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FM AMEMBASSY BONN
TO SECSTATE WASHDC PRIORITY 6240
INFO USMISSION EC BRUSSELS
AMEMBASSY LONDON
AMEMBASSY MOSCOW
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and

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IAEA/DISTO

SUBJ: NPT - TEXT OF FRG NOTE ON NPT SIGNATURE

REF: A) BONN 15242 LIMDIS; B) STATE 185454; C) BONN 15265

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1. FRG DISARMAMENT COMMISSIONER ROTH HAS GIVEN US THE FINAL TEXTS OF THE NOTE TO BE CIRCULATED TO GOVERNMENTS UPON FRG SIGNATURE OF THE NPT, AND OF THE STATEMENT TO BE MADE TO THE BUNDESTAG ON THAT OCCASION, TEXT BY SEPTEL. THE CABINET APPROVED BOTH TEXTS AT ITS NOV 20 MEETING. TEXT OF THE NOTE (INFORMAL EMB TRANSLATION) FOLLOWS (TEXT OF STATEMENT IN REFTEL (C)).

2. BEGIN TEXT:

A. THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY HAS

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THE HONOR, UPON THE OCCASION OF AND IN FORMAL CONJUNCTION WITH ITS SIGNATURE TODAY OF THE NON-PROLIFERATION TREATY TO MAKE KNOWN THE FOLLOWING ASSUMPTIONS (VORAUSSETZUNGEN), UNDER WHICH IT IS SIGNING THE TREATY.

B. THE FEDERAL GOVERNMENT IS OF THE VIEW,

- THAT THE TREATY WILL BE INTERPRETED AND APPLIED TOWARD THE FEDERAL REPUBLIC OF GERMANY IN THE SAME WAY AS TOWARD OTHER PARTIES TO THE TREATY;

- THAT THE SECURITY OF THE FEDERAL REPUBLIC OF GERMANY AND ITS ALLIES CONTINUES TO BE ENSURED BY MEANS OF NATO OR A CORRESPONDING SECURITY SYSTEM;

- THAT RESOLUTION 265 OF THE UNITED NATIONS SECURITY COUNCIL AS WELL AS THE DECLARATIONS OF INTENT UPON WHICH THIS RESOLUTION IS BASED BY THE UNITED STATES, THE SOVIET UNION, AND GREAT BRITAIN APPLY WITHOUT RESTRICTION TO THE FEDERAL REPUBLIC;

- THAT THE TREATY DOES NOT REPEAT NOT HAMPER THE UNIFICATION (ZUSAMMENSCHLUSS) OF THE EUROPEAN STATES;

- THAT THE PARTIES TO THE TREATY WILL TAKE UP FORTHWITH THE NEGOTIATIONS ON DISARMAMENT WHICH ARE FORESEEN IN THE TREATY, ESPECIALLY IN THE AREA OF NUCLEAR WEAPONS.

C. THE FEDERAL GOVERNMENT DECLARES THAT

- NO REPEAT NO RECOGNITION OF THE GDR IN INTERNATIONAL LAW IS CONNECTED WITH SIGNATURE OF THIS TREATY;

- THEREFORE AS FAR AS THE FEDERAL REPUBLIC IS CONCERNED NO REPEAT NO RELATIONS UNDER INTERNATIONAL LAW WITH THE GDR ARISE WITHIN THE FRAMEWORK OF THIS TREATY.

- THE SIGNATURE, RATIFICATION, OR ADHERENCE OF THE GDR DOES NOT REPEAT NOT CREATE THE CONDITIONS FOR ITS ADMISSION TO INTERNATIONAL ORGANIZATIONS, CONFERENCES AND TREATIES.

D. 1. INsofar AS THE PEACEFUL USE OF NUCLEAR ENERGY AND THE VERIFICATION AGREEMENT WHICH IS TO BE CONCLUDED WITH THE IAEA ARE CONCERNED, THE FEDERAL GOVERNMENT IS OF THE FOLLOWING VIEW:

(A) LIMITATION TO THE PURPOSE OF THE TREATY. THE PURPOSE OF THE TREATY IS TO PREVENT THE PRESENT NON-NUCLEAR WEAPONS STATES FROM MANUFACTURING OR OTHERWISE ACQUIRING NUCLEAR WEAPONS OR OTHER NUCLEAR EXPLOSIVE DEVICES. THE PROVISIONS OF THE TREATY ARE THEREFORE EXCLUSIVELY DIRECTED TOWARD THE REALIZATION OF THIS OBJECTIVE.

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THESE PROVISIONS IN NO REPEAT NO CASE LEAD TO A LIMITATION OF THE USE OF NUCLEAR ENERGY FOR OTHER PURPOSES BY THE NON-NUCLEAR-WEAPONS STATES.

(B) RESEARCH AND DEVELOPMENT. FREEDOM OF RESEARCH AND DEVELOPMENT IS OF ESSENTIAL SIGNIFICANCE FOR THE DEVELOPMENT OF PEACEFUL USE OF NUCLEAR ENERGY, AND AS FAR AS THE FEDERAL REPUBLIC IS CONCERNED THERE IS NO DOUBT THAT THE TREATY CAN NEVER BE SO INTERPRETED OR APPLIED THAT IT HAMPERS OR PROHIBITS RESEARCH AND DEVELOPMENT IN THIS FIELD. THE FEDERAL GOVERNMENT HAS TAKEN NOTE OF THE DECLARATION OF THE PERMANENT US REPRESENTATIVE AT THE UNITED NATIONS OF 15 MAY 1968, ESPECIALLY THE FOLLOWING STATEMENTS:

"...EVERY CONCERN THAT THIS TREATY WOULD IMPOSE PROHIBITIONS OR LIMITATIONS ON NON-NUCLEAR-WEAPONS STATES IN CONNECTION WITH THEIR DEVELOPMENT OF CAPACITIES IN THE AREA OF NUCLEAR SCIENCE AND TECHNOLOGY IS WITHOUT FOUNDATION.

THIS TREATY REQUIRES FROM NO STATE THAT IT ACCEPT THE STATUS OF TECHNOLOGICAL DEPENDENCE OR BE EXCLUDED FROM DEVELOPMENTS IN NUCLEAR RESEARCH; WITH THIS TREATY THE ENTIRE AREA OF NUCLEAR SCIENCE CONNECTED WITH THE MANUFACTURE OF ELECTRICAL ENERGY...

WILL BECOME MORE ACCESSIBLE TO ALL WHO WISH TO UTILIZE IT. TO THIS BELONG NOT ONLY THE PRESENT GENERATION OF NUCLEAR ENERGY REACTORS BUT ALSO THE ADVANCED TECHNOLOGY OF RAPID BREEDER REACTORS WHICH IS STILL IN DEVELOPMENT AND WHICH IN MANUFACTURING OF ENERGY SIMULTANEOUSLY PRODUCE MORE FISSIONABLE MATTER THAN THEY CONSUME.

MANY NATIONS ARE AT PRESENT CONDUCTING RESEARCH IN A YET MORE ADVANCED AREA OF SCIENCE, NAMELY THAT OF CONTROLLED THERMONUCLEAR FISSION. THE FURTHER DEVELOPMENT OF THIS SCIENCE AND TECHNOLOGY COULD CERTAINLY LEAD TO THE REACTOR OF THE FUTURE, IN WHICH THE PROCESS OF SPLITTING URANIUM OR PLUTONIUM WILL BE REPLACED AS A SOURCE OF ENERGY BY THE FUSION REACTIONS OF HYDROGEN ISOTOPES. THE TECHNOLOGY OF CONTROLLED THERMONUCLEAR FISSION IS NOT AFFECTED BY THE TREATY."

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(C) ONUS OF PROOF. IN CONNECTION WITH ARTICLE III, PARAGRAPH 3 AND ARTICLE IV OF THE TREATY, THE FEDERAL GOVERNMENT DECLARES THAT IT PROCEEDS FROM THE ASSUMPTION THAT ACCORDING TO THE TREATY NO REPEAT NO NUCLEAR ACTIVITY IN THE FIELDS OF RESEARCH, DEVELOPMENT, MANUFACTURE OR USE FOR PEACEFUL PURPOSES IS PROHIBITED FURTHERMORE, THAT THE DELIVERY OF INFORMATION, MATERIAL AND EQUIPMENT TO NON-NUCLEAR-WEAPONS STATES CANNOT BE PROHIBITED MERELY ON THE BASIS OF ALLEGATIONS THAT SUCH AN ACTIVITY OR SUCH A DELIVERY MAY BE USED FOR MANUFACTURE OF NUCLEAR WEAPONS OR OTHER NUCLEAR EXPLOSIVE DEVICES.

(D) EXCHANGE OF INFORMATION. SINCE ARTICLE IV LAYS DOWN THE OBLIGATION FOR PARTIES TO THE TREATY IN A POSITION TO DO SO TO COOPERATE TO FURTHER DEVELOPMENT OF THE

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APPLICATION OF NUCLEAR ENERGY FOR PEACEFUL PURPOSES, THE FEDERAL GOVERNMENT PROCEEDS FROM THE EXPECTATION THAT MEASURES LIMITING THE UNHINDERED FLOW OF SCIENTIFIC AND TECHNOLOGICAL INFORMATION WILL BE EXAMINED SO THAT THE BROADEST POSSIBLE EXCHANGE OF SCIENTIFIC AND TECHNOLOGICAL INFORMATION FOR PEACEFUL PURPOSES WILL BE PROMOTED.

(E) OTHER NUCLEAR EXPLOSIVE DEVICES. THE FEDERAL GOVERNMENT, IN THE PRESENT STATE OF TECHNOLOGY, PROCEEDS FROM THE ASSUMPTION THAT NUCLEAR EXPLOSIVE DEVICES ARE DEVICES WHICH IN SPLIT SECONDS LIBERATE IN AN UNCONTROLLED FASHION A GREAT AMOUNT OF NUCLEAR ENERGY WHILE DEVELOPING SHOCK WAVES, THAT IS THEY ARE DEVICES WHICH CAN BE

USED AS NUCLEAR WEAPONS. THE FEDERAL GOVERNMENT IS AT THE SAME TIME OF THE VIEW THAT THE NPT SHOULD NOT HINDER PROGRESS IN THE AREA OF DEVELOPMENT AND APPLICATION OF TECHNOLOGY OF THE PEACEFUL USE OF MEANS OF NUCLEAR EXPLOSIONS.

(F) SAFEGUARDS AND VERIFICATION AGREEMENT. THERE EXISTS NO REPEAT NO INCOMPATIBILITY BETWEEN THE OBJECTIVES OF THE NPT AND EURATOM TREATY. WITH REFERENCE TO THE SAFEGUARDS MEASURES, WHICH ARE ENVISAGED IN ITS ARTICLE III, THE NPT TREATY LIMITS ITSELF TO REFERRING TO THE AGREEMENTS WHICH ARE STILL TO BE CONCLUDED WITH THE IAEA AND WHOSE CONTENT IS NOT YET DETERMINED. THE SAFEGUARDS AGREEMENTS WITH THE IAEA DESCRIBED IN ARTICLE III, PARAGRAPHS 1 AND 4 MAY BE CONCLUDED BY THE PARTIES TO THE TREATY NOT ONLY "INDIVIDUALLY" BUT "TOGETHER WITH OTHER STATES." THE STATES WHICH BELONG TO AN ORGANIZATION WHOSE ACTIVITY IS RELATED TO THAT OF THE IAEA FULFILL THE OBLIGATION TO CONCLUSION (OF A SAFEGUARDS AGREEMENT) BY THE FACT THAT THE ORGANIZATION CONCERNED CONCLUDES THE AGREEMENT WITH THE IAEA, AS IS ALSO FORESEEN IN ARTICLE XVI OF THE IAEA STATUTE AND IN THE IAEA SAFEGUARDS SYSTEM. THE SAFEGUARDS OBLIGATION OUTSIDE THE AREA OF JURISDICTION, ACCORDING TO ARTICLE III PARA 1, EXISTS ONLY THEN WHEN A NON-NUCLEAR PARTY TO THE TREATY POSSESSES THE CONTROLLING AND EFFECTIVE POWER OF DISPOSITION OVER A NUCLEAR FACILITY.

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IN ORDER TO AVOID THAT IMPLEMENTATION OF THE NPT IS INCOMPATIBLE WITH ADHERENCE TO THE PROVISIONS OF THE EURATOM TREATY, THE VERIFICATION MEASURES MUST BE SO DEFINED THAT THE RIGHTS AND OBLIGATIONS OF THE MEMBER STATES AND OF THE COMMUNITY REMAIN UNAFFECTED, CORRESPONDING TO THE POSITION WHICH THE COMMISSION HAS TAKEN ON THE BASIS OF ARTICLE 103 OF THE EURATOM TREATY.

TO THIS END THE COMMISSION OF THE EUROPEAN COMMUNITIES MUST ENTER INTO NEGOTIATIONS WITH THE IAEA.

THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY INTENDS NOT TO PRESENT THE NPT FOR RATIFICATION UNTIL THE NEGOTIATIONS BETWEEN THE COMMISSION AND THE IAEA HAVE LED TO AN AGREEMENT.

E. THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY CONFIRMS THE APPENDED STATEMENT, WHICH IT HAS MADE UPON SIGNATURE OF THE NON-PROLIFERATION TREATY. END OF TEXT.

3. COMMENT: THE STATEMENT REFERRED TO IN THE LAST SENTENCE OF THE FOREGOING SECTION IS THAT MADE BY THE GOVERNMENT TO THE BUNDESTAG (REFTEL C).

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