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September 23, 1975

Memorandum from George S. Vest to Secretary of State, 'September 16-17 Nuclear Suppliers' Meeting'

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Summary:

The September 1975 meeting of the suppliers' group brought out a conflict over a decisive issue, whether supplying countries should require recipient countries to place all nuclear facilities under safeguards or require them only for the technology and supplies at issue in the contract ("project safeguards"). The Canadians strongly supported the former, "full scope safeguards" (their terminology, which caught on), which the French saw as "tantamount to imposing NPT obligations" --a reference to the Treaty's Article III--which they would not accept.

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SECRET/SENSITIVE September 23, 1975

TO: The Secretary

THROUGH: C - Mr. Sonnenfeldt

FROM: PM - George S. Vest

September 16-17 Nuclear Suppliers' Meeting

In the third round of nuclear supplier discussions in London, agreement in principle was reached on many of the provisions under consideration for nuclear suppliers understandings. However, remaining differences on the extent of safeguards coverage to be required as a condition for nuclear exports precluded the adoption of a complete set of common guidelines at this meeting. The [redacted] advocated safeguards on the entire fuel cycle of the recipient and refused to compromise with the [redacted] who, with [redacted] support, favor safeguards tied only to supplied items. 1.4(D)

Canadians

French

FRG

The UK (FCO Asst. Undersecretary John Thomson) will take the lead in trying to maintain the momentum of this activity to work out a compromise in the course of bilaterals. Specific dates have not yet been set for the next meeting, but Thomson hopes to schedule another multilateral session in late October or early November. The tone of this September meeting remained constructive, and I am therefore optimistic that a consensus can be reached this fall. I will stay in touch informally with the three major countries, and consider more formal US approaches at a later stage if and when these could serve to ensure a proper resolution.

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Agreed Principles

A copy of the revised guidelines paper resulting from this meeting is at Attachment 1; those items still at issue are indicated by brackets. Agreement in principle was reached on a large number of points; these are analyzed at Attachment 2.

Items Still at Issue

The key area where major differences still exist, as indicated above, concerns the safeguard commitments to be required of recipients as a condition of supply.

French

1.4(D)

From the outset of this effort the [redacted] have said that as a matter of principle they could not require any recipient to place his entire fuel cycle, which might include facilities not dependent on [redacted] assistance, under safeguards as a condition of supply. They regard this as a de facto NPT requirement, and hence unacceptable. The [redacted] and [redacted] have nevertheless supported such a provision, although I cautioned all three that I did not believe the [redacted] were prepared to move on this issue.

Canadians, British, and Soviets

The [redacted] were in fact not prepared to accept comprehensive safeguards as a requirement. They did indicate, however, that they recognized the value of comprehensive safeguards in facilitating peaceful supply, and therefore (a) they would not hinder efforts by other suppliers outside the context of supplier understandings to induce NNWS to accept comprehensive safeguards voluntarily, and (b) they would not block a move in the IAEA to develop a new model safeguards agreement for applying comprehensive safeguards to non-NPT nations. The [redacted] and [redacted] also opposed a comprehensive safeguards requirement, although they would favor a formulation setting full safeguards as an objective.

1.4(D)

Canadians

Ottawa

Put the [redacted] insisted on making comprehensive safeguards a condition of nuclear supply, and were under instructions from [redacted] not to compromise on this issue at this meeting. The meeting, despite a number of attempts by the [redacted] to achieve a compromise, ended in an impasse on this matter.

UK

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Two other issues remain unresolved at present: (1) whether reactor technology as well as more sensitive technologies should be safeguarded to preclude unsafeguarded replication of imported reactors, and (2) supplier consent for the reprocessing, storage, alteration or use of weapons usable material supplied or derived from supplied items. Movement on these issues must probably await some resolution of the basic [redacted] disagreement on safeguards coverage.

French-Canadian

Next Steps

I have urged the [redacted] to be realistic, and plan to stay in close touch with all delegations over the next few weeks as the key countries conduct internal reviews and bilateral discussions aimed at achieving an informal compromise.

Canadians, British and Soviets

1.4(D)

I think that the differences of views can be satisfactorily resolved. The [redacted] now have a clearer picture of what can reasonably be achieved as a result of their recent experience in [redacted]. Both the [redacted] and the [redacted] governments see the need for supplier agreement on common policies.

Canadians(?)

London(?)

1.4(D)

If, on the other hand, after review of its position at the Ministerial level, [redacted] remains rigid on the full fuel cycle concept, we may need to approach the [redacted] at a high level to convey our views on the importance of achieving a consensus on remaining issues at the next meeting. We may possibly need to consider also a political approach to the [redacted] in order to facilitate a productive outcome.

Canada

1.4(D)

Canadians

PM(?)

The [redacted] maintained a constructive attitude during the recent meeting, and I am reasonably confident that [redacted] will retain this stance and continue to work within the multilateral framework to achieve a productive outcome. Our efforts to respond positively to [redacted] bilateral requests on COCOM and reactor licensing have undoubtedly helped

1.4(D)

French

France

French

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create a productive climate and the prospect of further accommodation should help sustain and augment [redacted] 1.4(D) support of the multilateral suppliers activities.

French

Attachments:

1. Guidelines paper
2. Agreement in principle

Drafted: PM/NPO:GGOplinger:PM/GSVest/ri/oc x21835:9/23/75

Concurrences: S/P - Mr. Kahan
ACDA - Mr. Van Doren
L - Mr. Bettauer

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PRELIMINARY DRAFT GUIDELINES

1. The following fundamental principles and concepts on safeguards and export controls would apply to nuclear transfers to any non-nuclear-weapon state for peaceful purposes. In this connection, suppliers will need to define an export "trigger" list and to agree on common criteria for technology transfers to be included in such a list.

2. Prohibition on Nuclear Explosives

Suppliers would agree to authorize transfer of items identified in an agreed trigger list only upon formal governmental assurances from recipients explicitly excluding uses which would result in any nuclear explosive device.

3. Physical Protection

(a) Suppliers agree that all nuclear materials and facilities identified by the agreed trigger list have to be placed under effective physical protection to prevent unauthorized use and handling. The levels of physical protection to be ensured in relation to the type of materials, equipment and facilities, should be agreed among suppliers, taking account of international recommendations.

(b) Suppliers further agree that the implementation of measures of physical protection in the recipient country is the responsibility of the government of that country. However, in order to implement the terms agreed upon amongst suppliers, the levels of physical protection on which these measures have to be based must be the subject of an agreement between supplier and recipient.

(c) Suppliers also agree that in each case special arrangements have to be made with regard to a clear definition of responsibilities for the transport of trigger list items.

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ALTERNATIVE APPROACHES TO SAFEGUARDS

Explanatory note:-

The main difference is that para 4 (First Approach) provides for a uniform system of IAEA safeguards on the full fuel cycle with an understanding that all members of the IAEA would be encouraged to accept such a system whereas paragraph 4 (Second Approach) is based on the application of safeguards only to items of equipment or technology, on an agreed trigger list, which are actually supplied. The remaining paragraphs are common to both approaches although in some cases their precise formulation could depend both on which of the two Approaches is chosen and on the exact contents of the agreed trigger list.

4. FIRST APPROACH

Suppliers would agree to transfer items on the trigger list only to countries which accepted a uniform system of IAEA safeguards on their full fuel cycle. The system would be based on existing experience and methods and would include provision for re-transfer of items on the trigger list only to nations accepting the IAEA full fuel cycle safeguards and with the consent of the original suppliers.

4. SECOND APPROACH

a) Suppliers would agree to transfer trigger list items only when covered by IAEA safeguards, with duration and coverage provisions in conformance with the GOV/1621 guidelines.

[b. Exceptions would be made only after consultation with the parties to this understanding.]

ERRATUM:

Add following to the beginning of explanatory note on page 2:

Alternative schemes have been suggested. They are set out below as paragraph 4 (First Approach) and paragraph 4 (Second Approach).

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5. Safeguards Triggered by Transfers of Enrichment, Reprocessing, Reactors or Heavy Water Technology

(a) Suppliers would agree that the requirements of paragraphs 2 and 3 above and of paragraph 4 above (Second Approach) would also apply to facilities for reprocessing, enrichment, or heavy water production or reactors utilizing technology transferred by the supplier.

(b) Suppliers agree that in the case of a transfer of sensitive equipment or technology they would require an undertaking that IAEA safeguards would apply to any other plant of the same type constructed during an agreed period in the recipient's country.

(c) Where the recipient has not agreed to place all its civil nuclear programme under IAEA safeguards, it would agree to arrangements permitting the IAEA to apply Agency safeguards with respect to facilities identified by the supplier (in co-operation with the recipient) as using transferred technology.]

6. Special Controls on Sensitive Exports

Suppliers would agree to exercise restraint in the transfer of sensitive facilities, technology and weapons-usable materials. In the event enrichment or reprocessing facilities, equipment or technology are to be transferred, suppliers would agree to encourage recipients to accept, as an alternative to national plants, supplier involvement and/or other appropriate multi-national participation in resulting facilities. Suppliers would also agree to promote international (including IAEA) activities concerned with multi-national regional fuel cycle centres.

7. Special Controls on Export of Enrichment Facilities, Equipment and Technology

For a transfer of an enrichment facility, or technology therefor, the recipient nation would agree that neither the transferred facility, nor any facility based on such a technology, will be designed or operated for the production of greater than 20% enriched uranium without the consent of the supplier nation, of which the IAEA would be advised.

[8. Controls on Supplied or Derived Weapons-Usable Material

Suppliers recognize the usefulness, in order to advance the objectives of these guidelines, of including in agreements on supply of nuclear materials or of facilities which produce weapons-usable materials provisions calling for mutual agreement between the supplier and

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the recipient on arrangements for reprocessing, storage, alteration or use of any weapons-usable material involved. Suppliers would particularly endeavour to include such provisions in cases where the presence of weapons-usable material would contribute to the risk of instability or conflict.]

9. Controls on Retransfer

Suppliers would agree to transfer tripper list items only upon the recipient's assurances that:

(a) the supplier's consent will be obtained for any retransfer or for the transfer of derived nuclear material [or equipment] and

(b) the recipient of the retransfer has provided the same assurances required for the original transfer.

SUPPORTING ACTIVITIES

10. Physical Security

Suppliers would agree to promote international co-operation on the exchange of physical security information, protection of nuclear materials in transit, and recovery of stolen nuclear materials and equipment.

11. Support for Effective IAEA Safeguards

Suppliers would agree to make special efforts in support of the continuing effectiveness of IAEA safeguards.

12. Sensitive plant design features

Suppliers would encourage the designers and makers of sensitive equipment to construct it in such a way as to facilitate the application of safeguards.

13. Consultations

(a) Suppliers would maintain contact and consult through regular channels on matters connected with the implementation of these guidelines.

(b) Suppliers would agree to consult as each deems appropriate with other concerned Governments on specific sensitive cases to ensure that such transfer should not contribute to risks of conflict or instability.

(c) Suppliers would agree, in the event of a diversion of materials or violation or abrogation of supplier-recipient understandings consistent with these guidelines, to consult promptly on appropriate

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responses, and possible common actions, bearing in mind Article XII of the IAEA Statute.

14. In considering transfers each supplier would exercise prudence having regard to all the circumstances of the case.

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Attachment 2

Agreement in principle was reached on the following points at the September 16-17 meeting:

(1) Formal governmental assurances from the recipient that it would not use supplied items, to produce any nuclear explosive device, including PNE's.

(2) Agreement by suppliers on common physical security standards and agreement to such standards by recipients as a condition of nuclear supply. Also agreement by suppliers to promote international cooperation in physical security matters, including international transit.

(3) Suppliers consent to be required in cases where recipients wish to produce highly enriched uranium: special care in design of sensitive facilities to facilitate application of safeguards.

(4) Supplier consent to be required for retransfer of materials or technology to third countries including assurances that the same guarantees and controls will be assumed by third countries.

(5) Consultations among suppliers (a) with regard to implementation of agreed guidelines; (b) on sensitive export cases, and (3) in the event of violation by recipients.

(6) Restraint by suppliers in transfer of sensitive facilities, technology, and weapons-usable nuclear material; encouragement of recipients to accept supplier involvement and/or other appropriate multinational participation in any enrichment or reprocessing facilities transferred or assisted; support of international (including IAEA) activities concerned with multinational regional fuel cycle centers.

The above agreed guidelines are consistent with the preferred US position on these matters with the exception of item (6) where we would have preferred a mandatory provision for supplier involvement in enrichment and reprocessing facilities. However, it became clear that our position had little support.

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Canadians(?)

British, French, Germans and Soviets(?)

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Although the [redacted] backed us, we encountered strong opposition from the [redacted] and [redacted]. Thus, in accordance with our guidance, we reformulated the provision to be non-obligatory which was as far as we could budge the others after intensive bilaterals, and moved towards our objective enough to be an acceptable outcome.

1.4(D)

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