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NND Authority 46720
By CEC NARA Date 3/11/10

6/4/80 Justice Hby
on Non Proliferation
RG will see you at 10:45
for the 11:00
meeting
with CM

TALKING POINTS

- We do not need a formal Presidential decision nor a PRC:
 - unnecessary for negotiations with allies;
 - would restrict us and commit President in negotiations;
 - risks public perception of US concession on NP and failure to get allied agreement.

- Instead, objective should be informal blessing by President of exploratory discussions with allies. (Possibly at tomorrow's breakfast meeting.)

- In terms of options in interagency memo, exploratory discussions would proceed from Option 2, i.e., some generic approvals of allied breeder and advanced reactor programs.

- We would not choose between 2a and 2b at this time. This is better for negotiations and should be bureaucratically non-contentious.

- Substantively, 2a is too rigid and 2b is too soft.

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The Reprocessing and Plutonium Use Planning Assumption

The proposed planning assumption on reprocessing and plutonium use is designed to permit the US, in its negotiations with EURATOM, to get a veto over reprocessing of US-origin fuel. This would be achieved by giving EURATOM approval in advance for reprocessing of US-origin fuel and use of derived plutonium in breeder and advanced reactor programs which they commit to over the next ten years. We would follow the same course with the Japanese. The principal reasons for adopting this approach and abandoning the current policy of restrictive case-by-case approvals of retransfer for reprocessing are that (1) since the Europeans will eventually succeed in going their own way in plutonium fuels with or without us, digging in our heels will be both disruptive of alliance relations and futile, and (2) addressing the real non-proliferation problem countries around the world requires that we cooperate with, not antagonize our allies on nuclear issues.

On the first point there is a real question about whether the allies will in fact succeed in going their own way in plutonium use, with or without us. New nuclear generating capacity is still coming on line more slowly than projected, estimates of uranium reserves are growing and we are facing a glut in enrichment capacity for some time to come. All this does not suggest a need to rush into breeder reactors and the use of plutonium fuels. Indeed, domestic opposition, unfavorable economics and slipping timetables all afflict the breeder programs in France, the UK, the FRG, and Japan in varying degrees. Even by the most optimistic projections, breeders could not make up a significant position of any country's electrical generating capacity until late in the first quarter of the next century. There is time for more evaluation, to search for substantial fixes, to develop alternatives to the plutonium breeder.

The assessment one makes about what "will happen anyway" is of course critical to a decision to change the direction of our policy. If we are wrong now about the inevitability of the move to plutonium fuels by our allies, and if we were right in 1977 in assigning high risks to widescale use of plutonium in the fuel cycle, then the proposed planning assumption will not so much "allow us to catch the train before it leaves the station," as have us "snatch defeat from the jaws of victory."

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In the first instance adoption of the proposed planning assumption would be perceived as a retreat from the Administration's original non-proliferation policy. This is true no matter how it may be couched, because the press, the Hill and many in Europe will portray it that way. Apart from whatever damage this may do the Administration politically, when combined with our willingness to put the Symington Amendment aside in Pakistan and the recent Tarapur decision on India, it will certainly raise doubts everywhere about the US commitment to non-proliferation objectives, at least as we defined them in 1977. While the new policy is supposed to increase our influence, it may in fact only decrease our credibility.

Over time the proposed planning assumption would make it easier for the Europeans and Japanese to move ahead with reprocessing and breeder development. If those programs are not inevitable, it will be unfortunate that we helped advance them; if they founder in spite of our relaxation in policy, the situation will have been made very much worse because of our policy. Liberlizing our retransfer authority for reprocessing spent fuel will permit greater accumulations of plutonium, presumably to be used in specified breeder and advanced reactor programs. But if those programs slip significantly or fail entirely -- a plausible outcome -- our policy will have contributed to the accumulation of larger plutonium stockpiles and/or to the recycle of plutonium in the current generation of thermal reactors. This is precisely what we have tried to avoid by pursuing the policy of case-by-case approvals and what we risk by abandoning it.

The second major reason for adopting the proposed policy on plutonium use is that it will help gain the cooperation we need from our allies to sustain and improve the non-proliferation regime. This is the question of the guids. In most cases, however, we would be asking for ambiguous commitments to vague objectives, easy to get but worth little. The exceptions are deferral of reprocessing, which we will not get, and agreement to condition exports on acceptance of full-scope safeguards, which will probably not depend upon our plutonium use policy.

Nevertheless, this is a central issue: what would be the effect of the proposed policy on the real target countries of our non-proliferation policy, Pakistan, Iraq, Argentina,

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South Korea, etc.? If we actually succeed in getting, for example, the French, West Germans and Italians to agree to rigorous control of exports of sensitive nuclear technology and material, it would be very significant. But that is not likely in a negotiation over the civil use of plutonium in their countries, especially if they have not come to see the proliferation of nuclear weapons as a threat to their security, independent of US arguments. Moreover, we may well be undercutting our efforts to prevent acquisition of sensitive technology in some target countries by granting programmatic approval to plutonium use in Europe and Japan. This, in spite of our efforts to predicate approvals on non-proliferation and technical criteria (electric grid and advanced nuclear program), because our stand against premature reprocessing and use of plutonium fuels will be less clear and the proposed criteria will be perceived as either rationalization of a policy reversal or an attempt to justify continued discrimination.

In a few sensitive cases, such as South Korea, there is the additional problem of their near-term eligibility under the proposed policy for use of plutonium in the breeder programs they commit to over the next ten years. South Korea is an NPT party with a significant number of nuclear power reactors on-line, under construction or planned, and an increasingly sophisticated nuclear establishment. It meets or soon will meet the criteria for plutonium use; it is also a country of proliferation concern.

An Alternative

An alternative is to continue with the current case-by-case policy unless discussions with EURATOM indicate that renegotiation of our agreement for cooperation is possible based on generic US consent to (1) retransfers for certain specified grand-fathered reprocessing contracts and (2) plutonium use for specified grand-fathered breeder and advanced reactive programs. (This is essentially option 2, sub-option 2(a) in the interagency memo.) The premise is that it would be better not to conclude an agreement with EURATOM now, that we would have to pay too high a price to get a "veto" over reprocessing in defining how we would exercise that veto. In foregoing an agreement we would still be able to discuss some generic and programmatic approvals with the Europeans to take account of their prior commitments, but we would not expect this to provide the basis for settlement. We would instead expect to grant yearly extensions for EURATOM in the near term, and

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assure them of such extensions. This is not the smoothest solution politically, but there should be no serious concern over LEU cutoff, and it is preferable to the proposed means of settlement.

The principal virtue of this approach is that it sustains our position on the dangers to international security of premature use of plutonium fuels. INFCE gave us an opportunity to assess that position, but no reason to change it. There is still no accepted way to have breeders without having fuel loadings which would each contain enough plutonium to fabricate hundreds of nuclear weapons; and there is also still no good reason why we or our allies need embrace that technology at this time.

The rest of the planning assumptions, our non-proliferation objectives with the allies, careful and limited involvement in efforts to build an international plutonium storage regime and increasing our fuel supply assurances, are all desirable and quite separable from the reprocessing and plutonium use policy.

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TH C. Green

DEPARTMENT OF STATE
AMBASSADOR AT LARGE
WASHINGTON

CONFIDENTIAL

June 4, 1980

TO: The Secretary

FROM: S/AS - Ambassador Gerard Smith *GS*

Some Political Thoughts on Plutonium

1. The way in which the U.S. exercises consent rights over reprocessing and plutonium use implies no judgment on the feasibility of breeders. Availability of US-origin plutonium would only marginally influence R&D programs; the major considerations are economic, technological, societal.

2. A U.S. effort to continue uncertainty as to whether US-origin plutonium could be used in these programs would tend to drive affected countries away from the U.S. and give impetus to the programs we seek to stop.

3. Having the largest breeder research program in the world, for the U.S. to refuse use of US-origin plutonium in our close allies' programs would be seen as hypocritical, discriminatory, and insensitive to their national energy security decisions.

4. The other major Western suppliers of uranium do not oppose plutonium use generally, and unless we can find some common ground will not exercise consent rights as stringently as we do. Australia will require NPT adherence as a condition of supply, but will probably grant advance permission for any specified peaceful use by EURATOM of derived plutonium. Canada will require full-scope safeguards and participation in IPS, but is not inclined to impose program limits on plutonium use.

5. U.S. leverage through supply of enrichment services is low and shrinking. Europe faces a glut of enrichment capacity from its own plants in the 1980s. It is within striking range of independence from U.S. supply now. Japan is seeking and will acquire alternatives to U.S. supply.



DEPARTMENT OF STATE
BRIEFING MEMORANDUM
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June 3, 1980

To: The Secretary
FROM: EA - Richard Holbrooke *R.H.*

Non-Proliferation Policy

I will not repeat the arguments laid forth in Gerry Smith's May 23 memorandum to you on this subject, but I want to express support for it. This issue is critical to the future of US-Japan relations, and carries a great potential for a fundamental breach between us.

The two basic issues for Tokyo in the nuclear area are energy security and equal treatment. We have long had a substantial cooperation nuclear program with the Japanese encompassing sale of reactors and enrichment services. (Japan is, in fact, our largest customer.) But as Gerry points out, the Japanese do not agree with us about reprocessing and breeder/advanced reactor programs. And they deeply resent our efforts to exercise greater control over their programs than over the European programs.

Japan has been a strong supporter of our non-proliferation objectives. The Japanese people retain a strong "nuclear allergy". They understand that we are not accusing them of attempting to develop a nuclear weapons option and that our principal argument has been concern for the precedent which would be set if we "allowed" them to go ahead with their program. They understand it, but they do not accept it. Their vulnerability to import energy (75 percent of all energy consumed in the country), and particularly to oil cutoffs, has led them to adopt a far-reaching program to develop alternative energy supplies. Nuclear energy is a key component.

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In the post-INFCE world, to continue to insist upon our earlier approach would only drive Japan away from us to alternative sources of nuclear fuel including an accelerated program of their own to develop enrichment facilities and breeder reactors. In matters of policy as well, Japan would tend to follow more closely the lead of the Europeans, thus leaving us even less influence. Adherence to our current position would suggest to Japan that we are insensitive to their most basic security and economic requirement. I fear it might also open a fissure in our relationship with the most profound consequences for US interests and regional stability in East Asia.

Japan will cooperate in reasonable limitations which support the non-proliferation program proposed. But the degree of limitation it will accept on certain aspects will depend upon our meeting their fundamental needs.

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DEPARTMENT OF STATE
BRIEFING MEMORANDUM

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June 3, 1980

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TO: The Secretary
FROM: OES - Thomas R. Pickering
SUBJECT: Non-Proliferation Policy: Problems and Prospects

Last week I wrote urging that you consider an early meeting on non-proliferation policy. This memo is directed to our Wednesday, June 4 review.

As a result of consultation on the Hill, with the public and within the Executive Branch over the proposed changes and new approaches to non-proliferation policy two series of issues have emerged. One relates to timing: Should we make these changes now? Another reflects the question of degree: How far should we go in dealing with plutonium separation and use in return for improvements in the non-proliferation regime? The issue is dealt with most explicitly in the issue paper which like all negotiated documents is complex. On this issue the question to be addressed in the final analysis is whether the proposed policy approach improves our non-proliferation policy or not; and at what cost.

The policy prescription in this should be judged on how it deals with the toughest issues we face--control of weapons-usable material globally and how to deal with problem countries such as Pakistan, India, South Africa, Israel, Argentina, Brazil, South Korea, and Taiwan. I am convinced the proposed approach is a significant advance. The reasons are all clearly set forth in the paper and can be discussed on Wednesday. I would summarize them by stating that allies (supplier) cooperation is essential to deal with these problems. France--whether we like it or not--is probably key and the Germans are not far

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behind. Both have given us indications, France more clearly than the FRG, that they are prepared to help with full-scope safeguards, sensitive exports, reprocessing and thermal recycle if we are prepared to be more predictable about plutonium separation and use in their breeder and advanced reactor R&D programs. We currently have an interim case-by-case policy on separation and no policy on plutonium use. We will certainly need one.

In considering the possible policy options, the first issue that must be addressed relates to why make any changes now. It is argued by some that any plutonium use enters into the sensitive area of weapons-usable material. Any changes in policy--or even perceived changes--in an election year will stimulate opposition, although to be fair, we have talked for a year about these proposals to the Hill and the public, and I detect no uncontrollable wildfires burning on the issue.

Some argue why change now, why not wait until after election? I explained in an earlier memorandum why I felt we had to move now. The key question is of course whether we can begin to explore new approaches to non-proliferation with our allies now. Australia and Canada are likely to move ahead--essentially for reasons related to developing their own uranium resources--and we are not likely to stop them in an approach inimical to our own interests without spelling out what we intend to do.

Of the three options under consideration, Option 1, no change from the current case-by-case policy, has the virtue that it is most defensible domestically in terms of perceived consistency in the Administration's non-proliferation policy. Unfortunately, this approach almost guarantees that we will accede to each request, albeit case-by-case after painful internal review, with no net proliferation gain and inevitable further straining of relations with our allies and the real perception of erosion in our position.

Most of the Government can agree on the basic Option 2 (i.e., the need to move from a case-by-case to a more generic approach to reprocessing and plutonium use and to obtain something for it in return). Differences focused on Sub-Options 2(a) and (b). Some of the differences are largely presentational--how we explain our approach. For example, do we in our rhetoric limit generic approvals to Europe and Japan (and open ourselves to charges of discrimination) or alternatively talk in terms of non-proliferation, economic and technical criteria that only Europe and Japan can meet over the next 10

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to 15 years? Other differences are more substantive. Option 2(a) would grandfather reprocessing and plutonium use for breeder and advanced reactor programs in being prior to the President's April 1977 policy statements. While this should have some domestic appeal in terms of Administration consistency, it sets up an artificial cut-off date that is difficult to define relative to allied program plans, has little relation to their perceived program needs and may be viewed as more onerous than the current case-by-case approach because of its effect on post-1977 plans. Of equal importance, it fails to deal with tough cases that we must face in the near-term, such as the second Japanese reprocessing plant, and post-1977 contracts for reprocessing entered into by Sweden, Japan, and others who will feel compelled to honor them. It should also be recalled that the President's April 1977 statements expressed our concern with premature commercialization of reprocessing and breeders and our intent to defer commercialization domestically but clearly indicated that other countries such as France, Germany, and Japan had different energy situations and that we did not intend to interfere with their programs. Thus, if we are looking to the specifics of Option 2(a) as a compromise that will serve as a basis for harmonizing policies with key allies, it will not accomplish this.

Option 2(b) on the other hand, provides a reasonable framework for such harmonization, as well as the difficult cases cited above, by grandfathering existing programs, expressing, in principle, agreement to future breeder and advanced reactor R&D programs and associated reprocessing, but drawing the line clearly so as to preclude thermal recycle in the near-term. Unfortunately, in domestic terms, Option 2(b) appears to be a blank check to agree to any plutonium separation and use short of thermal recycle and thus a shift in policy. Again, the reason for this perception is the desire for exactness and specificity on plutonium separation and use by some and the inevitable tensions between those who wish to retain a very hard line position and those who must carry out the negotiation. This argues for a more general approach and that we avoid, if possible, the specificity of Option 2(a) or 2(b) that would box in the President to a perceived policy change or our negotiators to a politically-attractive position domestically but one with little or no negotiating capability to achieve our global non-proliferation objectives.

In diplomacy as in politics neither the President, nor you, nor our negotiators have to put all our cards on the table in public now, or at any time until we work out the agreements,

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and certainly that will not be before our election. Those opposed to any change have been most insistent on seeing all the cards now. Those favoring change, in one degree or another, have tried to spell it out, but also made clear that in the real world, you cannot predict the full-range of moves and steps in any negotiation.

This suggests a practical approach to the problem. On substance, we should move ahead to explore with our allies the basic Option 2. We are not likely to be challenged to explain how our policy will evolve in the decade to the 1990's or the next century. If we are, we can explain that we are proceeding within the framework of Option 2 for the next ten years, we see no reason to modify that view for the period beyond the 1980's but are not now prepared to be irrevocably committed for the 1990's and beyond.

As to timing, what we need now is authority to explore possibilities within this range, not public statements or pronouncements on our policy. As exploration develops, we can report back to the President, to you, and to the Congress on the developments and continue to seek necessary decisions and advice.

We need to establish a process now, set some broad objectives, but not try to define all the detailed features of the outcome. To try to do more is unrealistic; to do less is to lose a significant and important chance to build a better non-proliferation regime and carry forward a key element of the foreign policy to which this Administration has been uniquely committed.

The policy proposals are innovative and important ideas. Not to explore them with our allies as a basis for a better regime would be a serious loss. I believe that exploration can take place to determine whether or not agreement is possible without serious election year losses or real policy sacrifices. The alternatives are greater allied uncertainty and consequent efforts to become more independent of us on the one hand and a greater disagreement and lack of cooperation in the application of non-proliferation conditions to tough country problems on the other.

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cc: T - Mr. Nimetz
S/AS - Amb Smith
S - Mr. Billings

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Issues in the Current Review of US Post-INFCE
Non-Proliferation Policy

The PRC Meeting

A PRC meeting is being scheduled to discuss a Presidential Decision Paper. The Paper presents options for "Planning Assumptions" to guide preparations for upcoming negotiations with EURATOM and Japan. Requests for authority to conclude specific agreements would be submitted as required.

This is the second PRC meeting on the subject. The first was held on April 9 to discuss the February 16 interagency memorandum to the President. At the first PRC meeting, State, DOE, ACDA and JCS all supported the recommendations in the memorandum but questions were raised by CEQ and the NSC Staff. An interagency working group was then asked to prepare another paper with options and analysis on the key issues of reprocessing and the use of plutonium, and specifically how we should exercise our bilateral rights over reprocessing of US-origin fuel.

The resulting Presidential Decision Paper is intended to frame the issues for the President and discuss the questions raised at the last PRC. The course recommended in the February 16th memorandum on reprocessing and plutonium use policy is now presented in the form of options. In addition there are recommendations in three other areas: specific improvements in the non-proliferation regime that would be sought in negotiations, US participation in ongoing discussions to establish an International Plutonium Storage (IPS) regime, and improved assurances of US low-enriched uranium fuel supply.

Background To The Issues

The President's 1977 Non-Proliferation Policy was designed to bring attention to the proliferation risks associated with sensitive aspects of the fuel cycle, in particular plutonium separation and use. INFCE was designed to study the fuel cycle from both proliferation and nuclear power points of view. We have succeeded in increasing awareness; but we have also caused tensions with our major Allies.

Nuclear programs have been slowed in recent years for domestic reasons and the proliferation dangers inherent in plutonium based fuel cycles are now more widely accepted, but advanced and fast breeder reactor options which use plutonium are still perceived to be of great importance by major countries

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in Europe and Japan. We have indicated to our Allies that we recognized that their resource situations differ from ours and that we respect their choice with regard to timing of fast breeder reactor programs. To the extent US policy attempts to interfere with these programs, it is seen as a threat to their energy security and as inconsistent with our assurances.

It is also apparent that any progress on an effective international non-proliferation regime requires the cooperation of the major nuclear suppliers in Europe and Japan. We believe that their cooperation is closely related to resolution of outstanding questions regarding their reprocessing of US source material and use of the resulting plutonium.

Our current guidelines are perceived as threatening energy security in Europe and Japan, and are clearly unacceptable to the Europeans as a basis for renegotiation of the US-EURATOM Agreement for Cooperation. If sustained, they would lead to either a termination of US supply to EURATOM -- which is totally unacceptable on political grounds -- or a continuation of supply based on annual extension of the exception for EURATOM. These guidelines would keep some of our control in the case of Japan, but at a high political cost for the obvious discrimination. Neither of these outcomes is acceptable.

We believe that our ability to influence decisions about reprocessing and plutonium use is diminishing. Our objective is to see whether by offering greater predictability in our supply relationships we can get an improved non-proliferation regime over the longer term and avoid a serious risk of alienating allies and others. The issues presented for decision set a course for that objective.

The Issues in the Decision Paper

Four Planning Assumptions are put forward in the Presidential Decision Paper. Three are simple recommendations and the last is presented in the form of options.

The first Planning Assumption describes what the US would seek to get in negotiations with the Europeans and Japanese. The objectives include, inter alia, significant concessions by major suppliers in the timing of reprocessing facilities and the use of plutonium in their countries, and agreement to require full-scope safeguards as a condition for significant new supply commitments. The relevant point in recommending these objectives is that they add up to a stronger non-proliferation regime or avoid setbacks in our non-proliferation efforts. While we cannot be certain of how much would ultimately be realized

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in negotiations, without an effort to harmonize other portions of our nuclear policies we can expect no real improvements.

The second Planning Assumption recommends general guidance for US participation in the IAEA International Plutonium Storage (IPS) study. Although there is concern that US involvement in the study would make it politically more difficult for us to restrict the release of plutonium derived from US spent fuel, it is outweighed by our interest in assuring that the IPS regime that eventually emerges is as strong as possible. The approach in the Paper attempts to protect our essential interests while going ahead without commitment.

The third Planning Assumption would extend the licensing period for low-enriched uranium exports to NPT or equivalent countries beyond 5 years, perhaps up to the life of the power reactor. This would mean somewhat decreasing the leverage we have over some countries through fuel supply in the interest of demonstrating our reliability as a supplier to those countries having excellent non-proliferation credentials. It would also give us an initiative that will help meet criticism that will be leveled at us at the August NPT Review Conference over our performance as a nuclear supplier.

The Plutonium Separation and Use Issue

The options for the fourth Planning Assumption expose the key issue for the meeting: how should the US exercise its existing right to limit retransfers of US-origin spent fuel from Japan and other (non-EURATOM) countries to European reprocessing plants, and how should we seek and exercise such rights in the case of EURATOM?

Our US-EURATOM agreements do not give us any retransfer rights to approve reprocessing of US-origin materials in EURATOM countries. But our policy and our law -- the Nuclear Non-Proliferation Act of 1978 -- requires us to seek such rights. If we are to be successful we will have to spell out clearly how such rights would be exercised. Japan, where we now have these rights, will insist that we exercise them according to the same criteria agreed upon with EURATOM.

Since adoption of a case-by-case approval policy in April 1977 for retransfer of US-origin material for reprocessing and subsequent plutonium use, we have received requests from Japan, Spain, Switzerland, and Sweden for such approvals to permit reprocessing in the UK and France, and have approved several such retransfers. We have not resolved questions

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related to plutonium use. As reprocessors, France and the UK want approvals of retransfers of spent fuel from third countries to them.

Two policy options are offered in the Decision Paper: the first would codify the current interim practice of case-by-case approvals only to relieve spent fuel storage congestion or where the transfer is necessary to reprocessing contracts predating the April 1977 policy; the second would grant generic approval for cases involving contracts predating 1977 and in addition grant advance approval of transfers for reprocessing and the use of derived plutonium for specified breeder and advanced reactor R&D programs. The second option would thus permit programmatic agreement to reprocessing for specified plutonium use in EURATOM and Japan.

We favor Option 2. Option 1 would underline US opposition to reprocessing, breeders and the use of plutonium. But it would not stop the European reprocessing or breeder programs, and by effectively applying greater pressure on Japan than EURATOM, it would provoke early construction of a second Japanese reprocessing plant. Most important, if we fail to accommodate specified breeder and advanced reactor programs, we will have little chance of renegotiating our agreements for cooperation with EURATOM and others, or of achieving our other objectives designed to strengthen the non-proliferation regime.

If Option 2 and the principle of programmatic approvals is accepted, it can be implemented in either a more or less restrictive way as described by sub-options 2(a) and 2(b) in the Decision Paper. The principal difference between the two is that sub-option (a) would accept for approval at this time only programs committed to prior to 1977 (and only in Europe and Japan) while sub-option (b) would accept programs committed to over the next ten years in NPT or equivalent countries that have an advanced nuclear program. Thus while the criteria of 2(b) covering use of plutonium would apply only to Europe and Japan now, they reasonably would be expected to include others at some unspecified time in the future (e.g., South Korea).

We favor Option 2(b). Although 2(a) explicitly distinguishes between those countries that now have breeder programs and those that do not, it would not provide the predictability in our policy sought by EURATOM and Japan, and it would be roundly criticized as discriminatory by developing

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countries for its failure to provide for the maturation of their nuclear programs. Option 2(b) recognizes that countries such as Japan and Sweden have entered into reprocessing contracts after April 1977 with the UK and France and allows us to offer the generic approvals they need to maintain domestic political viability in their nuclear programs. On balance this option offers the best chance of preserving reasonable technical and economic criteria for legitimate use of plutonium while still meeting the demands of negotiability with the Europeans and Japanese.

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