

AGREEMENT FOR NUCLEAR COOPERATION BETWEEN
THE UNITED STATES AND CHINA

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REPORT RELATING TO THE APPROVAL AND IMPLEMENTATION
OF THE AGREEMENT FOR NUCLEAR COOPERATION BETWEEN
THE UNITED STATES AND THE PEOPLE'S REPUBLIC OF CHINA,
PURSUANT TO 42 U.S.C. 2153(d)



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THE WHITE HOUSE,
Washington, January 12, 1998.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I am writing to you with respect to sections (b)(1) and (b)(2) of Public Law 99-183, relating to the approval and implementation of the Agreement for Nuclear Cooperation Between the United States and the People's Republic of China, and with respect to section 902(a)(6)(B) of Public Law 101-246. The sections of Public Law 99-183 cited above require certifications to the Congress and a report to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate before exports or retransfers to China under the Agreement may begin. Sections 902(a)(6)(B) (i), (ii) and (iii) of Public Law 101-246 require a certification to the Congress and report to the Congress before terminating the suspensions and automatic disapprovals of nuclear cooperation with China.

I have made the certifications pursuant to section (b)(1) of Public Law 99-183 and section 902(a)(6)(B)(i) of Public Law 101-246, a copy of which is enclosed. The certifications pursuant to section (b)(1) of Public Law 99-183 satisfy the condition under section 902(a)(6)(B)(ii). Submitted herewith, in accordance with the requirements of section (b)(2) of Public Law 99-183, is a report in unclassified form detailing the history and current developments in the nonproliferation policies, practices and assurances of the People's Republic of China. Because of the information controls that apply to the classified report, I am transmitting it by separate letter to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence.

In accordance with Public Law 99-183, I have certified as to three matters:

(A) That the reciprocal arrangements made pursuant to Article 8 of the Agreement have been designed to be effective in ensuring that any nuclear material, facilities or components provided under the Agreement shall be utilized solely for intended peaceful purposes as set forth in the Agreement.

The arrangements for exchanges of information and visits are provided for in a Memorandum of Understanding initialed on June 23, 1987. Side notes on protection of business confidential information were signed on October 22, 1997. These documents, along with a detailed explanation of my certification, are enclosed. These arrangements will provide the United States with the right to obtain all the information necessary to maintain an inventory of the items subject to the Agreement. This will include information on the operation of facilities subject to

the Agreement, the isotopic composition, physical form and quantity of material subject to the Agreement and the places where items subject to the Agreement are used or kept. The arrangements also provide the United States with the right to confirm through on-site visits the use of all items subject to the Agreement. Finally, the arrangements apply as long as the provisions of Article 8(2) of the Agreement continue in effect, that is, as long as items subject to the Agreement remain in China's territory or under its jurisdiction or control. My determination that these arrangements have been designed to be effective in ensuring that items provided under the Agreement are utilized for intended peaceful purposes is based on consideration of a range of factors, including the limited scope of nuclear cooperation permitted under the Agreement, U.S. export-control procedures that will apply to any transfers to China under the Agreement, the fact that the People's Republic of China is a nuclear-weapons state and that the safeguards of the International Atomic Energy Agency (IAEA) or their equivalent are not required by the Atomic Energy Act for agreements for cooperation with nuclear weapon states. These arrangements will be published in the *Federal Register* using the procedure applicable to subsequent arrangements under section 131(a) of the Atomic Energy Act.

(B) That the Government of the People's Republic of China has provided additional information concerning its nuclear non-proliferation policies and that, based on this and all other information available to the United States Government, the People's Republic of China is not in violation of paragraph (2) of section 129 of the Atomic Energy Act of 1954.

The United States Government has received additional information from the People's Republic of China concerning its nonproliferation policies since the enactment of Public Law 99-183 on December 16, 1985, most recently, China's May 1996 statement, its May 1997 State Council Notice on nuclear export policy and its September 1997 nuclear export control regulations (all of which are discussed in the enclosed unclassified report on China's nonproliferation policies and practices). On the basis of this and all other information available to the United States Government, I conclude that there is no legal bar to cooperation in this area, and, in particular, that paragraph (2) of section 129 of the Atomic Energy Act does not foreclose nuclear cooperation. The Government of the People's Republic of China has made substantial strides in joining the international nonproliferation regime, and in putting in place a comprehensive system of nuclear-related, nationwide export controls, since the nuclear cooperation agreement was concluded in 1985. I believe the initiation of cooperation under the Agreement will bring significant nonproliferation benefits to the United States.

(C) That the obligation to consider favorably a request to carry out activities described in Article 5(2) of the Agreement shall not prejudice the decision of the United States to approve or disapprove such a request.

The U.S. consent rights provided for in Article 5(2) of the Agreement satisfy this standard because the specific language used ensures that the United States must exercise an approval right before the activity in question is carried out. During Congressional consideration of the Agreement, the executive branch provided both the Senate Foreign Relations Committee and the House Foreign Affairs Committee with a legal memorandum on issues relating to the Agreement which covered this point in detail.

In accordance with Public Law 101-246, I have certified that China has provided clear and unequivocal assurances to the United States that it is not assisting and will not assist any nonnuclear-weapon state, either directly or indirectly, in acquiring nuclear explosive devices or the material and components for such devices. This certification is based on the statements, policies, and actions by China that were discussed above in connection with the certification under section (b)(1)(A) of Public Law 99-183.

Pursuant to the authority vested in me by section 902(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246), I hereby report to the Congress that it is in the national interest of the United States to terminate the suspensions and automatic disapprovals under section 902(a)(6). A document discussing the rationale for this report is enclosed. I believe the Agreement will have a significant, positive impact in promoting U.S. nonproliferation and national security interests with China and in building a stronger bilateral relationship with China based on respect for international norms.

This report under section 902(b)(2) satisfies the condition under section 902(a)(6)(B)(iii).

With the submission of the certifications and reports called for by Public Law 99-183 and Public Law 101-246, I am pleased that the process is underway to begin nuclear cooperation with China.

Sincerely,

WILLIAM J. CLINTON.

Enclosures:

1. Presidential Determination.
2. Unclassified Report on China's Nonproliferation Policies, Practices and Assurances Required by Public Law 99-103.
3. U.S.-PRC Memorandum of Understanding on Exchanges of Information and Visits and Side Notes on Protection of Business Confidential Information.
4. Basis for certification under section (b)(1)(A) of Public Law 99-183.
5. Rationale for Report Required by Public Law 101-246.

Presidential Determination No. 98-10

THE WHITE HOUSE,
Washington, January 12, 1998.

Memorandum for the Secretary of State
Subject: Certification Pursuant to Section (b)(1) of Public Law 99-183 and to Section 902 (a)(6)(B) of Public Law 101-246

Pursuant to section (b)(1) of Public Law 99-183 of December 16, 1985, relating to the approval and implementation of the Agreement for Cooperation Between the United States and the People's Republic of China, I hereby certify that:

(A) the reciprocal arrangements made pursuant to Article 8 of the Agreement have been designed to be effective in ensuring that any nuclear material, facilities, or components provided under the Agreement shall be utilized solely for intended peaceful purposes as set forth in the Agreement;

(B) the Government of the People's Republic of China has provided additional information concerning its nuclear non-proliferation policies and that, based on this and all other information available to the United States Government, the People's Republic of China is not in violation of paragraph (2) of section 129 of the Atomic Energy Act of 1954; and

(C) the obligation to consider favorably a request to carry out activities described in Article 5(2) of the Agreement shall not prejudice the decision of the United States to approve or disapprove such a request.

Pursuant to section 902(a)(6)(B)(i) of Public Law 101-246, I hereby certify that the People's Republic of China has provided clear and unequivocal assurances to the United States that it is not assisting and will not assist any nonnuclear-weapon state, either directly or indirectly, in acquiring nuclear explosive devices or the material and components for such devices.

You are authorized and directed to publish this determination in the *Federal Register*.

WILLIAM J. CLINTON.

**Unclassified Report to Congress on the
Nonproliferation Policies and Practices
of the People's Republic of China**

Summary

China's policy toward the proliferation of nuclear weapons has undergone major and positive changes since the early 1980s. For more than three decades after World War II, China not only remained aloof from international nuclear affairs but also adopted an attitude openly critical of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). China did not require safeguards on its nuclear exports to non-nuclear weapon states and did not establish effective nuclear export controls of the type adopted by members in good standing of the international nonproliferation community. Most significantly, China provided assistance to Pakistan's unsafeguarded nuclear program.

Beginning in the early 1980s, however, China began emerging from its isolation. It became a member of the International Atomic Energy Agency (IAEA) in 1984, adopted a policy of requiring IAEA safeguards on its nuclear exports, announced that it would not assist other countries to develop nuclear weapons, and in 1989 concluded an agreement with the IAEA for the application of safeguards in China. In 1992, China set aside its criticism of the NPT and became a party to the Treaty, thereby assuming legally binding commitments not to assist non-nuclear weapon states to acquire or manufacture nuclear weapons and to require safeguards on its nuclear exports to non-nuclear weapon states. In 1995, China supported the indefinite extension of the NPT. In 1996, China announced a moratorium on nuclear explosive testing in July and signed the Comprehensive Test Ban Treaty (CTBT) in September. Also in 1996, China publicly committed itself not to assist unsafeguarded nuclear facilities.

With respect to nuclear export controls, China took a number of steps in 1997 to establish an effective and comprehensive national nuclear export control system. In May 1997, China's State Council approved a circular notice to government and industry requiring strict implementation of China's nuclear export policy of not assisting other countries to acquire nuclear weapons. This notice was supplemented in June by China's publication of a list of controlled nuclear dual-use items identical to the list adopted by the Nuclear Suppliers Group. Also in May, China attended the Zangger Committee's semiannual meeting as an observer, and in October China attended the Zangger Committee as a full member. In September 1997, China promulgated nation-wide nuclear export control regulations accompanied by a list of controlled nuclear items which the Chinese side stated is

identical to the trigger list adopted by the Nuclear Suppliers Group. The new nuclear export control regulations restate China's nuclear export policy that: 1) all exports are for peaceful purposes only; 2) recipients must accept IAEA safeguards; and 3) no reexport to a third country without Chinese government approval. China is finalizing a similar system of export controls on nuclear-related, dual-use items. China has also stated that government departments have the right to exercise "catch-all" authority over nuclear-related dual-use items. China confirmed publicly in October 1997 that its regulations strictly prohibit any exchange of nuclear weapons-related technology with other countries and provide for a denial of assistance to nuclear explosive activities in addition to unsafeguarded nuclear facilities (attached).

China's nuclear cooperation with Iran has significantly lessened over the past two years. The sale of a uranium conversion facility, regarded as a key link in Iran's nuclear weapons program, has been suspended, and such minimal cooperation as is presently ongoing does not present a proliferation threat and will be completed in a relatively short time. China has provided a clear assurance that it is not going to engage in new nuclear cooperation with Iran.

China appears to be acting consistently with its May 1996 commitment not to provide assistance to unsafeguarded nuclear facilities. We are not aware of any transfers of equipment or material by Chinese entities to Pakistan's unsafeguarded nuclear program. We have discussed with Chinese officials the need for a clear understanding of what this commitment entails and are confident that we share a mutual understanding on this issue, including the prohibition on any transfer of nuclear weapons-related technology or information to non-nuclear weapons states. While we have discussed with Chinese officials specified cases of potential concern involving contacts between Chinese entities and elements associated with Pakistan's nuclear weapons program, our current information indicates that China appears to be acting consistently with its May 1996 statement. We will continue to monitor China's nuclear export and nonproliferation policies and practices carefully.

This report discusses the evolution of Chinese nonproliferation policies and practices and assurances and describes the assurances provided by China on nonproliferation and nuclear cooperation matters.

Pre-1983 Approach to Nonproliferation and Nuclear Trade

Throughout the era of Mao Zedong, the People's Republic of China (PRC) generally remained aloof from the international community

on nuclear matters. Domestically, it focused almost completely on its military nuclear program. Some limited civil nuclear research was conducted as an offshoot of the military nuclear effort, but the PRC had no serious civil nuclear energy or research program. Internationally, the PRC had little or no involvement with other countries or international organizations in the peaceful uses of nuclear energy. It did not belong to the International Atomic Energy Agency (IAEA). It did not become a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) or associate itself with the principles of the NPT.

During the 1960s and 1970s, China's position on nuclear proliferation was closely tied with its position on superpower disarmament and its aspirations for leadership of the Third World. China argued that the spread of nuclear weapons to additional countries would diminish the power of the United States and the Soviet Union, and rejected the view that an increase in the number of nuclear-weapon states would enhance the risk of nuclear war. China also postulated that the introduction of nuclear weapons to nations in the Third World could increase the opportunity for revolutionary change that would work to the benefit of the Third World.

With the rise of the post-Mao leadership, increased emphasis was placed on economic modernization. The foreign exchange cost of modernization was seen to be great, and in 1979 Premier Hua Guofeng issued a directive to the Chinese government to increase China's foreign exchange earnings. The proposed expansion of economic activity also required increased energy supplies. To meet part of the projected increase in future energy requirements, China launched an ambitious civil nuclear power program. Because China had not developed its own technology for nuclear power generation, it decided both to import nuclear power plant equipment and technology and to develop its own industrial capabilities in nuclear power so that eventually it would be able to become self-sufficient in this area. To acquire this technology, China began negotiating with Western supplier governments.

With respect to Chinese nuclear exports, at the outset there appeared to be no central government involvement in overseeing and approving such exports. Negotiation of sales contracts was left to individual Chinese government export companies with responsibilities for specific materials, for which it was believed there were potential foreign markets. Most Chinese transactions in this period were arranged on a company-to-company basis with commercial intermediaries negotiating with the Chinese on behalf of a prospective foreign purchaser. Conditions for the export of nuclear materials at this time were generally minimal or non-existent.

Evolution of PRC Nonproliferation Policy During the Period of U.S.-PRC Negotiations on the 1985 Nuclear Cooperation Agreement

By 1982 some changes in China's approach to nuclear exports could be discerned. This may have resulted from a series of demarches made to China on its nuclear export practices by the United States and by several West European governments.

At the beginning of the Reagan Administration, the People's Republic of China expressed interest in acquiring U.S. nuclear power technology. The United States believed that discussion with the PRC on the terms for acquisition of U.S. civil nuclear technology would provide the United States with an opportunity to begin a dialogue on nonproliferation issues with the People's Republic. Preliminary discussions were held in Beijing in the fall of 1981 on the provisions of a possible U.S.-PRC nuclear cooperation agreement. Because of continuing U.S. concerns about China's nuclear nonproliferation policies and its relationship with Pakistan, Secretary Shultz raised the question of China's nonproliferation policy in Beijing in February 1982, and the United States invited the Chinese government to send a team to the United States to discuss nonproliferation policy and nuclear cooperation issues in detail.

The People's Republic of China accepted the U.S. invitation, and five rounds of negotiations were held between July 1983 and April 1984. In the course of these negotiations, the text of a proposed U.S.-PRC Agreement for Cooperation in the Peaceful Uses of Nuclear Energy was developed. Throughout these discussions, there was a continuing dialogue on the subject of nonproliferation policy. The U.S. side made clear to the Chinese in every round of negotiations that shared nonproliferation principles were an essential ingredient for bringing into force an agreement for cooperation as well as for the continuation of cooperation thereafter.

In mid-1983, during the early stages of our negotiations on the text of an agreement, the Chinese informed the United States that China would join the International Atomic Energy Agency (IAEA) (which it did on January 1, 1984) and that upon its joining, the People's Republic of China would require IAEA safeguards for its nuclear exports to non-nuclear weapon states. In September 1984, at the first IAEA General Conference attended by China as an IAEA member, the PRC representative announced the PRC's policy on safeguards:

"China will, in exporting its nuclear materials and equipment, request the recipient countries to accept safeguards in line with the principles established by the

Agency's statute. In the same view, when importing nuclear material and equipment, China will also make sure that they are used for peaceful purposes."

The U.S.-PRC peaceful nuclear cooperation agreement was initialed during President Reagan's visit to China in April 1984. However, concerns persisted about continued assistance to unsafeguarded nuclear programs. Before forwarding the agreement to President Reagan, Executive Branch agencies felt it necessary to ensure that the United States and China had a full mutual understanding of our respective nonproliferation policies and practices. This was accomplished through additional consultations held with China. In these consultations, the United States and China discussed their respective policies on nuclear exports and assistance in detail. The Reagan Administration concluded in mid-1985 that a sufficient basis existed to proceed with the agreement.

The U.S.-PRC agreement for cooperation was signed on July 23, 1985, and transmitted to Congress the following day. Congress approved the agreement on December 16, 1985, but at the same time established a requirement for Presidential certifications and a report to Congress on China's nonproliferation policies and practices before the agreement could be implemented.

The Period Following Approval

The United States decided not to proceed with implementation of the 1985 nuclear cooperation agreement because of continuing questions about contacts between Chinese entities and elements associated with the Pakistani nuclear weapons program.

China's Growing Support for the Nonproliferation Regime: Adherence to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and the CTBT

China's attitude toward IAEA safeguards and the NPT continued to evolve through the 1980s and into the 1990s. In 1989, China concluded a voluntary safeguards agreement with the IAEA for the application of IAEA safeguards in China. In 1990, China for the first time attended an NPT review conference and in early 1992 the People's Republic of China became party to the NPT.

During this period China also took further steps to strengthen the international nonproliferation regime. In November 1991, China informed the Director General of the IAEA that China would henceforth provide the IAEA information on its exports and imports of nuclear material. This commitment was made in the interest of assisting IAEA safeguards activities. The Chinese correspondence with the IAEA was published as INFCIRC 207/Add.2

in December 1991. In 1993, China joined the United States and others in supporting a UN General Assembly resolution calling for the conclusion of a nondiscriminatory, multilateral and verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices. At the 1995 NPT Review and Extension Conference, China supported the U.S. effort to extend the NPT indefinitely. China also played a positive role in support of the U.S.-DPRK Agreed Framework under which the DPRK agreed to freeze and dismantle its nuclear program. In 1996, China announced a moratorium on nuclear explosive testing in July and signed the Comprehensive Test Ban Treaty (CTBT) in September.

Relations with Pakistan Since China's Adherence to the NPT

Following China's accession to the NPT, the United States continued to be concerned about China's association with Pakistan's unsafeguarded nuclear facilities.

For example, in 1995 we received information involving nuclear cooperation between China and Pakistan, including shipment of ring magnets, a critical component of the upper suspension assembly of gas centrifuge machines. The ring magnet issue was raised on a number of occasions with China, including in discussions between Secretary of State Christopher and Vice Premier Qian Qichen in April 1996. In the course of these discussions, the United States received clarifications and assurances regarding China's policies toward nuclear nonproliferation and nuclear cooperation with other countries. The Chinese side assured the United States that China will not provide assistance to unsafeguarded nuclear facilities, including ring magnets, and that China stands for the strengthening of the international nuclear nonproliferation regime, including the strengthening of safeguards and export control measures. These assurances were reflected in the public statement issued by the Chinese Foreign Ministry on May 11, 1996 and were reiterated in the plenary statement delivered by the head of the Chinese delegation to the 40th Session of the IAEA General Conference in September of that year and reaffirmed during Secretary Christopher's visit to Beijing on November 20, 1996.

On the basis of a close review of all available information in this case, including the clarifications and assurances received from Chinese officials regarding past transfers and Chinese nuclear export control policies, the Secretary of State concluded in May 1996 that there was not a sufficient basis to invoke sanctions under the Export-Import Bank Act.

The publicity surrounding the ring magnet episode, and especially the widespread impression it created that the Chinese government

did not have sufficient control over nuclear-related trade to ensure fulfillment of China's international commitments, seems to have had a significant impact on Chinese behavior. There has been a greater Chinese appreciation that "assistance" includes a broad range of activities, including personnel contacts, information exchanges, and transfers of items not specifically enumerated on control lists that could make material contributions to a nuclear weapons program.

Since China's May 1996 commitment, our information does not provide a basis to conclude that China has reneged on that pledge. China, however, is continuing to provide assistance to safeguarded facilities in Pakistan. For example, under a 1991 contract, China is building the 300 MW Chasma power reactor in Pakistan. We have not asked that China end safeguarded nuclear cooperation with Pakistan as a condition for implementing the peaceful nuclear cooperation agreement; but we have on numerous occasions warned China that the risk of providing assistance to the peaceful nuclear program of a country such as Pakistan (that does not have "full-scope safeguards") is that some of this assistance may be diverted to unsafeguarded activities.

During our discussions with the Chinese we have emphasized the importance of preventing diversions of equipment and information from Pakistan's safeguarded facilities to their unsafeguarded operations.

We have also stressed to China that its NPT obligations also prohibit assistance to nuclear explosive activities in Pakistan. In response Chinese officials have stressed the importance China attaches to controls on nuclear weapon-related technology and information and that such assistance to other countries is strictly prohibited. China has also declared publicly that its regulations prohibit assistance to activities related to nuclear explosive devices in addition to assistance to unsafeguarded nuclear facilities.

China's Nuclear Cooperation with Iran

Chinese nuclear cooperation with Iran had always presented a different concern than that raised by Chinese nuclear cooperation with Pakistan. Whereas China provided assistance over the years to Pakistan's unsafeguarded nuclear program, China's nuclear assistance to Iran has always, so far as we know, been limited to cooperation in the peaceful uses of nuclear energy and under IAEA safeguards. Nevertheless, because of long-standing U.S. concerns about Iran's intention to develop nuclear weapons, we believe that any nuclear assistance to Iran, whether or not subject to IAEA safeguards, would help to build an infrastructure that would be used by Iran to support nuclear weapons development. For this

reason, we have urged China, as we have all other potential suppliers, to refrain from nuclear cooperation with Iran. This is a policy adopted by all other major nuclear suppliers except Russia and China.

Nuclear cooperation between China and Iran dates from June 1985, when a protocol for cooperation on the peaceful uses of nuclear energy was concluded during then-Iranian Deputy Prime Minister Rafsanjani's visit to Beijing. Cooperation reportedly was to include personnel training, and material and equipment supply. Under that agreement, Chinese nuclear entities undertook to provide cooperation to Iran on basic nuclear research and subsequently concluded contracts for the supply of several small, non-sensitive nuclear facilities. Chinese assistance to Iran has included cooperation on uranium geology and exploration, training for Iranian personnel, and supply of several small research reactors and related laboratory facilities. China has also provided Iran a small electromagnetic separation (EMIS) machine which is being used for stable isotope production.

The four small research reactors and related nuclear fuel are subject to IAEA safeguards and have been inspected regularly by the IAEA. The reactors are: two sub-critical assemblies, both use natural uranium fuel, one is moderated by light water, the other by graphite; a zero power reactor (ZPR) which uses natural uranium fuel and is moderated by heavy water; and a miniature neutron source reactor, which uses less than one kilogram of highly enriched uranium. None of these reactors pose any direct proliferation risk as they do not produce significant quantities of plutonium. The ZPR and the two sub-critical assemblies, however, could enable Iranian personnel to learn design principles that could have some, albeit marginal, utility in future efforts to design and construct indigenously a larger reactor for plutonium production.

In 1993, China agreed to sell Iran two light-water nuclear power reactors; but this reactor project was plagued by siting as well as other technical and financial difficulties. China has indicated that it will not implement this contract. China has also suspended the sale of a uranium conversion facility, which could have provided an essential element of Iran's nuclear weapons effort.

In discussions with the United States, China has made clear that it has decided not to proceed with the transfer of power reactors or the uranium conversion facility. It has also provided a clear assurance that it is not going to engage in new nuclear cooperation with Iran and that the last remaining nuclear cooperation projects will be completed in a relatively short period.

China's Policy on Nuclear and Dual-Use Export Controls

China has taken significant steps in 1997 to implement nuclear and nuclear-related dual-use export controls. On May 27, 1997, China issued a "State Council Notice Regarding Strict Implementation of China's Nuclear Export Policy." This notice stated China's policy of "not advocating, not encouraging, and not carrying out nuclear weapons proliferation, and not assisting other countries in developing nuclear weapons." In addition, the notice stated China's nuclear export policy that nuclear export items are to be used only for peaceful purposes, exported only under IAEA safeguards, and transferred to a third party only with China's permission. The notice highlighted China's policy not to provide assistance to any nuclear facility which does not accept IAEA safeguards.

The State Council Notice was sent to all Chinese government ministries and non-governmental entities, and directed that the export of nuclear materials, nuclear technology, and non-nuclear materials used in reactors would be exclusively undertaken by China National Nuclear Corporation (CNNC) and other Government-designated corporations. The notice provided for a system of peaceful-use guarantees, end-use certificates, and supervision by relevant government departments over all nuclear-related exports to both nuclear and non-nuclear facilities. The notice also specifically covered the transfer of nuclear technology, as well as the exchange of technical personnel or technical information.

The State Council Notice also provided that specific lists of items covered (including nuclear materials, nuclear facilities and relevant technologies, non-nuclear materials used in reactors, and nuclear-related dual-use equipment, material, and related technology) would be published by the Ministry of Foreign Affairs, the Ministry of Foreign Trade and Economic Cooperation, and the China Atomic Energy Authority. In our ongoing consultations on nuclear cooperation and export controls, the Chinese side stated that in June 1997 it had published a list of nuclear-related dual-use items and that this list is identical to the dual-use list created by the Nuclear Suppliers Group (NSG), as published in IAEA INFCIRC 254, Part 2.

While the State Council Notice was a significant step forward, the United States continued to urge China to promulgate detailed nuclear and dual-use export controls. On August 1, China announced that the State Council had approved in principle nuclear export control regulations, and these regulations were promulgated by China on September 10.

The new nuclear export control regulations restate China's nuclear export policy that: (1) all exports are for peaceful purposes only; (2) recipients must accept IAEA safeguards; and (3) no reexport to a third country without Chinese government approval. The regulations require assurances by the recipient on physical protection and reaffirm China's policy of prohibiting assistance to unsafeguarded nuclear facilities. The nuclear control list issued with the regulations was later described as identical to the trigger list created by the NSG, published in IAEA INFCIRC 254, Part 1. An export control licensing system has been established which provides for review of nuclear export control applications. License applications are reviewed by the China Atomic Energy Authority, the State Commission of Science, Technology and Industry for National Defense, the Ministry of Foreign Trade and Economic Cooperation and when appropriate the Ministry of Foreign Affairs. Civil and criminal penalties are included for violators of the regulation. The regulations also provide that if the government of the recipient country violates a guarantee made in accordance with these regulations or if there is a danger of proliferation, the relevant Chinese government departments may terminate the exports.

China has also publicly announced that it plans to promulgate a final set of regulations covering the export of nuclear-related dual-use items by mid-1998, and has stressed that the May 1997 State Council Notice established controls on such items in the interim.

Upon joining the Zangger Committee in October 1997 (see next section), China issued a comprehensive statement of its nuclear export policy (attached). That statement reaffirmed the policies noted above, but also made explicit for the first time other important nuclear export control principles. Among these principles were that Chinese regulations "strictly prohibit any exchange of nuclear weapons related technology and information with other countries" and that China denies assistance "not only to nuclear facilities not under safeguards, but also to all activities related to nuclear explosive devices." Importantly, the statement also made clear that Chinese government departments have the right to deny the export of items not found on control lists if they believe the export may possibly cause nuclear proliferation. Such a "catch-all" control is an important element in any comprehensive export control system.

Chinese Participation in International Export Control Regimes

China has historically resisted participation in international nonproliferation and export control regimes. Indeed, it was not until 1992 that China became a member of the NPT. However, in May of 1997, after significant U.S. discussion on the importance

of participation in international export control regimes, China attended the NPT Exporters Committee meeting (also known as the Zangger Committee) as an observer. The Chinese attended the October 16 meeting as a full member.

Chinese membership in the Zangger Committee is particularly important because it is the first international export control organization that China has joined. Membership in the Zangger Committee will expose China to constructive interactions in a multilateral forum, familiarize China with international export control norms and practices, and continue to develop Chinese expertise in this area.

Status of China's Nonproliferation Policies and Practices Today

The Administration's goals during our consultations with China on nonproliferation and nuclear cooperation have been consistent with the goals of the 1985 and 1990 legislation establishing certification requirements for implementation of the 1985 agreement. These goals have been to (1) terminate Chinese assistance to Pakistan's unsafeguarded and nuclear explosive program, (2) curtail Chinese nuclear cooperation with Iran's safeguarded nuclear program, (3) establish an effective Chinese nuclear and dual-use export control system, and (4) encourage China to join multilateral export control efforts. Obtaining these objectives would significantly strengthen the international nuclear nonproliferation regime and would lay the basis for satisfying the statutory requirements for implementing the 1985 agreement.

With respect to satisfaction of these objectives (and the present status of Chinese policies and practices), China has taken the following steps:

-- China declared publicly on May 11, 1996, that it will not assist unsafeguarded nuclear facilities. We have no direct evidence that China has transferred equipment or material to Pakistan's unsafeguarded nuclear program since that time, and we have no basis for concluding that China is not honoring its pledge.

-- China's State Council has issued a public notice in May 1997 providing guidance to non-governmental entities and all ministries, commissions and other agencies under the State Council on China's nuclear export control policies. This notice states that China's policy is not to assist other countries in developing nuclear weapons, that Chinese nuclear exports are to be used only for peaceful purposes, under IAEA safeguards, (subject to retransfer controls) and may not be provided to an unsafeguarded nuclear facility. The notice covers nuclear

technology, exchange of technical personnel and technical information, and dual-use items and technology.

-- China published detailed nuclear export control regulations in September 1997 which contain a list of controlled nuclear items that are identical to the trigger list of the Nuclear Suppliers Group. China's public notice of May 1997 references a list of controlled dual-use items that is identical to the list adopted by the Nuclear Suppliers Group. China has stated publicly that it will publish regulations covering the export of dual-use items by mid-1998, and that all government departments have the authority to exercise "catch-all" controls on nuclear-related dual-use items. China has declared that it strictly prohibits transfers of nuclear weapons-related technology and does not provide assistance to nuclear explosive activities in addition to unsafeguarded nuclear facilities.

-- China has effectively terminated its planned nuclear cooperation with Iran, including the provision of power reactors and a uranium conversion facility. China has provided a clear assurance that it is not going to engage in new nuclear cooperation with Iran and that the last remaining nuclear cooperation projects will be completed in a relatively short period.

-- China attended the May 1997 meeting of the Zangger Committee as an observer and attended the Zangger Committee at its October 16th meeting as a member.

In summary, we believe that each of the U.S. objectives set forth above has been met, and that China has provided "clear and unequivocal assurances" that it is not assisting and will not assist any non-nuclear weapon state, either directly or indirectly, in acquiring nuclear explosive devices or the materials and components for such devices. In our view, these assurances are consistent with the requirements of Public Laws 99-183 and 101-246. The U.S. Government intends to continue monitoring closely Chinese nuclear cooperation with third countries to ensure that China carries out its stated policy. We also believe that continued and regular nonproliferation consultations with the People's Republic of China will offer the best opportunity to ensure a continued common understanding in this area and, through these interactions, to exert increased U.S. influence over the future direction and implementation of PRC nonproliferation policy.

中华人民共和国常驻维也纳联合国和其他国际组织代表团
THE PERMANENT MISSION OF THE PEOPLE'S REPUBLIC OF CHINA
TO THE UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS IN VIENNA

(Translation)

Statement by Ambassador Li Changhe
Of the Chinese Permanent Mission in Vienna
at the Meeting of the Zangger Committee

16 October 1997

Mr. Chairman,

I am very pleased to attend this meeting of the Zangger Committee to represent China as its full member for the first time. China supports the general goals of the Committee, appreciates the positive role the Committee has played in preventing nuclear proliferation, and stands ready to conduct regular consultations with other member countries of the Committee of issues of nuclear non-proliferation and export control with a view to making joint efforts to prevent proliferation of nuclear weapons.

Mr. Chairman,

The recently concluded 15th national Congress of the Communist Party of China has reiterated that economic development is the focus in the work of the whole Party and the whole nation, and emphasized that China's modernization drive requires a long-term peaceful international environment. Therefore, China will continue its pursuit of an independent foreign policy of peace, and work for maintaining regional and global peace, stability and prosperity. To prevent weapons of mass destruction of all descriptions, including nuclear weapons, is an important component of this foreign policy of peace.

As a member of the International Atomic Energy Agency and State Party to the Non-proliferation Treaty, China adheres to the policy that it does not advocate, encourage or engage in proliferation of nuclear weapons nor assist other countries in developing nuclear weapons. For many years the Chinese Government has exercised strict and effective control over

nuclear and nuclear-related export, including exchanges of personnel and information, and has abided by the following three principles: 1) serving peaceful purposes only; 2) accepting IAEA safeguards; 3) forbidding transfer to any third country without China's consent. With regard to any nuclear export, the recipient government is always requested to provide to the Chinese side an assurance in writing to acknowledge the above three principles and the export can proceed only after approval by relevant Chinese authorities.

In actual implementation, China has always administered nuclear export and nuclear cooperation through a management which combines laws, regulations and administrative decrees. The State Council and the competent authorities of various industries have laid down strict and specific regulations on nuclear export and nuclear cooperation, and strictly prohibit any exchange of nuclear weapons related technology and information with other countries. Such management falls in line with China's national conditions and has proved effective in practice.

Mr. Chairman,

Along with the deepening of the reform and opening-up and the gradual development from the planned economy to a socialist market economy, the Chinese Government has in the recent period of time taken a series of positive measures on the basis of the existing management to further strengthen and improve the mechanism for nuclear export control. Our efforts in this regard are still going on. The following is my detailed introduction in this regard.

I. In May 1997, the State Council of China promulgated the Circular on Strict Implementation of China's Nuclear Export Policy, which provides that the nuclear materials, nuclear equipment and related technology, as well as non-nuclear materials for reactors, and nuclear-related dual-use equipment, materials and relevant technologies on China's export list must not be supplied to or used in nuclear facilities not under IAEA safeguards. No agency or company is allowed to conduct cooperation or exchange of personnel and technological data with nuclear facilities not under IAEA safeguards. I would like to point that the above regulations are applicable not only to nuclear facilities not under safeguards, but also to all activities related to nuclear explosive devices.

II. The Circular also provides that in conducting the above-mentioned trade or activities in nuclear facilities with a non-signatory to NPT, any Chinese agency or company should seek prior confirmation from the State Atomic Energy Authority

whether or not the nuclear facilities in question are under IAEA safeguards and ask for in advance certificate of end-use from competent authorities of the recipient government and an assurance that the equipment so imported or cooperation so conducted will not be transferred to nuclear facilities not under safeguards. In case of no nuclear facilities are involved, competent authorities of the recipient government are required to provide in advance a reasonable and reliable end-use certificate for the equipment so imported and an assurance that the equipment so imported or cooperation so conducted will not be transferred to nuclear facilities not under safeguards. Such export or activities of cooperation can not proceed until confirmation and approval are granted by China's Ministry of Foreign Affairs, Ministry of Foreign Trade and Economic Cooperation (MOFTEC) and the State Atomic Energy Authority with regard to the above-mentioned certificates. Annexed to the Circular is the control list of dual-use items which is identical to Party II of INFCIRC 254. The promulgation of the above regulations has guaranteed China's effective control on nuclear-related dual-use items before the promulgation of relevant laws and regulations on the export control of such items.

III. The Circular has been formulated by China's State Council as empowered by the Constitution and is legally binding. All the departments concerned should comply with it and the supportive detailed rules for implementation will be formulated, no unit, companies or laboratories can be excepted.

IV. In order to transform relevant policies and regulation into law, China's State Council promulgated last September the Regulations on Nuclear Export Control, establishing in the form of law the three principles governing China's nuclear export and the policy not provide assistance to nuclear facilities not under safeguards.

1. The Regulations provide that nuclear export is monopolized by units designated by the State Council. No other or individual is allowed to engage in such export. A licensing system is applied to the nuclear export by the State, i.e. all the items and their technologies on the "Nuclear Export Control List" should apply for an export license. The control list is the same as Part I of the INFCIRC 254.

2. The Regulations provide that the State Atomic Energy Authority shall examine nuclear export applications. If the approved application involves nuclear materials, it shall be referred to the Commission of Science, Technology and Industry for National Defense for re-examination; if it involves other materials, it shall be referred to the MOFTEC for re-

examination. Any nuclear export which has a bearing on state security, social and public interests or foreign policy, the Ministry of Foreign Affairs should be consulted; when necessary, such export should be further reported to the State Council for approval. After approval, the MOFTEC will issue an export license.

3. The Regulations provide that if the recipient government should violate its commitment made under these Regulations, or if there is an imminent danger of nuclear proliferation, the department concerned of the Chinese Government has the right to suspend such export.

4. The Regulations provide that any violation of the Regulations is liable to punishment by law.

The Regulations are not only distributed and made known to all the relevant units through regular channels, but also published by the People's Daily which has the largest circulation in China and other newspapers and periodicals so as to ensure the broadest possible public awareness. On September 15, the spokesman of the Foreign Ministry of the Chinese Government made a special statement to comprehensively and authoritatively expound the policy of the Chinese Government on the issue of nuclear non-proliferation and nuclear export control in connection with the promulgation of the Regulations on Nuclear Export Control.

V. Relevant departments of China are stepping up their efforts to complete the export control regulations on the nuclear-related dual use items. The control list of the regulations will be the same as Part II of INFCIR 254 on dual use items. The export of all the items on the list will be subject of strict examination procedures. In addition, if the relevant department of the Government has reason to believe that the export of some item may possibly cause nuclear proliferation, even though the item may not be listed, the department concerned has the right to ban or suspend such an export. The regulations will be completed by mid-1998.

The promulgation and implementation of the above-mentioned regulations will basically systemize China's laws on nuclear export.

Mr. Chairman,

The prevention of nuclear proliferation is a long and arduous task which calls for the joint efforts of the international community. At the same time, the Chinese side wishes to emphasize that the prevention of nuclear

proliferation should in no way affect or hinder the normal nuclear cooperation for peaceful uses among countries, let alone be used as an excuse for discrimination and even application of willful sanctions against developing countries. The prevention of nuclear proliferation and peaceful uses of nuclear energy constitute the two sides of one coin. The two promote each other and neither can be dispensed with. This is the consistent policy of China. The Chinese Government is ready to make unremitting efforts with other countries for the common development of both nuclear non-proliferation and peaceful uses of nuclear energy.

Thank you, Mr. Chairman.

MEMORANDUM OF UNDERSTANDING

The Government of the United States of America and the Government of the People's Republic of China (the "parties"),

Desiring to implement the Agreement for Cooperation Between the Government of the United States of America and the Government of the People's Republic of China Concerning Peaceful Uses of Nuclear Energy, signed July 23rd, 1985, and entered into force December 30th, 1985 (the "Agreement"), on the basis of mutual respect for sovereignty, non-interference in each other's internal affairs, equality and mutual benefit, and

Desiring to exchange experience, strengthen technical cooperation between the parties, ensure that the provisions of the Agreement are effectively carried out, and enhance a stable, reliable, and predictable nuclear cooperation relationship,

Have established the following arrangements:

1. Each party shall invite personnel designated by the other party to visit the material, facilities and components

subject to the Agreement, affording them the opportunity to observe and exchange views on, and share technical experience in, the utilization or operation of such items. Opportunities to visit shall be accorded annually to reactors including their auxiliary storage pools for the fuel. Such annual visits shall be arranged at the time of reactor fueling if it occurs. Opportunities to visit all other items shall not be less often than every two years. When either party identifies special circumstances, the parties shall consult, at the request of either party, for the purpose of making mutually acceptable arrangements for the addition or reduction of visits under such circumstances in order to ensure that the objectives of Article 8(2) are fulfilled.

2. When material, facilities or components are transferred pursuant to the Agreement, the recipient party shall confirm receipt to the supplier party through diplomatic channels within 30 days after the arrival of the material, facilities or components in the territory of the recipient party. At the request of either party, the parties shall exchange information on the material, facilities and components subject to the Agreement. Such information shall include the isotopic composition, physical form, and quantity of the material, and places where the material, facilities or components are used or

October 22, 1997

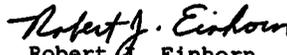
Dear Sir:

I refer to our discussions on the Memorandum of Understanding on visits and exchanges of information, as initialed on June 23, 1987.

In connection with these discussions, our Governments have reached the following understanding: In the event that access to commercial, industrial, or business confidential information is required in connection with the activities conducted under the Memorandum of Understanding, our two Governments will hold timely consultations, at the request of either Government and prior to such access being granted, to establish appropriate measures with regard to the protection of such information.

I would be grateful if you would confirm that this understanding is shared by your Government.

Sincerely,


Robert J. Einhorn

Deputy Assistant Secretary of State

亲爱的先生：

你今日的来信收悉，该信全文如下：

“我提及我们关于一九八七年六月二十三日草签的信息交流和人员互访问题谅解备忘录的讨论。

“基于上述讨论，我们两国政府已达成以下谅解：如果为进行该谅解备忘录所规定的活动而需要接触商业、工业或企业秘密，应双方任何一方政府的要求，在同意接触上述信息以前，我们两国政府将及时磋商确定对上述信息的适当保护措施。

“如蒙确认贵国政府同意上述谅解，我将不胜感谢。”

我很高兴确认我国政府同意你来信所述谅解。

诚挚地



中华人民共和国

外交部军控司副司长 何世非

一九九七年十月二十二日

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**Basis for Certification under
Section (b) (1) (a) of Public Law 99-183**

Introduction

The Agreement for Cooperation Between the Government of the United States and the People's Republic of China Concerning Peaceful Uses of Nuclear Energy (the "Agreement") was entered into by the United States in accordance with all the substantive and procedural requirements of the Atomic Energy Act, as amended, and the Nuclear Non-Proliferation Act of 1978 (NNPA). The Agreement provides, inter alia, that "material, facilities or components transferred pursuant to this agreement and material used in or produced through the use of any material, facility or components so transferred shall not be used for any nuclear explosive device, for research specifically on or development of any nuclear device, or for any military purpose" (Article 5). Recognizing that "this cooperation in the peaceful uses of nuclear energy is between nuclear-weapon states and bilateral safeguards are not required", the Agreement provides that "in order to ... ensure that the provisions of this agreement are effectively carried out ... the parties will use diplomatic channels to establish mutually acceptable arrangements for exchanges of information and visits to material, facilities and components subject to this agreement" (Article 8).

Senate Joint Resolution 238, approving the Agreement without change but requiring certain actions by the President prior to its implementation, was passed by the Congress on December 16, 1985, and became Public Law 99-183. Among other things, Section (b) (1) (A) requires the President to certify to Congress that "the reciprocal arrangements made pursuant to Article 8 of the Agreement have been designed to be effective in ensuring that any nuclear material, facilities, or components provided under the Agreement shall be utilized solely for intended peaceful purposes as set forth in the Agreement." In signing the Joint Resolution, the President noted that the arrangements to be certified were "called for by this article itself." 1/

1/ Weekly Compilation of Presidential Documents 1506-07 (Dec. 25, 1985)

A Memorandum of Understanding pursuant to Article 8 of the Agreement was initialed in Washington D.C., on June 23, 1987, by U.S. and PRC representatives concerning exchanges of information and visits to ensure that the provisions of the Agreement are effectively carried out. It covers all activities planned by either party under the Agreement.

In negotiating the mutually acceptable arrangements called for in Article 8 of the Agreement and the Joint Resolution, several factors were taken into account: 1) the nature of the cooperation that may take place under the Agreement; 2) the key U.S. activities essential to obtaining information, and confirming periodically through on-site visits, the exclusively peaceful use of any material, facilities and components in China subject to the Agreement; and 3) the fact that the PRC is a nuclear weapon state with an existing military nuclear material production complex.

Factors Affecting the Nature of the Arrangements Required to Meet the Standards of P.L. 99-183.

1. Nature of the Cooperation To Take Place Under the Agreement

The Agreement provides for cooperation between the United States and the People's Republic of China in nuclear materials facilities, components and technology for peaceful, non-explosive purposes. The only special nuclear material that may be transferred to the PRC in substantial quantities under the Agreement is low-enriched uranium, which is not directly usable for nuclear explosive or military purposes. No cooperation involving sensitive nuclear technology, sensitive nuclear facilities, or major critical components may take place under the agreement (without amendment). Therefore, the facilities, equipment and components that may be provided under the agreement are likely to be of only limited relevance to other than peaceful nuclear activities. Moreover, the U.S. export licensing process involves a detailed review of all proposed exports of facilities, equipment and components to ensure that such items will not provide substantial benefit to the PRC for military purposes including naval nuclear propulsion.

Any power-reactor-grade plutonium that would be contained in spent fuel subject to the Agreement is a far less desirable material for military nuclear activities than weapons-grade plutonium. Furthermore, no reprocessing of spent fuel subject

to the Agreement, and hence, production of separated plutonium, may occur without prior U.S. consent and the development of

additional, mutually agreeable arrangements for information exchange and visits.

2. Design Principles for the Arrangements

The arrangements made pursuant to Article 8 of the agreement are firmly grounded on longstanding principles of verification; namely that the verifying party must be 1) kept apprised of the status of the verified items, 2) able to confirm that status independently, and 3) able to do so for the life of the agreement. The Article 8 arrangements embody these principles and specifically include the following key elements:

1. The right to obtain the information required to maintain an inventory of all U.S.-supplied items, and of the material used in or produced through the use of such items;
2. The right to confirm periodically, on-site, the accuracy of the inventory and the specified peaceful use of all items on this inventory;
3. The right to obtain this information, and to conduct on-site confirmation of this information, for as long as any such inventory items remain in China or under its control.

These elements are similar to those in any verification system, including those administered by the International Atomic Energy Agency (IAEA). However, neither the Atomic Energy Act, the NNPA, the Agreement, nor the Joint Resolution requires IAEA safeguards. ^{2/} The Article 8 arrangements therefore are not to be evaluated as though China were a non-nuclear weapon state

^{2/} See Atomic Energy Act, sections 123 a(1), 127 (1) (requiring IAEA safeguards only on exports to non-nuclear weapon states) ; Report of the House Foreign Affairs Committee with Respect to the Agreement for Cooperation Between the United States and the People's Republic of China Concerning Peaceful Uses of Nuclear Energy, H. Rep 99-382, 99th Cong. 1st Sess. at 4 (IAEA safeguards not required); Cong. Rec. S1607-08 (Nov. 21, 1985) Statement by Senator Glenn that Joint Resolution does not require equivalent of IAEA safeguards.

subject to the IAEA system of verification, but rather in terms of the unique attributes of China and the type of cooperation authorized under the Agreement.

3. China as a Nuclear Weapon State

The PRC is a nuclear weapon state and has in place dedicated facilities to produce large quantities of highly enriched uranium and weapons-grade plutonium for its nuclear weapons program. Because the PRC already has a dedicated program to meet its military needs, its incentive to transfer material from civil to military nuclear activities is extremely low.

Moreover, there would be substantial costs associated with the exposure of an effort to utilize items subject to the agreement for other than their intended peaceful purposes. If the PRC were to use items subject to the U.S.-PRC Agreement for other than intended peaceful purposes as set forth in the Agreement, it would be taking several risks: nuclear relations with the United States would be disrupted; the overall bilateral relationship with the United States would be seriously damaged; the success of the PRC nuclear power program, which depends in large part on the involvement of Western nuclear suppliers, would be endangered; the PRC's credibility in the international nuclear field would be lost; and its ability to implement the PRC's own international nuclear cooperation policy, which requires peaceful use and other binding commitments from its cooperating partners, would be adversely affected.

Details of the Arrangements

The details of the arrangements agreed to by the PRC in the Memorandum of Understanding are discussed below within the framework of the key elements of the design. The arrangements provide the United States with full knowledge of what items are subject to the Agreement, how they are used, and where they are located. This information will be confirmed periodically through on-site visits. For reactors, which are likely to be the focal point of any cooperation under the agreement, the visits are to be timed to provide access to the reactor core as well as to spent-fuel ponds during reactor refueling.

The first key element is the United States right to obtain information for the U.S. inventory of all items subject to the Agreement. This is established in two parts of paragraph 2 of the

Memorandum of Understanding. The right to information required for placing on the inventory all items transferred to the PRC by the United States is provided for as follows:

-- "When material, facilities or components are transferred

pursuant to the Agreement, the recipient party shall confirm receipt to the supplier party through diplomatic channels within 30 days after the arrival of the material, facilities or components in the territory of the recipient party."

The right to information necessary for checking and updating that inventory in regard to both the items transferred and the material used in or produced through the use of such items is also provided for:

-- "At the request of either party, the parties shall exchange information on the material, facilities and components subject to the Agreement."

Through these provisions the United States is assured of the necessary technical information to permit a detailed accounting of where and how items are being used, which in turn forms the basis for meaningful visits to those items:

-- "Such information shall include the isotopic composition, physical form, and quantity of the material, and places where the material, facilities or components are used or kept. It shall include information on the operation of the facilities subject to the agreement which in the case of a reactor shall cover thermal energy generated and loading".

These provisions on the exchanges of information under the Article 8(2) arrangements are complemented by two provisions in the body of the Agreement, i.e., Article 8(1) and 8(3):

-- "The parties shall consult at the request of either party regarding the implementation of the agreement, the development of further cooperation in the field of peaceful uses of nuclear energy, and other matters of mutual concern".

-- "The parties shall exchange views and information on the establishment and operation of their respective national accounting and control systems for source and special nuclear material subject to this agreement."

Consultations on specific topics concerning cooperation under the Agreement are also provided for in Articles 5(2), 6(3), 7(1) and 9 of the Agreement.

The second key element of the Article 8(2) arrangements is the U.S. right to periodic on-site confirmation of inventory items and their use. This is established through four provisions of

the arrangements. First, the basic right for U.S. visits and access to items is provided for in paragraph 1 of the Memorandum of Understanding:

-- "Each party shall invite personnel designated by the other party to visit the material, facilities and components subject to the Agreement, affording them the opportunity to observe and exchange views on, and share technical experience in, the utilization or operation of such items."

Second, paragraph 1 of the Memorandum of Understanding guarantees the United States the right to visit reactors in China that are on the U.S. inventory once each year; these visits, for maximum effectiveness, can be timed to coincide with reactor fueling, when it is possible to observe most advantageously the parts of an operational reactor:

-- "Opportunities to visit shall be accorded annually to reactors including their auxiliary storage pools for the fuel. Such annual visits shall be arranged at the time of reactor fueling if it occurs."

Third, the same paragraph of the Memorandum of Understanding guarantees that all items in China that are on the U.S. inventory may be visited by U.S. personnel at least every two years:

-- "Opportunities to visit all other items shall not be less often than every two years."

Fourth, also in that same paragraph of the Memorandum of Understanding, adjustments in the timing of visits may be made when special circumstances arise:

-- "When either party identifies special circumstances, the parties shall consult, at the request of either party, for the purpose of making mutually acceptable arrangements for the addition or reduction of visits under such circumstances in

order to ensure that the objectives of Article 8(2) are fulfilled."

The third key element in the Article 8(2) arrangements concerns the duration of U.S. rights to obtain information required to maintain the U.S. inventory and periodically to confirm the accuracy of that information through on-site visits by U.S. personnel to China. Paragraph 3 of the Memorandum of Understanding ties the duration of these rights to the duration

of the Article of the Agreement upon which they are based:

-- "These arrangements shall enter into force upon signature and shall remain in force so long as the provisions of Article 8(2) continue in effect."

Article 8 of the Agreement remains in force as long as any items subject to the Agreement remain in China or under its control:

-- "Notwithstanding the suspension, termination or expiration of this agreement or any cooperation hereunder for any reason, the provisions of articles 5, 6, 7, and 8 shall continue in effect so long as any material, facilities or components subject to these articles remain in the territory of the party concerned or any material, facility or component subject to these articles remain subject to that party's right to exercise jurisdiction or to direct disposition elsewhere."

Therefore, the arrangements established by the Memorandum of Understanding remain in effect so long as there are items which need to be verified.

Conclusion

Taking into account that: a) the cooperation that may take place under the Agreement is limited and nonsensitive; b) these arrangements cover only those types of activities planned as of the date of entry into force of the Agreement; c) the Memorandum of Understanding arrangements negotiated with the PRC fully satisfy commonly accepted verification principles; and d) as a nuclear weapon state, the PRC's incentives to misuse items subject to the agreement are extremely low and the disincentives in the form of adverse international consequences are very high, we have judged that these arrangements will be sufficient to deter PRC use of items subject to the Agreement for other than intended peaceful purposes and will give the United States the necessary confidence that such misuse will not occur.

Therefore, we believe that the arrangements contained in the Memorandum of Understanding initialed by the United States and PRC on June 23, 1987, meet the certification standard of P.L. 99-183 that these arrangements "have been designed to be effective in ensuring that any nuclear material, facilities or components provided under the Agreement shall be utilized solely for intended peaceful purposes."

**Rationale for Report to Congress that it is in the
National Interest to Suspend the Termination of Nuclear
Cooperation with China**

This paper discusses the rationale for the report, submitted pursuant to sections 902(a)(6)(B)(iii) and 902(b)(2) of P.L. 101-246, that it is in the national interest to terminate the suspensions and disapprovals of nuclear cooperation with the People's Republic of China under section 902(a)(6).

The prospect of implementing the U.S.-China agreement for nuclear cooperation has provided strong incentives for China to cooperate with the United States on nuclear nonproliferation. In the course of over two years of intensive bilateral discussions, we have seen major and positive changes in China's approach toward its nuclear nonproliferation obligations and responsibilities.

- It committed in May 1996 not to provide assistance to unsafeguarded nuclear facilities. We have monitored that commitment closely and have no basis to conclude that China has acted inconsistently with its pledge.
- It is phasing out its nuclear cooperation with Iran. It suspended the sale of two nuclear reactors, canceled the sale of a uranium conversion facility and turned down requests to provide other sensitive equipment and technology. Importantly, it will not engage in any new nuclear cooperation with Iran and will complete its few existing projects, which are not of proliferation concern, within a relatively short period.
- It is well along toward putting in place a comprehensive, nationwide system of export controls on nuclear material, nuclear-related equipment and technology. A May 1997 State Council directive provided legally binding guidance to all Chinese governmental and non-governmental entities on the control of nuclear and nuclear-related dual-use exports. On September 10, 1997 the State Council promulgated nuclear export control regulations, and China has committed to promulgating its dual-use regulations by mid-1998. China is adopting control lists identical to the Nuclear Suppliers Group's nuclear trigger list and dual-use list.
- China publicly affirmed in October 1997 that it strictly prohibits exchanges of nuclear weapons information with other countries, it prohibits assistance to nuclear explosive activities (in addition to unsafeguarded nuclear activities), and that government departments have the right to ban the export of non-listed, nuclear-related, dual-use

items if such an export poses a proliferation risk, i.e., so-called "catch-all controls".

- It has joined the Zangger Committee, the Non-Proliferation Treaty's Exporters Committee, and attended its first meeting as a member on October 16, 1997. The decision to join the Zangger Committee marks the first time that China has participated in a multilateral nonproliferation export control regime.

In addition to these steps, China's growing commitment to international nuclear nonproliferation norms has been demonstrated by its adherence to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and support for its indefinite extension, its termination of nuclear testing and signature of the Comprehensive Test Ban Treaty, its support for a Fissile Material Cutoff Treaty and its support for the strengthened safeguards system of the International Atomic Energy Agency (IAEA).

It is in the U.S. national interest to consolidate and build on the progress China has made in the nonproliferation area, and implementation of the Agreement for Cooperation between the U.S. and the People's Republic of China concerning the Peaceful Uses of Nuclear Energy will establish a promising framework for doing so. The Agreement specifically provides for bilateral consultations concerning implementation of the Agreement and on other matters of mutual concern, which will give the United States continuing opportunities to engage China on such matters as export controls and China's policies and practices toward nuclear cooperation with other countries. With the agreement for cooperation as a necessary foundation, China has agreed to engage in government-to-government cooperation in nuclear materials control and accountancy, physical protection of nuclear materials and facilities, international nuclear safeguards, nuclear-reactor safety, development and implementation of systems for control of exports of nuclear materials and other areas of mutual interest in the peaceful uses of nuclear technology. Moreover, the many commercial and governmental interactions that will be stimulated by the Agreement will afford us a continuing basis to evaluate and influence China's nuclear cooperation and export policies.

It is also in the U.S. national interest to build stronger, mutually advantageous bilateral relations with China based on respect for international norms. Effective implementation of the Agreement -- especially given the importance and sensitivity of the subject matter -- will make a significant contribution to forging such a relationship as we enter the 21st century. The benefits that will accrue to both sides under the Agreement will demonstrate to China the value of working with us constructively

to meet international standards and promote common goals, and will create a useful precedent for future bilateral engagement and problem-solving. An improved bilateral relationship will give us a more promising basis to advance a range of important U.S. objectives with China, including in the non-nuclear areas (e.g., chemical and missile) of nonproliferation policy.

The United States also has an economic national interest in implementing the Agreement for Cooperation in the Peaceful uses of Nuclear Energy. The Agreement will enable U.S. companies to compete for contracts in the world's fastest growing nuclear energy market. These potentially vast commercial opportunities will give a large boost to an important U.S. industry, improve the U.S. trade balance with China and create large numbers of highly-skilled jobs at home. Given the highly safe and environmentally sound character of advanced U.S. nuclear reactor designs, these opportunities would also serve U.S. international nuclear reactor safety and environmental goals.

