party to conduct activities subject to this Agreement but does not include the Parties to this Agreement or the authorities they represent;

(b) "Byproduct material" means any radioactive material (except special fissionable material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special fissionable material;

(c) "Component" means a component part of equipment or other item so designated by agreement of the Parties;

(d) "Equipment" means any reactor as a complete unit, other than one designed or used primarily for the formation of plutonium or uranium 233, reactor pressure vessel, reactor calandria, complete control rod drive system, reactor primary coolant pump, on-line reactor fuel charging and discharging machine or any other item so designated by agreement of the Parties;

(e) "High enriched uranium" means uranium enriched to twenty percent or greater in the isotope 235;

(f) "Low enriched uranium" means uranium enriched to less than twenty percent in the isotope 235;

(g) "Major critical component" means any part or group of parts essential to the operation of a sensitive nuclear facility;

(h) "Material" means source material, special fissionable material or byproduct material, radioisotopes other than byproduct material, or moderator material, or any other such substance so designated by agreement of the Parties;

(i) "Moderator material" means heavy water, or graphite or beryllium of a purity suitable for use in a reactor to slow down high speed neutrons and increase the likelihood of further fission, or any other such material so designated by agreement of the Parties;

(j) "Peaceful purposes" include the use of information, material, equipment and components in such fields as research, power generation, medicine, agriculture and industry but do not include use in, research on or development of any nuclear explosive device, or any military purpose;

(k) "Person" means any individual or any entity subject to the jurisdiction of either Party but does not include the Parties to this Agreement;

(l) "Previous agreement" means the Revised Agreement for Cooperation Between the Government of the United States of America and the Government of Norway Concerning Peaceful Uses of Nuclear Energy, done at Oslo January 12, 1984, which expired according to its terms July 2, 2014;

(m) "Reactor" means any apparatus, other than a nuclear weapon or other nuclear explosive device, in which a self-sustaining fission chain reaction is maintained by utilizing uranium, plutonium or thorium, or any combination thereof;

(n) "Sensitive nuclear facility" means any facility designed or used primarily for uranium enrichment, reprocessing of nuclear fuel, heavy water production, or fabrication of nuclear fuel containing plutonium;

(o) "Sensitive nuclear technology" means any information (including information incorporated in equipment or an important component) which is not in the public domain and which is important to the design, construction, fabrication, operation or maintenance of any sensitive nuclear facility, or other such information which may be so designated by agreement of the Parties;

(p) "Source material" means (i) uranium, thorium, or any other material so designated by agreement of the Parties, or (ii) ores containing one or more of the foregoing materials, in such concentration as the Parties may agree from time to time; and

(q) "Special fissionable material" means (i) plutonium, uranium 233, or uranium enriched in the isotope 235, or (ii) any other material so designated by agreement of the Parties.

Article 3
Transfer of Information

1. Information concerning the use of nuclear energy for peaceful purposes may be transferred. Transfers of information may be accomplished through various means, including reports, data banks, computer programs, conferences, visits and assignments of staff to facilities. Fields which may be covered include, but shall not be limited to the following:

(a) development, design, construction, operation, maintenance and use of research, materials testing, experimental, demonstration power, and power reactors and reactor experiments;

(b) the use of material in physical and biological research, medicine, agriculture and industry;

(c) fuel cycle studies of ways to meet future worldwide peaceful nuclear needs, including multilateral approaches to guaranteeing nuclear fuel supply and appropriate techniques for management of nuclear wastes;

(d) safeguards and physical security of materials, equipment and components;

(e) health, safety and environmental considerations related to the foregoing; and

(f) assessing the role nuclear power may play in national energy plans.

2. This Agreement does not require the transfer of any information that the Parties are not permitted under their respective treaties, national laws, and regulations to transfer.

3. The United States shall not transfer Restricted Data as defined in its Atomic Energy Act of 1954, as amended, under this Agreement.

4. Sensitive nuclear technology shall not be transferred under this Agreement unless provided for by an amendment to this Agreement.

Article 4
Transfer of Material, Equipment and Components

1. Material, equipment and components may be transferred for applications consistent with this Agreement. Any special fissionable material transferred pursuant to this Agreement shall be low enriched uranium except as provided in paragraph 4 of this Article. The Government of the United States of America shall endeavor to take such actions as necessary and feasible to ensure a reliable supply of nuclear fuel to the Government of the Kingdom of Norway, including the export of material on a timely basis.

2. Low enriched uranium may be transferred for use as fuel in reactor experiments and in reactors, for conversion or fabrication, or for such other purposes as may be agreed by the Parties.

3. The quantity of special fissionable material transferred under this Agreement shall not at any time be in excess of the quantity the Parties agree is necessary for any of the following purposes: use in the loading of reactors or in reactor experiments; the reliable efficient, and continuous operation of reactors or conduct of reactor experiments; the storage of special fissionable material necessary for the efficient and continuous operation of reactors or conduct of reactor experiments; the transfer of irradiated nuclear material for storage or disposition; and the accomplishment of such other purposes as may be agreed by the Parties.

4. Small quantities of special fissionable material may be transferred for use as samples, standards, detectors, targets and for such other purposes as the Parties may agree. Transfers pursuant to this paragraph shall not be subject to the quantity limitations in paragraph 3 of this Article.

5. Sensitive nuclear facilities and major critical components shall not be transferred under this Agreement unless provided for by an amendment to this Agreement.

Article 5
Storage and Retransfers

1. Plutonium, uranium 233 (except as contained in irradiated fuel elements), and high enriched uranium transferred pursuant to this Agreement or used in or produced through the use of material or equipment so transferred shall be stored only in a facility to which the Parties agree.

2. Material, equipment and components transferred pursuant to this Agreement and any special fissionable material produced through the use of any such material or equipment shall not be transferred to unauthorized persons or, unless the Parties agree, beyond the recipient Party's territorial jurisdiction.

Article 6
Reprocessing and Enrichment

1. Material transferred pursuant to this Agreement and material used in or produced through the use of material or equipment so transferred shall not be reprocessed unless the Parties agree.

2. Plutonium, uranium 233, high enriched uranium and irradiated source or special fissionable material transferred pursuant to this Agreement, or used in or produced through the use of material or equipment so transferred shall not be otherwise altered in form or content, except by irradiation or further irradiation, post-irradiation examination involving chemical dissolution or separation, disassembly or reassembly of fuel assemblies, or treatment of waste, unless the Parties agree.

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3. Uranium transferred pursuant to this Agreement or used in or produced through the use of any material or equipment so transferred shall not be enriched after transfer unless the Parties agree.

Article 7
Physical Security

1. Adequate physical security shall be maintained with respect to any material and equipment transferred pursuant to this Agreement and with respect to any special fissionable material used in or produced through the use of any material or equipment so transferred.

2. To comply with the requirement in paragraph 1 of this Article, each Party shall apply at a minimum measures in accordance with (i) levels of physical protection at least equivalent to the recommendations set forth in IAEA Nuclear Security Series Document 13 entitled "Nuclear Security Recommendations on Physical Protection of Nuclear Material and Nuclear Facilities (INFCIRC/225/Revision 5)" and in any subsequent revision of that document accepted by the Parties, and (ii) the provisions of the Convention on the Physical Protection of Nuclear Material and any amendments to the Convention that enter into force for both Parties.

3. The adequacy of physical security measures maintained pursuant to this Article shall be subject to review and consultation by the Parties periodically and whenever either Party is of the view that revised measures may be required to maintain adequate physical security.

4. Each Party shall keep the other Party informed through diplomatic channels of those agencies or authorities having responsibility for ensuring that levels of physical security are adequately met and having responsibility for coordinating response and recovery operations in the event of unauthorized use or handling of material subject to this Article. Each Party shall also designate and inform the other Party through diplomatic channels of points of contact within its national authorities to cooperate on matters of out-of-country transportation and other matters of mutual concern.

5. This Article shall be implemented in such a manner as to avoid hampering, delay or undue interference in the Parties' nuclear activities and so as to be consistent with prudent management practices required for the economic and safe conduct of their nuclear programs.

Article 8
No Explosive or Military Application

Material, equipment or components transferred pursuant to this Agreement and material used in or produced through the use of any such material, equipment or components so transferred shall not be used for any nuclear explosive device, for research on or development of any nuclear explosive device, or for any military

purpose.

Article 9
Safeguards

1. Cooperation under this Agreement shall require the application of IAEA safeguards with respect to all nuclear activities within the territory of the Kingdom of Norway, under its jurisdiction or carried out under its control anywhere. Implementation of the safeguards agreement pursuant to Article III (4) of the NPT, referred to in paragraph 2 of this Article, shall be considered to fulfill the requirement stated in the foregoing sentence.

2. Source and special fissionable material transferred to the Kingdom of Norway pursuant to this Agreement and any source or special fissionable material used in or produced through the use of any material, equipment or components so transferred shall be subject to safeguards in accordance with the Agreement Between Norway and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, done at Vienna March 1, 1972, which entered into force on that date, and the Additional Protocol thereto done at Vienna September 29, 1999, which entered into force May 16, 2000.

3. Source and special fissionable material transferred to the United States pursuant to this Agreement and any source or special fissionable material used in or produced through the use of any material, equipment or components so transferred shall be subject to the provisions of the Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States, done at Vienna November 18, 1977, which entered into force on December 9, 1980, and the Additional Protocol thereto, done at Vienna June 12, 1998, which entered into force January 6, 2009.

4. If either Party becomes aware of circumstances which demonstrate that the IAEA for any reason is not or will not be applying safeguards in accordance with the agreement as provided for in paragraph 2 of this Article, to ensure effective continuity of safeguards the Parties shall immediately enter into arrangements which conform with IAEA safeguards principles and procedures and with the coverage required by that paragraph and which provide assurance equivalent to that intended to be secured by the system they replace.

5. Each Party shall take such measures as are necessary to maintain and facilitate the application of safeguards applicable to it provided for under this Article.

6. Each Party shall establish and maintain a system of accounting for and control of all source and special fissionable material transferred pursuant to this Agreement and source material and special fissionable material used in or produced through the use of any material, equipment, or components so transferred. The procedures for this system shall be comparable to those set forth in IAEA document INFCIRC/153 (corrected), or in any revision of that document agreed to by the Parties.

7. Upon the request of either Party, the other Party shall report and permit the IAEA to report to the requesting Party on the status of all inventories of any source and special fissionable material subject to this Agreement and any other material transferred pursuant to this Agreement.

8. The provisions of this Article shall be implemented in such a manner as to avoid hampering, delay or undue interference in the Parties' nuclear activities and so as to be consistent with prudent management practices required for the economic and safe conduct of their nuclear programs.

Article 10
Multiple Supplier Controls

If an agreement between either Party and another nation or group of nations provides such other nation or group of nations rights equivalent to any or all of those set forth under Articles 5 or 6 of this Agreement with respect to material, equipment or components subject to this Agreement, the Parties may, upon the request of either of them, agree that the implementation of any such rights will be accomplished by such other nation or group of nations.

Article 11
Administrative Arrangement

(1) The appropriate Government authorities of both Parties shall establish an Administrative Arrangement to ensure the effective implementation of the Agreement. Such Administrative Arrangement may be changed in writing by the appropriate Government authorities of the Parties.

(2) The principles of fungibility, proportionality and equivalence shall apply to nuclear material subject to this Agreement. Detailed provisions for applying these principles shall be set forth in the Administrative Arrangement.

(3) For purposes of the Administrative Arrangement, each Party shall establish and maintain a system of accounting for and control of all source and special fissionable material transferred pursuant to this Agreement and source material and special fissionable material used in or produced through the use of any material, equipment, or components so transferred. The procedures for this system shall be comparable to those set forth in IAEA document INFCIRC/153 (corrected), or in any revision of that document agreed to by the Parties.

Article 12
Cessation of Cooperation

1. If either Party at any time following entry into force of this Agreement

(a) does not comply with the provisions of Articles 5, 6, 7, 8 or 9 of this Agreement,

or

(b) terminates, abrogates or materially violates a safeguards agreement with the IAEA,

the other Party shall have the rights to cease further cooperation under this Agreement and to require the return of any material, equipment or components transferred under this Agreement and any special fissionable material produced through their use.

2. If the Kingdom of Norway at any time following entry into force of this Agreement detonates a nuclear explosive device, the Government of the United States of America shall have the same rights as specified in paragraph 1 of this Article, namely, the rights to cease further cooperation under this Agreement and to require return.

3. If either Party exercises its rights under this Article to require the return of any material, equipment or components, it shall, after removal from the territory of the other Party, reimburse the other Party for the fair market value of such material, equipment or components. If this right is exercised, the Parties shall make such other appropriate arrangements as may be required which shall not be subject to any further agreement between the Parties as otherwise contemplated under Articles 5 and 6 of this Agreement.

Article 13
Previous Agreement

Cooperation initiated under the Previous agreement shall continue in accordance with the provisions of this Agreement. The provisions of this Agreement shall apply to material, equipment, and components previously subject to the Previous agreement and such material, equipment, and components shall be considered to have been transferred pursuant to this Agreement. Paragraph 2 of Article 15 of the Previous Agreement shall no longer be effective upon entry into force of this Agreement.

Article 14
Environmental Protection and Emergency Preparedness and Response

The Parties shall consult, with regard to activities under this Agreement, to identify the international environmental implications arising from such activities and shall cooperate in protecting the international environment from radioactive, chemical and thermal contamination arising from peaceful nuclear activities under this Agreement and in related matters of health and safety. To this end, the Parties shall also consult regarding arrangements for emergency preparedness and response.

Article 15
Consultations and Confidentiality

1. The Parties undertake to consult at the request of either Party regarding the implementation of this Agreement and the development of further cooperation in the field of peaceful uses of nuclear energy.

2. The Parties shall take every precaution, to the extent consistent with their respective domestic laws, to protect from public disclosure any information they acquire in the implementation of this Agreement and which, at the time of acquisition, is designated by the supplier Party to be proprietary or confidential. This provision does not alter any obligations the Parties have under their Agreement Relating to the Safeguarding of Classified Information, effected by exchange of notes at Oslo February 26, 1970, as amended.

Article 16
Settlement of Disputes

Any dispute concerning the interpretation or implementation of the provisions of this Agreement shall be promptly negotiated by the Parties with a view to resolving that dispute.

Article 17
Amendment

This Agreement may be amended at any time by agreement of the Parties and in accordance with their applicable requirements.

Article 18
Entry Into Force and Duration

1. This Agreement shall enter into force on the date of the last note in an exchange of diplomatic notes between the Parties informing each other that they have complied with all applicable requirements for its entry into force, and shall remain in force for a period of thirty (30) years. This Agreement may be terminated by either Party on one year's written notice to the other Party.

2. Notwithstanding the suspension, termination or expiration of this Agreement or any cooperation hereunder for any reason, Articles 5, 6, 7, 8, 9 and 12 of this Agreement and the Agreed Minute shall continue in effect so long as any material,

equipment or components subject to these Articles remain in the territory of the Party concerned or under its jurisdiction or control anywhere, or until such time as the Parties agree that such material, equipment or components are no longer useable for any nuclear activity relevant from the point of view of safeguards.

IN WITNESS WHEREOF the undersigned, being fully authorized, have signed this Agreement.

Done at Washington this 11th day of June, 2016, in duplicate, in the English and Norwegian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF
THE KINGDOM OF NORWAY:

AGREED MINUTE

During the negotiation of the Agreement for Cooperation Between the Government of the United States of America and the Government of the Kingdom of Norway Concerning Peaceful Uses of Nuclear Energy (the "Agreement") signed today, the following understandings, which shall be an integral part of the Agreement, were reached.

Coverage of Agreement

For the purposes of implementing the rights specified in Articles 5, 6, and 7 with respect to special fissionable material produced through the use of material transferred pursuant to the Agreement and not used in or produced through the use of equipment transferred pursuant to the Agreement, such rights shall in practice be applied to that proportion of special fissionable material produced which represents the ratio of transferred material used in the production of the special fissionable material to the total amount of material so used, and similarly for subsequent generations.

With reference to Article 8, it is understood that "military purpose" does not include power to a military base drawn from the civil power network or production of radioisotopes to be used for medical purposes in a military hospital.

Previous Cooperation

It is noted that Article 3 does not alter the practice of mutually beneficial information sharing that has developed between the two countries and that will be continued and, as the Parties may agree, strengthened.

With respect to Article 13, in order to facilitate the application of the provisions of the Agreement to material, equipment and components subject to the Previous agreement, the Parties shall, in cooperation, establish a list of such material, equipment and components.

Storage

Concerning paragraph 1 of Article 5, the Parties note that, in practice, agreement of the Parties would be reflected in authorizations for the transfer of material under the Agreement for specified applications and that this provision would otherwise be exercised with respect to such material only in the event a Party wished to store such material at facilities other than originally specified.

Spent Fuel Disposition

The Parties note their common interest in ensuring that their nuclear cooperation promotes the energy security of each Party and their mutual nonproliferation objectives. In this regard, the Parties agree that source or special fissionable material subject to Articles 5 and 6 may be transferred by Norway for storage and reprocessing to the United Kingdom or France, and also to any other country or destination as agreed upon in writing by the Parties.

(1) Prior to any such transfer, the Government of the Kingdom of Norway shall provide the Government of the United States of America (the "United States Government") with at least thirty (30) days advance notice of a proposed transfer to allow the United States Government to have sufficient time to obtain confirmation from the receiving country or destination, or from the European Atomic Energy Community (Euratom) in the case of a proposed transfer to France, the United Kingdom, or another country that is a Euratom member state, that the source material or special fissionable material to be transferred will be held within the receiving country, destination, or Euratom, as the case may be, and will be subject to the terms and conditions of the applicable agreement for peaceful nuclear cooperation between the United States Government or a representative organization thereof and the receiving country, destination or Euratom. The Government of the Kingdom of Norway shall not proceed with the proposed transfer until the United States Government notifies the Government of the Kingdom of Norway of its receipt of such confirmation;

(2) The Government of the Kingdom of Norway shall keep records of any such transfers and shall upon shipment notify the United States Government of each transfer;

(3) The Government of the Kingdom of Norway shall retain legal control over any plutonium separated as a result of any such transfer and shall obtain the prior written agreement of the United States Government for the transfer of the plutonium to Norway or any other country for any use of the plutonium.

(4) All such transfers shall be in compliance with the policies, laws, and regulations of the recipient country or destination, including any requirement that indicates a provisional period for the receipt and treatment of irradiated source material or special fissionable material or that the waste produced as a result of the reprocessing be returned to the territory of Norway.

The foregoing understandings concerning fuel disposition may be terminated in whole or in part, if either Party considers that exceptional circumstances of concern from a non-proliferation or security standpoint so require; to the extent time and circumstances permit, the Parties will consult prior to any such termination. Such circumstances include, but are not limited to, a determination by either Party that the foregoing understandings cannot be continued without a significant increase of the risk of proliferation or without jeopardizing its national security.

These understandings concerning spent fuel disposition do not limit the right of the Parties to agree to other activities envisaged in Articles 5 and 6.

OECD Halden Reactor Project

The Parties note the longstanding support of the United States for the OECD Halden Reactor Project, including arrangements for the test irradiation and analysis of United States fuel assemblies in connection with reactor safety research. The Parties confirm that in any cases where the United States has authorized material to be transferred to Norway under the Agreement for specified purposes, which in any particular case include irradiation in the Halden Reactor, as part of the OECD Halden Reactor Project, and the alteration in Norway of such material in form or content, no further agreement would be required pursuant to paragraph 2 of Article 6 for such analysis of the material concerned. In any other situations not covered by the preceding sentence, the United States would give favorable consideration to proposals by Norway pursuant to paragraph 2 of Article 6 that the Parties agree to alteration of material under the fuel analysis program in Norway.

The Parties also confirm that, notwithstanding the provisions of Article 13, any moderator material transferred to Norway under the Agreement for Cooperation Between the Government of the United States of America and the Government of the Norway Concerning Civil Uses of Atomic Energy, signed May 4, 1967, as amended, for use in the Halden Reactor, and special fissionable material produced through its use and not through the use of special fissionable material transferred pursuant to the Agreement or the Previous agreement, shall be subject only to Articles 7, 8, and 9 and that such moderator material shall not be transferred to unauthorized persons or, unless the Parties agree, beyond the territorial jurisdiction of Norway.

Safeguards

If either Party becomes aware of circumstances referred to in paragraph 4 of Article 9 requiring the Parties immediately to enter into arrangements referred to in that paragraph, the Government of the United States of America shall have the rights listed below. These rights shall be suspended if the United States agrees that the need to exercise such rights is being satisfied by the application of IAEA safeguards under arrangements pursuant to paragraph 4 of Article 9.

(1) To review in a timely fashion the design of any equipment transferred pursuant to the Agreement, or of any facility which is to use, fabricate, process, or store any material so transferred or any special fissionable material used in or produced through the use of such material or equipment;

(2) To require the maintenance and production of records and of relevant reports for the purpose of assisting in ensuring accountability for material transferred pursuant to the Agreement and any source material or special fissionable material used in or produced through the use of any material, equipment or components so transferred;

(3) To designate personnel acceptable to the Government of the Kingdom of Norway who shall have access to all places and data necessary to account for the material in paragraph (2), to inspect any equipment or facility referred to in paragraph (1), and to install any devices and make such independent measurements as may be deemed necessary to account for such material. The Government of the Kingdom of Norway shall not unreasonably withhold its acceptance of personnel designated by the United States under this paragraph. Such personnel shall, if either Party so requests, be accompanied by personnel designated by the Government of the Kingdom of Norway.

With reference to Article 9, it is confirmed that design information relevant to safeguards for new equipment required to be safeguarded under the Agreement shall be provided in a timely fashion to the IAEA upon its request.

The Parties confirm that paragraph 1 of Article 9 does not in any way alter the Government of the Kingdom of Norway's commitment under the agreement referred to in paragraph 2 of Article 9 or the implementation of that agreement.

With further reference to Article 9, it is understood that the Agreement does not affect the rights or obligations of the United States or the IAEA pursuant to the agreement referred to in paragraph 3 of Article 9 or the implementation of that agreement.

Consultations

The Parties shall consult periodically or at the request of either Party on ways in which their mutual non-proliferation and nuclear energy objectives can best be served. Each Party shall endeavor to avoid taking any actions that significantly alter the basis for cooperation under the Agreement. However, if either Party were to undertake any such actions, it shall endeavor to inform the other Party in advance.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF
THE KINGDOM OF NORWAY:

SAMARBEIDSAVTALE
MELLOM
AMERIKAS FORENTE STATERS REGJERING
OG
KONGERIKET NORGES REGJERING
OM
FREDELIG UTNYTTELSE AV ATOMENERGI

Amerikas forente staters regjering og Kongeriket Norges regjering (heretter individuelt kalt «part» eller samlet kalt «parter» eller «partene»),

som er klar over at både Amerikas Forente Stater og Norge er part i traktaten om ikke-spredning av kjernefysiske våpen inngått i Washington, London og Moskva 1. juli 1968 (heretter kalt «NPT»),

som på nytt bekrefter sin forpliktelse til å sikre at den internasjonale utvikling og utnyttelse av atomenergi til fredelige formål finner sted i samsvar med ordninger som i størst mulig utstrekning vil fremme NPT's målsettinger,

som bekrefter sin støtte til Det internasjonale atomenergi byrås (IAEAs) målsettinger og deres ønske om å fremme allmenn tilslutning til NPT,

som konstaterer partenes støtte til bilateral og multilateral innsats, blant annet fra Nuclear Suppliers Group, for å bekjempe spredning av anriknings- og gj envinningsteknologi,

som også konstaterer partenes bidrag for å styrke atomsikkerhet i hele verden, herunder vern av miljøet og styrking av internasjonal kriseberedskap og reaksjonsevne,

som tar i betraktning sitt nære samarbeid i utvikling, bruk og kontroll av fredelig utnyttelse av atomenergi i henhold til den reviderte samarbeidsavtalen mellom Amerikas forente staters regjering og Norges regjering om fredelig utnyttelse av atomenergi, inngått i Oslo 12. januar 1984,

som ønsker å fortsette og utvide sitt samarbeid på dette området, og

som er klar over at fredelig atomvirksomhet må gjennomføres med henblikk på å beskytte det internasjonale miljøet mot radioaktiv og kjemisk forurensning og varmeforurensning,

er blitt enige om følgende:

Artikkel 1
Samarbeidets omfang

1. Partene skal samarbeide om utnyttelse av atomenergi til fredelige formål i samsvar med bestemmelsene i denne avtale og deres gjeldende traktater, nasjonale lover og forskrifter samt lisensbetingelser.

2. Overføringer av opplysninger, materiale, utstyr og komponenter i henhold til denne avtale kan foretas direkte mellom partene eller gjennom autoriserte personer. Slike overføringer skal være underlagt denne avtale og de tilleggsvilkår som måtte bli avtalt mellom partene.

3. Materiale, utstyr og komponenter som overføres fra den ene parts territorium til den andre parts territorium for fredelige formål, enten direkte eller gjennom et tredjeland, vil bli ansett som overført i henhold til avtalen bare etter at vedkommende regjeringsmyndigheter hos mottakerparten har bekreftet overfor vedkommende regjeringsmyndigheter hos leveringsparten at slikt materiale, utstyr eller komponenter skal være underlagt denne avtale.

Artikkel 2
Definisjoner

I denne avtale menes med

a) «autorisert person»: enhver enkeltperson eller ethvert selvstendig organ som er underlagt jurisdiksjonen til myndighetene representert ved en av partene, og som er autorisert av denne parten til å utføre virksomhet i henhold til denne avtale, men omfatter ikke partene i denne avtale eller myndighetene de representerer,

b) «biprodukt»: ethvert radioaktivt materiale (unntatt særlig spaltbart materiale) som er produsert eller gjort radioaktivt ved bestråling i forbindelse med produksjon eller utnyttelse av særlig spaltbart materiale,

c) «komponent»: en bestanddel av utstyr eller annen gjenstand som partene er enige om å kalle «komponent»,

d) «utstyr»: enhver reaktor som fullstendig enhet, bortsett fra reaktorer som hovedsakelig er konstruert for eller benyttes til produksjon av plutonium eller uran-233, reaktortrykktanker, moderatortanker, fullstendige drivsystemer for styrestaver, reaktorhovedkjølepumper, ladnings- og utladningsmaskiner for brensel som fungerer når reaktoren er i drift eller enhver annen gjenstand som partene er enige om å kalle «utstyr»,

e) «høyanriket uran»: uran som er anriket med tjue prosent eller mer av isotopen 235,

f) «lavanriket uran»: uran som er anriket med mindre enn tjue prosent av isotopen 235,

g) «hovedkomponent»: enhver del eller gruppe av deler som er av vesentlig betydning for driften av et sensitivt atomanlegg,

h) «materiale»: utgangsmateriale, særlig spaltbart materiale eller biprodukt, radioisotoper utenom biprodukt, moderatormateriale, eller ethvert annet slikt stoff som partene er enige om å kalle «materiale»,

i) «moderatormateriale»: tungtvann, eller grafitt eller beryllium med en renhet som egner seg til bruk i en reaktor for å bremse hurtige nøytroner og øke sannsynligheten for ytterligere spaltning, eller ethvert annet materiale av denne typen som partene er enige om å kalle «moderatormateriale»,

j) «fredelige formål»: blant annet bruk av opplysninger, materiale, utstyr og komponenter innenfor forskning, kraftproduksjon, medisin, landbruk og industri, men omfatter ikke bruk i, forskning om eller utvikling av noen form for kjernefysisk sprenginnretning eller militære formål,

k) «person»: enhver enkeltperson eller ethvert selvstendig organ som er underlagt en av partenes jurisdiksjon, men omfatter ikke partene i denne avtale,

l) «tidligere avtale»: revidert samarbeidsavtale mellom Amerikas forente staters regjering og Norges regjering om fredelig utnyttelse av atomenergi, inngått i Oslo 12. januar 1984, som utløp i henhold til sine vilkår 2. juli 2014,

m) «reaktor»: ethvert apparat, bortsett fra et atomvåpen eller en annen kjernefysisk sprenginnretning, der det foregår en kjedereaksjon som opprettholder seg selv gjennom spalting av uran, plutonium eller thorium eller gjennom enhver kombinasjon av disse stoffene,

n) «sensitivt atomanlegg»: ethvert anlegg som hovedsakelig er konstruert eller benyttes til urananrikning, gjenvinning av kjernebrensel, tungtvannsproduksjon eller fremstilling av kjernebrensel som inneholder plutonium,

o) «sensitiv atomteknologi»: enhver opplysning (herunder opplysninger som inngår i utstyr eller i en viktig komponent) som ikke er offentlig tilgjengelig, og som er av betydning for konstruksjon, bygging, fremstilling, drift eller vedlikehold av ethvert sensitivt atomanlegg, eller enhver annen opplysning som partene er enige om å kalle «sensitiv atomteknologi»,

p) «utgangsmateriale»: i) uran, thorium eller ethvert annet materiale som partene er

enige om å kalle «utgangsmateriale», eller ii) malm som inneholder ett eller flere av de forannevnte materialer, i den konsentrasjon partene til enhver tid måtte avtale, og

q) «særlig spaltbart materiale»: i) plutonium, uran-233 eller uran anriket med isotopen 235, eller ii) ethvert annet materiale som partene er enige om å kalle «særlig spaltbart materiale».

Artikkel 3
Overføring av opplysninger

1. Opplysninger om utnyttelse av atomenergi til fredelige formål kan overføres. Opplysninger kan overføres med ulike midler, herunder rapporter, databanker, dataprogrammer, konferanser, besøk og ansettelse av personale ved anlegg. Områder som kan dekkes, omfatter, men skal ikke begrenses til, følgende:

a) utvikling, konstruksjon, bygging, drift, vedlikehold og bruk av forskningsreaktorer, materialprøvingsreaktorer, eksperimentelle reaktorer, demonstrasjonskraftreaktorer, kraftreaktorer og reaktoreksperimenter,

b) bruk av materiale i fysisk og biologisk forskning, medisin, landbruk og industri,

c) brenselskretsløpsstudier av måter å dekke fremtidige globale fredelige atomenergibehov på, herunder multilaterale tiltak for å sikre tilførsel av atombrensel og hensiktsmessige teknikker for håndtering av atomavfall,

d) sikkerhetskontroll og fysisk sikring av materiale, utstyr og komponenter,

e) helse-, sikkerhets- og miljøhensyn i tilknytning til det foregående, og

f) vurdering av den rolle atomkraft kan komme til å spille i nasjonale energiplaner.

2. Denne avtale krever ikke overføring av noen opplysninger som partene ikke har adgang til å overføre i henhold til deres respektive traktater samt nasjonale lover og forskrifter.

3. De forente stater skal ikke i henhold til denne avtale overføre opplysninger underlagt restriksjoner, som definert i deres atomenergilov av 1954 med endringer.

4. Sensitiv atomteknologi skal ikke overføres i henhold til denne avtale, med mindre det fastsettes ved endring av denne avtale.

Artikkel 4
Overføring av materiale, utstyr og komponenter

1. Materiale, utstyr og komponenter kan overføres til bruk som er i samsvar med denne avtale. Ethvert særlig spaltbart materiale som overføres i henhold til denne avtale, skal være lavanriket uran, med unntak av det som er fastsatt i nr. 4 i denne artikkel. Amerikas forente staters regjering skal søke å treffe de tiltak som er nødvendige og gjennomførbare for å sikre en pålitelig tilførsel av kjernebrensel til Kongeriket Norges regjering, herunder å eksportere materiale i god tid.

2. Lavanriket uran kan overføres til bruk som brensel for reaktoreksperimenter og i reaktorer, til omdanning eller fremstilling, eller til andre formål som måtte bli avtalt mellom partene.

3. Mengden av særlig spaltbart materiale som overføres i henhold til denne avtale, skal ikke på noe tidspunkt overstige den mengde som partene er enige om som nødvendig til noen av de følgende formål: bruk til lading av reaktorer eller i reaktoreksperimenter, pålitelig, effektiv og kontinuerlig drift av reaktorer eller gjennomføring av reaktoreksperimenter, lagring av særlig spaltbart materiale som er nødvendig for effektiv og kontinuerlig drift av reaktorer eller gjennomføring av reaktoreksperimenter, overføring av bestrålt nukleært materiale for lagring eller rådighet, og gjennomføring av andre formål som måtte bli avtalt mellom partene.

4. Små mengder særlig spaltbart materiale kan overføres til bruk som prøver, standarder, detektorer, targets og andre formål som partene måtte bli enige om. Overføringer i henhold til dette nummer skal ikke være underlagt mengdebegrensningene i nr. 3 i denne artikkel.

5. Sensitive atomanlegg og hovedkomponenter skal ikke overføres i henhold til denne avtale med mindre dette fastsettes ved endring av avtalen.

Artikkel 5
Lagring og videreføring

1. Plutonium, uran-233 (med unntak av det som befinner seg i bestrålte brenselselementer) og høyanriket uran som overføres i henhold til denne avtale eller benyttes i eller produseres ved bruk av materiale eller utstyr som således overføres, skal bare lagres i et anlegg som partene blir enige om.

2. Materiale, utstyr og komponenter som overføres i henhold til denne avtale, og eventuelt særlig spaltbart materiale som produseres ved bruk av ethvert slikt materiale eller utstyr, skal ikke overføres til uautoriserte personer eller, med mindre partene er enige, utenfor mottakerpartens territoriale jurisdiksjon.

Artikkel 6
Gjenvinning og anriking

1. Materiale som overføres i henhold til denne avtale, og materiale som benyttes i eller produseres ved bruk av materiale eller utstyr som således overføres, skal ikke gjenvinnes med mindre partene er enige.

2. Plutonium, uran-233, høyanriket uran og bestrålt utgangsmateriale, eller særlig spaltbart materiale som overføres i henhold til denne avtale eller benyttes i eller produseres ved bruk av materiale eller utstyr som således overføres, skal ikke forandres i form eller innhold, unntatt ved bestråling eller ytterligere bestråling, etter- bestrålingsundersøkelse som involverer kjemisk oppløsning eller separering, demontering eller sammensetning av brenselspatroner eller behandling av avfall, med mindre partene er enige.

3. Uran som overføres i henhold til denne avtale eller benyttes i eller produseres ved bruk av ethvert materiale eller utstyr som således overføres, skal ikke anrikes etter overføring, med mindre partene er enige.

Artikkel 7
Fysisk sikring

1. Tilstrekkelig fysisk sikring skal opprettholdes med hensyn til ethvert materiale og utstyr som overføres i henhold til denne avtale, og med hensyn til ethvert særlig spaltbart materiale som benyttes i eller produseres ved bruk av ethvert materiale eller utstyr som således overføres.

2. For å oppfylle kravene i nr. 1 i denne artikkel skal hver part som et minimum anvende tiltak i samsvar med i) nivåer for fysisk sikring som skal gi beskyttelse minst tilsvarende anbefalingene fastsatt i IAEA Nuclear Security Series No 13 «Nuclear Security Recommendations on Physical Protection of Nuclear Material and Nuclear Facilities (INFCIRC/225/Revision 5)» eller i enhver revisjon av dette dokumentet som partene har akseptert, og ii) bestemmelsene i konvensjonen om fysisk beskyttelse av nukleært materiale og enhver endring av konvensjonen som trer i kraft for begge parter.

3. Tilstrekkeligheten av de fysiske sikringstiltak som opprettholdes i henhold til denne artikkel, skal kontrolleres av og drøftes mellom partene regelmessig samt hver gang en av partene er av den oppfatning at reviderte tiltak kan være nødvendige for å opprettholde tilstrekkelig fysisk sikring.

4. Hver part skal gjennom diplomatiske kanaler holde den annen part underrettet om de organer eller myndigheter som har ansvaret for å sikre at kravene til fysisk sikring er

tilstrekkelig oppfylt, og som har ansvaret for å koordinere mottiltak og tiltak for å få tilbake materiale ved tilfeller av ikke-autorisert bruk eller håndtering av materiale underlagt denne artikkel. Hver part skal også gjennom diplomatiske kanaler utpeke og underrette den annen part om kontaktpunkter innenfor dens nasjonale myndigheter som skal samarbeide om spørsmål som gjelder transport ut av landet, samt andre spørsmål av gjensidig interesse.

5. Denne artikkel skal gjennomføres på en slik måte at vanskeliggjøring, forsinkelse eller unødig innblanding i partenes atomvirksomhet unngås og i samsvar med den veloverveide administrasjonspraksis som er nødvendig for at deres atomprogrammer kan gjennomføres på en økonomisk og sikker måte.

Artikkel 8
Ingen anvendelse til sprengning eller til militært formål

Materiale, utstyr eller komponenter som overføres i henhold til denne avtale, og materiale som benyttes i eller produseres ved bruk av ethvert slikt materiale, utstyr eller komponenter som således overføres, skal ikke brukes til noen form for kjernefysisk sprenginnretning, og heller ikke til forskning om eller utvikling av noen form for kjernefysisk sprenginnretning eller til noe militært formål.

Artikkel 9
Sikkerhetskontroll

1. Samarbeid i henhold til denne avtale betinger at IAEAs sikkerhetskontroll kommer til anvendelse på all atomvirksomhet innenfor Kongeriket Norges territorium, under dets jurisdiksjon eller utført under dets kontroll hvor som helst. Gjennomføringen av avtalen om sikkerhetskontroll i henhold til artikkel III (4) i NPT, som nevnt i nr. 2 i denne artikkel, skal anses å oppfylle kravene fastsatt i foregående punktum.

2. Utgangsmateriale og særlig spaltbart materiale som overføres til Kongeriket Norge i henhold til denne avtale, og ethvert utgangsmateriale eller særlig spaltbart materiale som benyttes i eller produseres ved bruk av ethvert materiale, utstyr eller komponenter som således overføres, skal være underlagt sikkerhetskontroll i samsvar med avtalen mellom Norge og Det internasjonale atomenergibyrå om utføring av sikkerhetskontroll i forbindelse med traktaten om ikke-spredning av kjernefysiske våpen, som ble inngått i Wien 1. mars 1972 og trådte i kraft samme dato, og tilhørende tilleggsprotokoll til nevnte avtale, som ble inngått i Wien 29. september 1999 og trådte i kraft 16. mai 2000.

3. Utgangsmateriale og særlig spaltbart materiale som overføres til De forente stater i henhold til denne avtale, og ethvert utgangsmateriale eller særlig spaltbart materiale som benyttes i eller produseres ved bruk av ethvert materiale, utstyr eller komponenter som således overføres, skal være underlagt bestemmelsene i avtalen mellom Amerikas forente stater og Det internasjonale atomenergibyrå om utføring av sikkerhetskontroll i De forente

stater, som ble inngått i Wien 18. november 1977 og trådte i kraft 9. desember 1980, og tilhørende tilleggsprotokoll som ble inngått i Wien 12. juni 1998 og trådte i kraft 6. januar 2009.

4. Dersom en av partene blir oppmerksom på forhold som viser at IAEA av noen som helst grunn ikke tar eller kommer til å ta i bruk sikkerhetskontroll i samsvar med avtalen som fastsatt i nr. 2 i denne artikkel, skal partene, for å sikre effektiv kontinuitet i sikkerhetskontrollen, umiddelbart avtale ordninger som er i samsvar med prinsippene og fremgangsmåtene for IAEAs sikkerhetskontroll, og som har den dekning som nevnte nummer fordrer og gir en sikkerhet tilsvarende den som gis av systemet de erstatter.

5. Hver part skal treffe de tiltak som er nødvendige for å opprettholde og lette utførelsen av den sikkerhetskontroll som gjelder for parten, som fastsatt i henhold til denne artikkel.

6. Hver part skal opprette og opprettholde et system for å gjøre rede for og kontrollere alt utgangsmateriale og særlig spaltbart materiale som overføres i henhold til denne avtale, og utgangsmateriale og særlig spaltbart materiale som benyttes i eller produseres ved bruk av ethvert materiale, utstyr eller komponenter som således overføres. Fremgangsmåtene for dette systemet skal være i samsvar med dem som er fastsatt i IAEAs dokument INFCIRC/153 (korrigert) eller i en eventuell revisjon av dette dokumentet som partene er blitt enige om.

7. På anmodning fra en av partene skal den annen part rapportere og tillate IAEA å rapportere til den anmodende part om status for alle beholdninger av ethvert utgangsmateriale og særlig spaltbart materiale som er underlagt denne avtale, samt ethvert annet materiale som overføres i henhold til denne avtale.

8. Bestemmelsene i denne artikkel skal gjennomføres på en måte som unngår vanskeliggjøring, forsinkelse eller unødig innblanding i partenes atomvirksomhet, og som er i samsvar med den velovervcide administrasjonspraksis som er nødvendig for at deres atomprogram mer kan gjennomføres på en økonomisk og sikker måte.

Artikkel 10
Flersidig leverandørkontroll

Dersom en avtale mellom en av partene og en annen nasjon eller en gruppe av nasjoner gir en annen nasjon eller gruppe av nasjoner rettigheter som tilsvarer noen av eller alle dem som er fastsatt i avtalens artikkel 5 eller 6 med hensyn til materiale, utstyr eller komponenter underlagt denne avtale, kan partene, etter anmodning fra en av dem, avtale at vedkommende andre nasjon eller gruppe av nasjoner iverksetter disse rettighetene.

Artikkel 11
Administrative ordning

1. Vedkommende regjeringsmyndigheter fra begge parter skal etablere en administrativ ordning for å sikre effektiv gjennomføring av avtalen. En slik administrativ ordning kan endres skriftlig av partenes vedkommende regjeringsmyndigheter.

2. Prinsippene om ombyttelighet, proporsjonalitet og ekvivalens skal gjelde for nukleært materiale underlagt denne avtale. Nærmere bestemmelser om anvendelsen av disse prinsippene skal fastsettes i den administrative ordningen.

3. Med henblikk på den administrative ordningen skal hver part opprette og opprettholde et system for å gjøre rede for og kontrollere alt utgangsmateriale og særlig spaltbart materiale som overføres i henhold til denne avtale, og utgangsmateriale og særlig spaltbart materiale som benyttes i eller produseres ved bruk av ethvert materiale, utstyr eller komponenter som således overføres. Fremgangsmåtene for dette systemet skal være i samsvar med dem som er fastsatt i IAEAs dokument INFCIRC/153 (korrigert) eller i en eventuell revisjon av dette dokumentet som partene er blitt enige om.

Artikkel 12
Opphør av samarbeid

1. Dersom en part på noe tidspunkt etter at denne avtale er trådt i kraft

(a) ikke retter seg etter bestemmelsene i artikkel 5, 6, 7, 8 eller 9 i denne avtale, eller

(b) sier opp, avskaffer eller på vesentlig måte krenker avtalen med IAEA om sikkerhetskontroll,

skal den annen part ha rett til å stanse ytterligere samarbeid i henhold til denne avtale og til å kreve tilbakelevering av ethvert materiale, utstyr eller komponenter som overføres i henhold til denne avtale, og av alt særlig spaltbart materiale som produseres ved deres bruk.

2. Dersom Kongeriket Norge på noe tidspunkt etter at denne avtale er trådt i kraft detonerer en kjernefysisk sprenginnretning, skal Amerikas forente staters regjering ha de samme rettigheter som fastsatt i nr. 1 i denne avtale, det vil si rett til å avslutte videre samarbeid i henhold til denne avtale og til å kreve tilbakelevering.

3. Dersom en part i henhold til denne artikkel utøver sine rettigheter til å kreve tilbakelevering av materiale, utstyr eller komponenter, skal den, etter at dette er fjernet fra den annen parts territorium, betale tilbake til den annen part den rimelige markedsverdien for slikt materiale, utstyr eller komponenter. Dersom denne retten utøves, skal partene innføre andre hensiktsmessige ordninger som måtte være nødvendige, og som ikke skal være gjenstand for ytterligere avtale mellom partene slik artikkel 5 og 6 i denne avtale ellers åpner for.

Artikkel 13
Tidligere avtale

Samarbeid som er iverksatt i henhold til den tidligere avtalen, skal fortsette i samsvar med bestemmelsene i denne avtale. Bestemmelsene i denne avtale skal gjelde for materiale, utstyr og komponenter underlagt den tidligere avtalen, og slikt materiale, utstyr og komponenter skal anses å ha blitt overført i henhold til denne avtale. Artikkel 15 nr. 2 i den tidligere avtalen skal ikke lenger gjelde etter at denne avtale er trådt i kraft.

Artikkel 14
Miljøvern, kriseberedskap og krisehåndtering

Når det gjelder virksomhet i henhold til denne avtale, skal partene konsultere hverandre for å bestemme virksomhetens betydning for miljøet internasjonalt, og samarbeide for å beskytte det internasjonale miljøet mot radioaktiv og kjemisk forensning og varmeforurensning som stammer fra fredelig atomvirksomhet i henhold til denne avtale,
og samarbeide om beslektede helse- og sikkerhetsspørsmål. For dette formål skal partene også konsultere hverandre om ordninger for kriseberedskap og krisehåndtering.

Artikkel 15
Konsultasjoner og fortrolighet

1. Partene forplikter seg til å konsultere hverandre på anmodning fra en part når det gjelder gjennomføringen av denne avtale og utviklingen av videre samarbeid om fredelig bruk av atomenergi.

2. I den utstrekning dette er i samsvar med deres respektive nasjonale lovgivning, skal partene treffe alle forholdsregler for å beskytte enhver opplysning som de mottar under gjennomføringen av denne avtale, og som på mottakelsestidspunktet betegnes av leverandørparten som varemerkebeskyttet eller konfidensiell. Denne bestemmelsen endrer ikke eventuelle forpliktelser som partene har i henhold til deres avtale om beskyttelse av gradert informasjon, effektuert ved noteutveksling i Oslo 26. februar 1970, med endringer.

Artikkel 16
Tvisteløsning

Enhver tvist som gjelder fortolkning eller gjennomføring av bestemmelsene i denne avtale, skal omgående forhandles mellom partene med sikte på å løse tvisten.

Artikkel 17
Endringer

Denne avtale kan til enhver tid endres etter avtale mellom partene og i samsvar med deres gjeldende regler.

Artikkel 18
Ikrafttredelse og varighet

1. Denne avtale trer i kraft på datoen for den siste noten i en diplomatisk noteveksling mellom partene, som således underretter hverandre om at de har oppfylt alle gjeldende krav til avtalens ikrafttredelse, og skal forbli i kraft i et tidsrom på tretti (30) år. Denne avtale kan sies opp av begge parter med ett års skriftlig varsel til den annen part.

2. Uten hensyn til suspensjon, oppsigelse eller utløp av denne avtale eller til et hvilket som helst samarbeid under denne avtale av hvilken som helst grunn, skal artikkel 5, 6, 7, 8, 9 og 12 i avtalen og det omforente memorandum forbli i kraft så lenge det fortsatt finnes materiale, utstyr eller komponenter som er underlagt disse artikler, på vedkommende parts territorium eller under dens jurisdiksjon eller kontroll hvor som helst, eller inntil partene blir enige om at slikt materiale, utstyr eller komponenter ikke lenger er anvendelig til noen form for atomvirksomhet som er relevant fra et sikkerhetskontrollmessig synspunkt. SOM BEKREFTELSE PÅ DETTE har de undertegnede, som er gitt behørig fulmakt til det, undertegnet denne avtale.

Utferdiget i Washington den 11 June, 2016.

i to eksemplarer på engelsk og norsk, med samme gyldighet for begge tekster.

FOR AMERIKAS FORENTE STATERS REGJERING:

FOR KONGERIKET NORGES REGJERING:

OMFORENT MEMORANDUM

Under forhandlingene om samarbeidsavtalen mellom Amerikas forente staters regjering og Kongeriket Norges regjering om fredelig utnyttelse av atomenergi (heretter kalt «avtalen») undertegnet i dag nådde partene fram til følgende forståelser, som skal utgjøre en integrert del av avtalen.

Avtalens virkeområde

I den hensikt å iverksette rettighetene fastsatt i artikkel 5, 6 og 7 med hensyn til særlig spaltbart materiale produsert ved bruk av materiale som er overført i henhold til avtalen, og som ikke benyttes i eller produseres ved bruk av utstyr som er overført i henhold til avtalen, skal slike rettigheter i praksis gjelde for den mengde av det produserte særlige spaltbare materialet som beregnes ut fra forholdet mellom overført materiale som benyttes i produksjonen av særlig spaltbart materiale, og den totale mengde av materiale som er benyttet på en slik måte, og på samme måte for etterfølgende generasjoner.

Med henvisning til artikkel 8 er det enighet om at «militært formål» ikke omfatter kraft som overføres fra det sivile nettet til en militærbase, eller produksjon av radioisotoper til bruk for medisinske formål ved et militært sykehus.

Tidligere samarbeid

Det bemerkes at artikkel 3 ikke endrer den praksis med hensyn til gjensidig fordelaktig utveksling av opplysninger som har utviklet seg mellom de to land, og som vil videreføres og, slik partene måtte avtale, styrkes.

Med hensyn til artikkel 13 skal partene, for å lette anvendelsen av bestemmelsene i denne avtale på materiale, utstyr og komponenter som omfattes av den tidligere avtalen, i samarbeid utarbeide en liste over slikt materiale, utstyr og komponenter.

Lagring

Med hensyn til artikkel 5 nr. 1 bemerker partene at avtalen mellom dem i praksis vil komme til uttrykk i tillatelser til overføring av materiale i henhold til avtalen for bestemt bruk, og at denne bestemmelsen for øvrig bare vil bli anvendt med hensyn til slikt materiale i tilfelle en part ønsker å lagre slikt materiale i andre anlegg enn i dem som opprinnelig er bestemt.

Rådighet over brukt brensel

Partene merker seg at de har felles interesse av å sikre at deres kjernefysiske samarbeid fremmer begges sikkerhet på energiområdet og deres gjensidige ikke- spredningsformål. I denne forbindelse er partene enige om at utgangsmateriale eller særlig spaltbart materiale som er underlagt artikkel 5 og 6, kan overføres av Norge til Storbritannia eller Frankrike for lagring og gjenvinning, og også til ethvert annet land eller bestemmelsessted som partene skriftlig blir enige om.

1) Før enhver slik overføring skal Kongeriket Norges regjering gi Amerikas forente staters regjering minst tretti (30) dagers forhåndsvarsel før en foreslått overføring finner sted, slik at Amerikas forente staters regjering får tilstrekkelig tid til å motta bekreftelse fra mottakerlandet eller bestemmelsesstedet eller fra Det europeiske atomenergifellesskap (Euratom) ved en foreslått overføring til Frankrike, Storbritannia eller et annet land som er medlem av Euratom, på at utgangsmateriale eller særlig spaltbart materiale som skal overføres, vil holdes innenfor mottakerlandet, bestemmelsesstedet eller Euratom, slik situasjonen kan være, og vil være underlagt vilkår og betingelser i den gjeldende avtalen for fredelig atomsamarbeid mellom Amerikas forente staters regjering eller en tilhørende representerende organisasjon og mottakerlandet, bestemmelsesstedet eller Euratom. Kongeriket Norges regjering skal ikke gå videre med den foreslåtte overføringen før Amerikas forente staters regjering underretter Kongeriket Norges regjering om at slik bekreftelse er mottatt.

2) Kongeriket Norges regjering skal registrere enhver slik overføring, og underrette Amerikas forente stater om enhver slik overføring når transporten finner sted.

3) Kongeriket Norges regjering skal beholde juridisk rådighet over alt plutonium som separeres som følge av en slik overføring, og skal på forhånd innhente skriftlig samtykke fra Amerikas forente staters regjering til at plutoniumet overføres til Norge eller et annet land, og til en hvilken som helst bruk av plutoniumet.

4) All slik overføring skal være i samsvar med retningslinjer og nasjonale lover og forskrifter i mottakerlandet eller på bestemmelsesstedet, herunder ethvert krav som indikerer en midlertidig periode for mottak og behandling av bestrålt utgangsmateriale eller særlig spaltbart materiale, eller at avfall produsert etter gjenvinning returneres til Norges territorium.

Ovenstående forståelser om rådighet over brensel kan helt eller delvis bringes til opphør dersom en av partene er av den oppfatning at spesielle forhold som gir grunn til bekymring fra et ikke-spredningssynspunkt eller et sikkerhetsmessig synspunkt, tilsier det; i den grad tiden og forholdene tillater det, skal partene konsultere hverandre før et slikt opphør. Slike forhold omfatter, men er ikke begrenset til, at en av partene bestemmer at ovenstående forståelser ikke kan fortsettes uten at det foreligger en betydelig økt risiko for spredning eller uten at den nasjonale sikkerhet settes i fare.

Disse forståelsene om rådighet over brukt brensel begrenser ikke partenes rett til å avtale annen virksomhet som forutsatt i artikkel 5 og 6.

OECD-Halden-reaktorprosjektet

Partene merker seg den langvarige støtten fra De forente stater til OECD-Halden-reaktorprosjektet, herunder ordninger for forsøksbestråling og analyser av De forente staters brenselsknipper i samband med De forente staters reaktorsikkerhetsforskning. Partene bekrefter at i alle tilfeller der De forente stater har gitt tillatelse til at materiale i henhold til avtalen blir overført til Norge til bestemte formål som i ethvert bestemt tilfelle omfatter bestråling i Halden-reaktoren, som del av OECD- Halden-reaktorprosjektet, samt forandring i Norge av slikt materiale i form eller innhold, vil det i henhold til artikkel 6 nr. 2 ikke være nødvendig med ytterligere avtale for slike analyser av vedkommende materiale. I alle andre situasjoner som ikke omfattes av foregående punktum, vil De forente stater gi forslag fra Norge en gunstig behandling i henhold til artikkel 6 nr. 2 om at partene kommer til enighet om forandring av materiale under brenselsanalyseprogrammet i Norge.

Partene bekrefter også, uten hensyn til bestemmelsene i artikkel 13, at moderatormateriale som blir overført til Norge i henhold til samarbeidsavtalen mellom Amerikas forente staters regjering og Norges regjering om sivil bruk av atomenergi, undertegnet 4. mai 1967, med endringer, for bruk i Halden-reaktoren, og særlig spaltbart materiale som blir produsert ved bruk av materialet og ikke ved bruk av særlig spaltbart materiale som er overført i henhold til avtalen eller den tidligere avtalen, bare skal være underlagt artikkel 7, 8 og 9, og at denne form for moderatormateriale ikke skal overføres til ikke-autoriserte personer eller, med mindre partene er enige, utenfor Norges territoriale jurisdiksjon.

Sikkerhetskontroll

Dersom en av partene ~~får kjennskap til~~ forhold som nevnt i artikkel 9 nr. 4 som umiddelbart krever at partene avtaler ordninger som omhandlet i nevnte nummer, skal Amerikas forente staters regjering ha de rettigheter som er oppført nedenfor. Disse rettighetene skal suspenderes dersom De forente stater er enige i at behovet for å utøve dem blir tilstrekkelig ivaretatt ved anvendelse av IAEAs sikkerhetskontroll under ordninger i henhold til artikkel 9 nr. 4.

1) I god tid å kontrollere konstruksjonen av ethvert utstyr som overføres i henhold til avtalen, eller av ethvert anlegg som skal bruke, fremstille, behandle eller lagre ethvert materiale som således overføres, eller ethvert særlig spaltbart materiale som benyttes i eller produseres ved bruk av slikt materiale eller utstyr.

2) Å kreve at opptegnelser og relevante rapporter føres og fremlegges for dermed å medvirke til å sikre at det holdes oversikt over materiale som overføres i henhold til avtalen, og over ethvert utgangsmateriale eller særlig spaltbart materiale som benyttes i eller produseres ved bruk av ethvert materiale, utstyr eller

komponenter som således er overført,

3) Å utpeke personell som kan godkjennes av Kongeriket Norges regjering, og som skal ha adgang til alle steder og opplysninger som er nødvendige for å holde rede på materialet nevnt i nr. 2), å inspisere ethvert utstyr eller anlegg som nevnt i nr. 1), og å installere enhver innretning og foreta de uavhengige målinger som måtte anses nødvendige for å holde rede på materialet. Kongeriket Norges regjering skal ikke på urimelig måte tilbakeholde sin godkjenning av personell som er utpekt av De forente stater i henhold til dette nummer. Dersom en av partene anmoder om det, skal slikt personell ledsages av personell utpekt av Kongeriket Norges regjering.

Under henvisning til artikkel 9 bekreftes det at konstruksjonsopplysninger som er relevante for sikkerhetskontroll av nytt utstyr som skal underlegges sikkerhetskontroll i henhold til avtalen, i god tid skal fremlegges for IAEA etter dets anmodning.

Partene bekrefter at artikkel 9 nr. 1 ikke på noen måte endrer Kongeriket Norges regjerings forpliktelse i henhold til avtalen nevnt i artikkel 9 nr. 2 eller gjennomføringen av nevnte avtale.

Med videre henvisning til artikkel 9 er det enighet om at avtalen ikke påvirker De forente staters eller IAEAs rettigheter eller forpliktelser i henhold til avtalen nevnt i artikkel 9 nr. 3 eller gjennomføringen av nevnte avtale.

Konsultasjoner

Partene skal regelmessig, eller når en part anmoder om det, konsultere hverandre om hva som best kan tjene deres gjensidige målsettinger med hensyn til ikke-spredning og atomenergi. Hver part skal søke å unngå å treffe tiltak som vesentlig endrer grunnlaget for samarbeid etter denne avtale. Imidlertid skal en part, dersom den skulle gjennomføre slike tiltak, søke å underrette den annen part på forhånd.

FOR AMERIKAS FORENTE STATERS REGJERING:

FOR KONGERIKET NORGES REGJERING:

THE WHITE HOUSE

WASHINGTON

June 10, 2016

Presidential Determination
No. 2016-08

MEMORANDUM FOR THE SECRETARY OF STATE
THE SECRETARY OF ENERGY

SUBJECT: Proposed Agreement for Cooperation Between the Government of the United States of America and the Government of the Kingdom of Norway Concerning Peaceful Uses of Nuclear Energy

I have considered the proposed Agreement for Cooperation Between the Government of the United States of America and the Government of the Kingdom of Norway Concerning Peaceful Uses of Nuclear Energy (the "Agreement"), along with the views, recommendations, and statements of the interested departments and agencies.

I have determined that the performance of the proposed Agreement will promote, and will not constitute an unreasonable risk to, the common defense and security. Pursuant to section 123 b. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b)), I hereby approve the proposed Agreement and authorize the Secretary of State to arrange for its execution.

The Secretary of State is authorized and directed to publish this determination in the *Federal Register*.

NUCLEAR PROLIFERATION ASSESSMENT STATEMENT

Pursuant to Subsection 123 a. of the Atomic Energy Act of 1954, as Amended, with Respect to the Proposed Agreement for Cooperation between the Government of the United States of America and the Government of the Kingdom of Norway Concerning Peaceful Uses of Nuclear Energy

INTRODUCTION

This Nuclear Proliferation Assessment Statement ("NPAS") relates to the proposed Agreement for Cooperation between the Government of the United States of America and the Government of the Kingdom of Norway Concerning Peaceful Uses of Nuclear Energy (the proposed "Agreement"). The proposed Agreement facilitates and extends the cooperation between the United States and Norway in the development, use, and control of peaceful uses of nuclear energy that had occurred under the previous agreement between the two countries that entered into force in 1984 and expired by its terms on July 2, 2014 (the "1984 Agreement"). The Secretary of State and the Secretary of Energy are jointly submitting the proposed Agreement to the President for his approval.

Subsection 123 a. of the Atomic Energy Act of 1954, as amended ("the Act"), provides that an NPAS be submitted by the Secretary of State to the President on each agreement for cooperation concluded pursuant to that section. Pursuant to subsection 123 a., the NPAS must analyze the consistency of the text of a proposed agreement with all the requirements of the Act, with specific attention to whether the proposed agreement is consistent with each of the criteria set forth in that subsection. The NPAS must also address the adequacy of the safeguards and other control mechanisms and the peaceful use assurances contained in the agreement to ensure that any assistance furnished thereunder will not be used to further any military or nuclear explosive purpose.

With this statutory mandate in mind, this NPAS: (a) provides background information on Norway's civil nuclear program, ongoing U.S.-Norwegian civil nuclear cooperation, Norway's civil nuclear cooperation with other countries, and Norway's nonproliferation policies (Part I); (b) describes the nature and scope of the cooperation contemplated in the proposed Agreement (Part II); (c) reviews the applicable substantive requirements of the Act and the Nuclear Nonproliferation Act of 1978 (NNPA) and details how they are met by the proposed Agreement (Part III); and (d) addresses the adequacy of the safeguards and other control mechanisms and the peaceful use assurances contained in the proposed Agreement

and sets forth the net assessment and conclusions of the Department of State as contemplated by subsection 123 a. of the Act (Part IV).

I. THE NONPROLIFERATION POLICIES AND NUCLEAR PROGRAM OF THE KINGDOM OF NORWAY

Overview

The proposed Agreement marks continued confidence in a long and mutually beneficial relationship with Norway in civil nuclear cooperation that began with the first U.S.-Norway bilateral agreement on that subject, signed in 1957. While Norway does not have a civilian nuclear energy program, its Halden heavy boiling water reactor (Halden reactor) was completed in 1958 and continues to operate as a multinational research and development facility with an approximate annual budget of €18 million (approximately $20 million).

Norway's Civil Nuclear Program: Focus on Research and Development

Norway has played a historically significant role in global civilian nuclear energy. Although almost all of Norway's electricity has traditionally been generated by hydropower (96 percent), in 1951 Norway became the sixth country in the world to construct a nuclear reactor with the opening of the JEEP-1 Reactor. The JEEP-1 Reactor was commissioned with the intention to produce radioactive isotopes for medicine and biology as well as neutron production. Given that Norway's indigenous uranium resources are negligible and its role as Europe's largest petroleum exporter and the world's third largest natural gas producer, the Norwegian Government has never seriously considered a civilian nuclear energy program. Despite this fact, the Government has a long history of strategic partnership with other countries for the purposes of nonproliferation, research, and development.

Norway currently has two research reactors and a low and intermediate level waste repository operated by the Institute for Nuclear Technology and regulated by the Norwegian Radiation Protection Authority. Commissioned in 1954, the Halden reactor is a 20 megawatt unit that serves as the primary reactor for the Halden Reactor Project, an international research initiative operated under the auspices of the Organization for Economic Cooperation and Development and jointly funded by 19 countries and more than 100 organizations, including utilities,

licensing authorities, and vendors. The Halden reactor uses low enriched uranium and is devoted to many types of safety research including fuel and cladding development, material research, and plant aging and degradation.

While JEEP-1 was shut down in 1973, Norway's other currently operating reactor is JEEP-2, which started in 1967 and is used for the production of radioisotopes and neutron physics research. In 1999, the Norwegian Government established a Combined Disposal and Storage Facility in Himdalen. The majority of the waste at this facility is in the form of radioactive sources used in industry and medicine.

Cooperation with the United States

Norway has had nuclear cooperation agreements with the United States since 1957. The most recent such agreement entered into force on July 2, 1984, and expired July 2, 2014. Norwegian cooperation with the United States has been limited to research and development. The United States provided the initial heavy water for the Halden reactor, and many U.S. companies and organizations have utilized the facilities of the Halden Reactor Project. The U.S. Department of Energy (DOE) and U.S. National Laboratories (including Idaho National Laboratory, Oak Ridge National Laboratory, and Pacific Northwest National Laboratory), have conducted research at the Halden reactor regarding control room modernization for DOE's Light Water Sustainability Program. Private firms such as Global Electric Global Nuclear Fuel, Westinghouse Nuclear, and research institutions such as the Electric Power Research Institute have also participated in activities at the Halden Reactor Project.

Norway's Nuclear Cooperation with Other Countries

As described above, the vast majority of Norway's international nuclear activities have occurred through its Halden Reactor Project. In addition, Norway actively promotes nuclear safety and security through cooperative initiatives. For example, in 2013, the Norwegian Radiation Protection Authority joined with the Romanian National Commission for Nuclear Activities Control and the International Atomic Energy Agency to begin a set of training activities to enhance regulatory competence in Romania. The goal of the project, which will be completed in 2017, is to improve the competence of the Romanian regulatory authority through the exchange of experiences, best practices and capacity building

in the areas of nuclear safety, integrated management systems and knowledge management, oversight and inspections, transport safety, emergency preparedness, control of radiation sources, radioactive waste, spent nuclear fuel management, and decommissioning. Similarly, in 2014, the regulatory authorities of Norway, Sweden, and Ukraine agreed to cooperate in making improvements to the regulatory guidelines of the State Nuclear Regulatory Inspectorate of Ukraine and establishing more robust safety systems at nuclear power plants in Ukraine. As a party to the Convention on Nuclear Safety, Norway actively supported the adoption of Vienna Declaration on Nuclear Safety at the International Atomic Energy Agency in 2015. As a party to the Convention on Nuclear Safety, Norway actively supported the adoption of the Vienna Declaration on Nuclear Safety at the International Atomic Energy Agency in 2015.

Norway's Nonproliferation Policy

Norway has a strong nonproliferation record. It is an original party to the Treaty on the Non-Proliferation of Nuclear Weapons ("NPT"). Its safeguards agreement with the International Atomic Energy Agency ("IAEA") entered into force on March 1, 1972. The Additional Protocol to its safeguards agreement entered into force on May 16, 2000 and Norway has been a vocal proponent for universal accession to the Additional Protocol, which grants the IAEA expanded safeguards authorities. It approved the Amendment to the Convention on the Physical Protection of Nuclear Material in 2009, and has signed and ratified the Comprehensive Test Ban Treaty and the International Convention for the Suppression of Acts of Nuclear Terrorism. It has pledged a total of €1.5 million ($1.65 million) to support the IAEA's verification activities under the Joint Comprehensive Plan of Action (JCPOA), makes frequent contributions to the IAEA's Nuclear Security Fund, and is an active participant in the Global Initiative to Combat Nuclear Terrorism. Additionally, in December 2015, Norway provided support for 60,000 kilograms of natural uranium (uranium concentrate) to be transported from Kazakhstan to Iran as part of a broader transaction related to export of Iran's enriched uranium in accordance with the JCPOA.

Norway is a party to the Biological Weapons Convention and the Chemical Weapons Convention. It is also a member of the Conference on Disarmament, the Nuclear Suppliers Group, the Missile Technology Control Regime, the Wassenaar Arrangement, and a participant in the Australia Group.

According to Norway, it has provided NOK 14 million in extraordinary funding for monitoring and verification of Iran's compliance with its commitments by the IAEA. Additionally, in December 2015 it provided support for the purchase and transport of natural uranium to Iran as a replacement for enriched uranium. Norway has also provided support for 60.000kg natural uranium (uranium concentrate) and its transportation from Kazakhstan to Iran, amounting to around USD 6 million. Experts from the Norwegian Radiation Protection Authority have verified and controlled the transportation of the natural uranium. This took place on December 27, 2015.

II. THE NATURE AND SCOPE OF COOPERATION CONTEMPLATED IN THE PROPOSED AGREEMENT

The proposed Agreement would permit a wide range of cooperation between the United States and Norway through the transfer of information, material, equipment and components. It allows for the transfer of information concerning the use of nuclear energy for peaceful purposes in fields such as materials testing, power reactors and reactor experiments, physical and biological research, medicine, agriculture, the nuclear fuel cycle, health, safety, and environmental considerations, and safeguards and physical security. With respect to material, equipment, and components, it would allow for transfer of source material and low enriched uranium for use as reactor fuel or for other agreed purposes. Like the 1984 Agreement, the proposed Agreement specifically prohibits the transfer of Restricted Data. Similarly, without an amendment, sensitive nuclear technology, sensitive nuclear facilities, and major critical components may not be transferred under the proposed Agreement. The proposed Agreement, once it enters into force, will also apply to material, equipment, and components that were subject to the 1984 Agreement.

The proposed Agreement would have a term of 30 years, although it could be terminated sooner on one year's written notice by either party. Notwithstanding the suspension, termination, or expiration of the proposed Agreement for any reason, key nonproliferation conditions and controls provided for in the proposed Agreement will (as discussed below) continue in effect as long as any material, equipment, or components subject to the articles of the Agreement containing those conditions and controls remains in the territory of the party concerned or under its jurisdiction or control anywhere or until such time as the parties mutually determine that such material, equipment, or components are no longer usable for any nuclear activity relevant from the point of view of safeguards.

The proposed Agreement would update the terms of cooperation set forth in the 1984 Agreement in several important respects. Examples of those changes include the following:

- Article 4 (Transfer of Material, Equipment and Components) of the 1984 Agreement allowed for the transfer of plutonium and highly enriched uranium as reactor fuel or for reactor experiments and other purposes where "technically and economically justified." The proposed Agreement provides greater limitations on transfer of special nuclear material. Except for small quantities for use as samples, standards, targets, detectors, or other agreed purposes, only low enriched uranium may be transferred.

- Article 6 (Reprocessing and Enrichment) of the proposed Agreement prohibits enrichment without consent, while the 1984 Agreement allowed for enrichment of uranium 235 up to 20 percent.

- Article 7 (Physical Security) of the proposed Agreement dispenses with the annex of physical security requirement levels that was included in the 1984 Agreement and now incorporates not only the most up-to-date IAEA recommendations on physical security of nuclear material and nuclear facilities (in INFCIRC/225/rev.5 and any subsequent revision to that document) but also both the parties' obligations under the Convention on the Physical Protection of Nuclear Material and any amendments to that Convention that enter into force for both parties.

- Article 9 (Safeguards) of the proposed Agreement makes source and special fissionable material transferred to Norway pursuant to the Agreement or used in or produced through the use of any transferred material, equipment, or components subject not only to Norway's safeguards agreement with the IAEA, as was material under the 1984 Agreement, but also to the Additional Protocol.

Like the 1984 Agreement, the proposed Agreement would provide advance consent to Norway to retransfer spent fuel for storage and reprocessing to the United Kingdom, France, or any other country or destination agreed upon in writing by the parties. It would also provide special rules for certain types of material transferred to Norway for use at the Halden Reactor Project. Such material could be irradiated or otherwise altered in form or content as part of the

Halden Reactor Project without further consent from the United States. Furthermore, the proposed Agreement would maintain the longstanding arrangement that non-U.S. fuel irradiated at the Halden Reactor Project does not become subject to the storage, retransfer, enrichment, and reprocessing controls of the agreement simply due to its having been "contaminated" by U.S.-supplied heavy water used as moderator material in that reactor.

III. THE PROPOSED AGREEMENT IS CONSISTENT WITH THE APPLICABLE LEGAL REQUIREMENTS OF THE ACT AND THE NUCLEAR NONPROLIFERATION ACT OF 1978

The provisions of proposed Agreement satisfy the applicable requirements of the Atomic Energy Act and the Nuclear Non-Proliferation Act of 1978.

The Atomic Energy Act

Subsection 123 a. of the Act sets forth nine specific requirements that must be met in most agreements for cooperation. As noted below, eight of those requirements are relevant with respect to the proposed Agreement.

(1) Application in Perpetuity of Safeguards: Pursuant to paragraph 123 a.(1), Norway, as the "cooperating party," must provide a guaranty:

> "that safeguards as set forth in the agreement for cooperation will be maintained with respect to all nuclear materials and equipment transferred pursuant [to the Agreement], and with respect to all special nuclear material used in or produced through the use of such nuclear materials and equipment, so long as the material or equipment remains under the jurisdiction or control of [Norway], irrespective of the duration of the other provisions of the agreement or whether the agreement is terminated or suspended for any reason."

The "safeguards as set forth in the agreement" are found in Article 9 of the proposed Agreement and the Agreed Minute and the guaranty that they will be maintained in perpetuity is found in Article 18.

Article 9 stipulates that (a) IAEA safeguards are to be applied to all nuclear activities within the territory, under the jurisdiction, or under the control of Norway; (b) nuclear material transferred to Norway pursuant to the Agreement and any other such material used in or produced through the use of material, equipment, or components so transferred shall be subject to safeguards in accordance with the Agreement between Norway and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on Non-Proliferation of Nuclear Weapons, which entered into force on March 1, 1972, and the Additional Protocol thereto, which entered into force on May 16, 2000; and (c) in the event the Norway-IAEA safeguards agreement is not being applied, Norway is to enter into an equivalent agreement with the IAEA or, if that is not possible, the parties are to establish equivalent bilateral safeguards arrangements ("fall-back" safeguards). The requirement for creation of fall-back safeguards is further amplified in the Agreed Minute, which establishes certain rights the United States would have unless both parties agree that the need to exercise those rights was satisfied by application of IAEA safeguards under other arrangements. Those rights would include the right to review in a timely fashion the design of any transferred equipment or relevant facilities, to require maintenance and production of records and reports to assist in ensuring accountability for covered material, and to designate personnel for inspection visits.

Both the primary safeguards requirements and the requirement to create fall-back safeguards would, according to Article 18, continue in effect so long as any material, equipment, or components subject to the Agreement remains in the territory of Norway or under its jurisdiction or control, unless the parties agree that it is no longer useable for any nuclear activity relevant from the point of view of safeguards. These requirements would therefore survive termination of the proposed Agreement.

(2) "Full-Scope" Safeguards: Subsection 123 a.(2) requires, as a condition of continued U.S. nuclear supply under an agreement for cooperation, maintenance by the cooperating party - if like Norway it is a "non-nuclear-weapon state" under the NPT - of IAEA safeguards on all nuclear material in all peaceful activities in the state or under its jurisdiction or control. Article 9(1) of the proposed Agreement satisfies this requirement. It provides that "Cooperation under this Agreement shall require the application of IAEA safeguards with respect to all nuclear activities within the territory of Norway, under its jurisdiction or carried out under its control anywhere."

(3) No Explosive or Military Use: Subsection 123 a.(3) requires agreements include a guaranty that no nuclear material, equipment, or sensitive nuclear technology, and no special nuclear material produced from such transferred items, will be used for any nuclear explosive device, for research on or development of any nuclear explosive device, or for any other military purpose. Article 8 of the proposed Agreement satisfies this requirement. Like many other U.S. nuclear cooperation agreements, it includes an even broader guaranty than is required under the Act: it applies to any material – not just special nuclear material, but also source material, moderator material, and byproduct material – used in or produced through transferred items or material.

With respect to sensitive nuclear technology or material produced through such technology, a specific guaranty of no explosive or military use is not required because no such technology is authorized to be transferred. As noted above, Article 3(4) provides that sensitive nuclear technology may not be transferred under the proposed Agreement unless it is amended for that purpose.

(4) Right of Return: Subsection 123 a.(4) requires that agreements provide that the United States has a right to require the return of any nuclear materials and equipment transferred pursuant to an agreement for cooperation and any special nuclear material produced through the use of such transferred items in the event of a nuclear detonation by the cooperating party or its termination or abrogation of an IAEA safeguards agreement. Article 12 of the proposed Agreement satisfies this requirement. Indeed, as is true in many existing agreements, the right to require return set forth in Article 12 applies not only to situations as required in the Act, but also to situations in which Norway does not comply with the storage, retransfer consent, enrichment or reprocessing consent, physical protection, and safeguards requirements of the proposed Agreement. The United States would be required to reimburse Norway for the fair market value of any returned items, but such a condition is consistent with the Act's requirement. This obligation would also survive the termination of the proposed Agreement.

(5) Retransfer Consent: Subsection 123 a.(5) requires agreements to include a guaranty that certain transferred items – material, Restricted Data, and production or utilization facilities (i.e., reactors and certain major component parts of reactors) – and any special nuclear material produced through use of such material or facilities will not be transferred to unauthorized persons or beyond the jurisdiction or control of the cooperating party without U.S. consent. According to

Article 3(3), Restricted Data cannot be transferred under the proposed Agreement. Article 5 of the proposed Agreement includes the necessary guaranty for all other required items.

Article 5 sets forth the basic rule that retransfer can only proceed with the consent of the parties to the proposed Agreement. In the Agreed Minute, however, the parties provide that consent in advance to retransfers of spent fuel for storage and reprocessing to the United Kingdom, France, and any other country or destination agreed to by the parties in writing.

As a general matter, advance consents incorporated into agreements for cooperation entered into pursuant to section123 have long been understood to be consistent with the Act. Sections 123 and 127 of the Act require that the United States have certain approval rights, including with respect to retransfer and reprocessing, but no provision of the Act precludes the United States from giving such approvals in advance. This identical consent was included in the 1984 Agreement and similar types of advance consents appear in, among others, U.S. nuclear cooperation agreements with the Republic of Korea, Japan, the European Atomic Energy Community (EURATOM), Switzerland, the United Arab Emirates, and the authorities on Taiwan. Congress, after careful and detailed consideration of both the principles of including advance long-term consents in nuclear cooperation agreements and their implementation in specific agreements, has not blocked their use in any of these agreements.

Section 131 of the Act, however, establishes procedural requirements for arrangements entered into by the United States for, among other things, approvals for transfer of nuclear material and equipment where prior approval is required by an agreement for cooperation. Such "subsequent arrangements," as they are defined by the Act, must undergo scrutiny to determine if they meet certain nonproliferation requirements, and are subject to their own public and in certain cases Congressional notice requirements. The question has been raised whether an arrangement within an agreement for cooperation must meet these section 131 requirements as well. We have previously determined that consent provided within an agreement for cooperation does not constitute a "subsequent arrangement" and that the Act does not require that such consent meet the section 131 requirements. That said, as a matter of policy, we have analyzed advance consent arrangements under the criteria of section 131 and shown that they meet those criteria as well. Consistent with that policy, we consider here whether the

advance consent to retransfer spent fuel to the United Kingdom or France for storage and reprocessing could be understood to satisfy the criteria of section 131.

Of primary importance in this analysis is whether the arrangement being consented to would be inimical to the common defense and security of the United States. Because the arrangement is subject to terms and conditions set forth in the proposed Agreement that make it entirely consistent with the statutory nonproliferation requirements set forth in sections 127 and 128 of the Act, it would not be inimical to the common defense and security of the United States.

The proposed Agreement imposes significant conditions on retransfers for storage and reprocessing. These conditions will ensure that, among other things, (1) the material would be held subject to the terms of an agreement for peaceful nuclear cooperation with the United States; (2) the United States would be notified of any transfers; and (3) the United States would have the right to terminate consent in the event it determines that exceptional circumstances of concern from a nonproliferation or security standpoint, such as a significant increase in the risk of proliferation, so require. Because, with respect to the United Kingdom and France, any material would have to be held 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 (the "U.S.-EURATOM Agreement"), the provisions of that agreement will ensure that the material will be held subject to safeguards and appropriate physical protection and could not be further transferred without U.S. consent except as provided in that agreement. This advance consent is therefore consistent with U.S. policy and statutory requirements that apply to retransfers generally. See 42 U.S.C. § 2156 (section 127 of the Act).

Another key requirement of section 131 for certain arrangements relating to reprocessing (for example, when they involve reprocessing in a facility that did not exist prior to 1978) is that the Secretaries of State and Energy determine that the reprocessing or retransfer will not result in a significant increase of the risk of proliferation. For facilities in the United Kingdom and France for which consent is being provided in the proposed Agreement, however, that determination was already made in the context of consideration of the U.S.-EURATOM Agreement, see H. Doc. 104-138, Nov. 29, 1995, at 208-238, and is still valid.

Other criteria under section 131 relate to public and Congressional notice. All subsequent arrangements must be published in the *Federal Register* at least

15 days before they take effect, and in addition, certain subsequent arrangements involving retransfer of special nuclear material for reprocessing must lie before Congress for fifteen days of continuous session before they can become effective. The requirements of section 123 for the proposed Agreement, however, including ninety days of Congressional review, are more stringent in these areas. Thus, although not required, the advance retransfer consent contained in the proposed Agreement could satisfy the criteria set out in section 131 for subsequent arrangements.

(6) Physical Security: Subsection 123 a.(6) requires agreements to include a guaranty that "adequate physical security" will be maintained with respect to any nuclear material transferred pursuant to an agreement of cooperation and any special nuclear material used in or produced through the use of nuclear material or equipment transferred. The term "adequate physical security" is not defined in section 123, but section 127(3) of the Act says that physical security measures shall be deemed adequate if they "provide a level of protection equivalent to that required by the applicable regulations." The Nuclear Regulatory Commission, in regulations set forth at 10 C.F.R. §110.44, requires that physical security measures in recipient countries provide protection at least comparable to the current IAEA recommendations, published at INFCIRC/225/Revision 5.

Article 7 of the proposed Agreement meets this requirement. It requires maintenance of "adequate" physical security with respect to transferred material and equipment as well as special fissionable material used in or produced from it, and further sets forth that compliance requires application of measures in accordance with levels at least equivalent to the IAEA INFCIRC/225/Revision 5 recommendations and any subsequent revisions accepted by the parties. Moreover, it requires measures to be in accordance with the provisions of the Convention on the Physical Protection of Nuclear Material and any amendments to that Convention that enter into force for both parties. The adequacy of physical security measures is further subject to review and consultations by the parties periodically and whenever either party believes revised measures may be required to maintain adequate physical security.

(7) Enrichment/Reprocessing/Alteration Consent:– Subsection 123 a.(7) requires a guaranty that no material transferred pursuant to the agreement for cooperation or used in or produced through the use of any material, production facility, or utilization facility transferred pursuant to the agreement "will be reprocessed, enriched or (in the case of plutonium, uranium 233, or uranium enriched to greater

than twenty percent in the isotope 235, or other nuclear materials which have been irradiated) otherwise altered in form or content without the prior approval of the United States." This requirement is met by Article 6 of the proposed Agreement.

For enrichment, Article 6 establishes a general rule that uranium transferred pursuant to the Agreement or used in or produced through transferred equipment shall not be enriched unless the parties agree. (As in all other U.S. 123 agreements, the enrichment rule specifies uranium rather than "any material" because in common usage the term "enrichment" refers only to the increase of the isotope uranium 235 beyond the amount that exists in nature.) As noted, this is a change from the 1984 Agreement, which permitted enrichment up to 20%.

For reprocessing, Article 6 also establishes a general rule that material transferred pursuant to the Agreement, and material used in or produced through the use of transferred material or equipment, can only be reprocessed if the parties agree.

Finally, with respect to alteration in form or content, the proposed Agreement provides that plutonium, U-233, highly enriched uranium, and irradiated nuclear material transferred pursuant to the agreement or used in or produced through the use of transferred material or equipment shall not be altered in form or content without agreement of the parties except by certain methods: irradiation or re-irradiation; post-irradiation examination involving chemical dissolution or separation; disassembly or reassembly of fuel assemblies; or treatment of waste. These basic operations do not raise proliferation concerns in this case as such types of alteration do not lead to the separation of uranium or plutonium in such a manner that they may be easily useable for malicious purposes. Rather, such forms of alteration are useful primarily for research and development and, as noted above, providing such consent within the proposed Agreement is consistent with section 123. In the Agreed Minute, the parties further confirm that, with respect to material authorized by the United States to be transferred to Norway for irradiation at the Halden Reactor Project, no further agreement would be required for analysis of the material subsequent to its irradiation. Such analysis is an integral part of the research being done as part of that project, and the alteration that may need to be done in each case is generally considered at the same time as the fuel export itself is being reviewed.

There is one exception to the general rule set out in the Agreed Minute to the proposed Agreement. The controls on enrichment and reprocessing of nuclear

material do not apply to non-U.S. fuel that may be irradiated at the Halden Reactor Project and "contaminated" by moderator material provided by the United States prior to 1984. Such controls were not required by the cooperation agreement in place at the time, which dated back to 1967, and although the United States attempted to obtain retroactive coverage at the time of the negotiation of the 1984 agreement, it was eventually determined that the special provision was acceptable in light of the importance of the Halden Reactor Project, the disruption that U.S. obligations on fuel in these circumstances might create, and the protections otherwise in existence in the project. These issues are discussed in more detail in the NPAS accompanying the 1984 Agreement. See H. Doc. 98-164, Jan. 26, 1984, at 66-68, 76-77. In any event, the exception does not apply to material that might be provided by the United States under the proposed Agreement (nor, for that matter, to material provided under the 1984 Agreement).

(8) Storage: Subsection 123 a.(8) requires agreements to include a guaranty that specified nuclear materials – plutonium, uranium 233, and highly enriched uranium – transferred under the Agreement or recovered from nuclear material that was transferred or used in transferred equipment will only be stored in facilities approved in advance by the United States. Article 5(1) of the proposed Agreement contains this guaranty. The Agreed Minute includes the parties' acknowledgment that, in practice, approval of storage facilities would normally occur in the process of authorizing the transfer of material in question.

(9) Sensitive Nuclear Technology: Subsection 123 a.(9) addresses the need for a guaranty applicable to certain situations that may result when sensitive nuclear technology is transferred pursuant to an agreement for cooperation. This requirement is not applicable to the proposed Agreement because, according to Article 3(4), sensitive nuclear technology may only be transferred under the Agreement if provided for by an amendment to the Agreement. Such an amendment would need to address, among other things, the requirements of subsection 123 a.(9).

The Nuclear Non-Proliferation Act

As relevant to the proposed Agreement, sections 402 and 407 of the Nuclear Non-Proliferation Act of 1978 (NNPA) also address the content of agreements for peaceful nuclear cooperation.

(1) Major Critical Components: Section 402(b) of the NNPA precludes the transfer under an agreement for cooperation of component parts determined to be essential to the operation of a uranium enrichment, nuclear fuel reprocessing, or heavy water production facility unless the agreement specifically designates such components as items to be exported. Article 4(5) of the proposed Agreement specifies that such "major critical components" may only be transferred under the agreement if provided for by an amendment to the Agreement. Such an amendment would need to address, among other things, the requirements of section 402(b).

(2) Environment: Section 407 of the NNPA urges the inclusion in agreements for cooperation of provisions for cooperation in protecting the environment from radioactive, chemical, or thermal contamination arising from peaceful nuclear activities. Article 14 of the proposed Agreement provides for consultation about such environmental implications and cooperation in protection of the international environment as well as in related matters of health and safety. Consultation is also anticipated regarding arrangements for emergency preparedness and response. In addition, the preamble to the proposed Agreement includes a provision indicating that the parties are mindful that peaceful nuclear activities must be undertaken with a view to protecting the international environment from radioactive, chemical, and thermal contamination.

The proposed Agreement thus satisfies all the substantive requirements specified for agreements for cooperation by the Act and the NNPA.

IV. CONCLUSION

Consistent with the NPT's objectives, the United States and Norway have engaged in bilateral civil nuclear cooperation for more than fifty years. The proposed Agreement is an essential step in continuing this long-standing relationship. Norway's record of support of all aspects of the international nuclear nonproliferation regime, described above, is well-established. Throughout the nearly 30-year history of bilateral cooperation under the 1984 Agreement, Norway's commitment to principles of nonproliferation and disarmament has been undiminished, and statements of the Norwegian Government have consistently reiterated this commitment.

Entry into force of the proposed Agreement will provide the framework to permit continuation of mutually beneficial peaceful nuclear cooperation between the United States and Norway.

On the basis of the analysis in this NPAS and all pertinent information of which it is aware, the Department of State has arrived at the following assessment and conclusions:

1. The safeguards and other control mechanisms and the peaceful use assurances in the proposed Agreement are adequate to ensure that any assistance furnished thereunder will not be used to further any military or nuclear explosive purpose.
2. The proposed Agreement meets all the legal requirements of the Act and the NNPA.
3. Execution of the proposed Agreement would be compatible with the nonproliferation program, policy, and objectives of the United States.

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May 26, 2016

UNCLASSIFIED

MEMORANDUM FOR THE PRESIDENT

FROM: John F. Kerry
Secretary of State

Ernest J. Moniz
Secretary of Energy

SUBJECT: Proposed Agreement for Cooperation between the Government of the United States of America and the Government of the Kingdom of Norway Concerning Peaceful Uses of Nuclear Energy

The United States and Norway have completed negotiation of a proposed agreement for cooperation between the Government of the United States of America and the Government of the Kingdom of Norway concerning peaceful uses of nuclear energy (the "agreement"). The United States and Norway have a long history of peaceful nuclear cooperation, dating back to 1957, but there is no such agreement currently in force, as the most recent agreement expired by its terms July 2, 2014. If you authorize execution of the proposed agreement, it will be signed by representatives of the Governments of the United States and Norway. After signature, in accordance with subsections 123 b. and d. of the Atomic Energy Act of 1954, as amended (the Act), the agreement must lie before both houses of Congress for review for 90 days of continuous session. Unless a joint resolution of disapproval is enacted, the agreement may then be brought into force.

The proposed agreement contains all the provisions required by subsection 123 a. of the Act. It provides a comprehensive framework for peaceful nuclear cooperation with Norway based on a mutual commitment to nuclear nonproliferation. It would permit the transfer of unclassified information, material, equipment (including reactors), and components for nuclear research and nuclear power production. Norway has no nuclear power program, and no current plans for establishing one, but the proposed agreement would facilitate cooperation on such a program if Norway's plans change in the future. Norway does have an active nuclear research program and the focus of cooperation under the proposed

agreement, as under the previous agreement, is expected to be in the area of nuclear research. The proposed agreement would not permit transfers of restricted data, sensitive nuclear technology, sensitive nuclear facilities, or major critical components of such facilities.

The proposed agreement provides advance, long-term ("programmatic") consent to Norway for the retransfer for storage or reprocessing of irradiated nuclear material (spent fuel) subject to the agreement to France, the United Kingdom, or other countries or destinations as may be agreed upon in writing. The United States has given similar advance consent to various other partners, including to Norway under the previous U.S.-Norway peaceful nuclear cooperation agreement that was in force from 1984 to 2014. The proposed agreement would give the United States the option to revoke the advance consent if it considers it to be required by exceptional circumstances of concern from a nonproliferation or security standpoint; for example, if it believes that the arrangements cannot be continued without a significant increase of the risk of proliferation or without jeopardizing national security.

The proposed agreement has a term of 30 years, although it can be terminated by either party on one year's advance written notice. In the event of termination or expiration of the agreement, key nonproliferation conditions and controls will continue in effect as long as any material, equipment, or component subject to the agreement remains in the territory of the party concerned or under its jurisdiction or control anywhere, or until such time as the parties agree such items are no longer usable for any nuclear activity relevant from the point of view of safeguards.

Norway is a non-nuclear-weapon state party to the Treaty on the Non-proliferation of Nuclear Weapons (NPT). Norway has concluded a safeguards agreement and additional protocol with the International Atomic Energy Agency. Norway is a party to the Convention on the Physical Protection of Nuclear Material, which establishes international standards of physical protection for the use, storage, and transport of nuclear material. It is also a member of the Nuclear Suppliers Group, whose non-legally binding guidelines set forth standards for the responsible export of nuclear commodities for peaceful use. A more detailed discussion of Norway's domestic civil nuclear activities and its nuclear nonproliferation policies and practices, including its nuclear export policies and practices, is provided in the Nuclear Proliferation Assessment Statement (NPAS), and in a classified annex to the NPAS submitted to you separately.

In accordance with the provisions of section 123 of the Act, the proposed agreement was negotiated by the Department of State, with the technical assistance and concurrence of the Department of Energy. The proposed agreement has also been reviewed by the members of the Nuclear Regulatory Commission. The Commission's views are being submitted to you separately.

In our judgment, the proposed agreement satisfies all requirements of U.S. law for agreements of this type. We believe, as well, that U.S. cooperation with Norway in the peaceful uses of nuclear energy under the proposed agreement will be supportive of U.S. nonproliferation, foreign policy, and commercial interests. We recommend, therefore, that you determine, pursuant to subsection 123 b. of the Act, that performance of the proposed agreement will promote, and will not constitute an unreasonable risk to, the common defense and security. We also recommend that you approve the proposed agreement and authorize its execution.

Recommendation:

That you sign the transmittal letter to the Congress and the Presidential determination.

Attachments:

Tab 1 – Draft Letter to Congress [Held until after Agreement is signed]
Tab 2 – Draft Presidential Determination
Tab 3 – Text of Proposed Agreement
Tab 4 – Nuclear Proliferation Assessment Statement

CHAIRMAN

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 21, 2016

The President
The White House
Washington, DC 20500

Dear Mr. President:

In accordance with the provisions of Section 123 of the Atomic Energy Act of 1954, as amended, the United States Nuclear Regulatory Commission reviewed the proposed Agreement for Cooperation between the Government of the United States of America and the Government of the Kingdom of Norway Concerning Peaceful Uses of Nuclear Energy. It is the view of the Commission that the proposed Agreement includes all of the provisions required by law and provides a sufficient framework for continued civilian nuclear cooperation between the United States and Norway. The Commission therefore recommends that you make the requisite positive statutory determination, approve the proposed Agreement, and authorize its execution.

Respectfully,

Stephen G. Burns

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