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C O R R E C T E D   C O P Y (FOR PARA 5)

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E.O. 12958: N/A  
TAGS: PARM, KTBT, CDG, UNGA, COG, KNNP  
SUBJECT: CTBT: U.S.-UK EXCHANGE OF NOTES ON HYDROACOUSTIC  
STATION HAC8 (DIEGO GARCIA)

REF: (A) STATE 15232, (B) STATE 12322, (C) UNVIE VIENNA 230,  
:D) UNVIE VIENNA 34, (F) 98 STATE 94392

1. AS DESCRIBED IN REFTELS, THE U.S. AND THE CTBT  
PROVISIONAL TECHNICAT SECRETARIAT (PTS) HAVE AGREED ON A  
FUNDING MECHANISM FOR THE INSTALLATION OF A HYDROACOUSTIC  
MONITORING STATION ON DIEGO GARCIA IN THE BRITISH INDIAN

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OCEAN TERRITORIES (BLOT) . THE U.S. AND THE UK HAVE FOR SOME TIME BEEN WORKING ON A BILATERAL UMBRELLA EXCHANGE OF NOTES UNDER THE AUTHORITY OF WHICH THE INSTALLATION AND OPERATION OF THE STATION WOULD TAKE PLACE.

2. DISCUSSION OF THIS EXCHANGE HAS TAKEN PLACE IN THE CONTEXT OF PERIODIC U.S.-UK POLITICAL-MILITARY TALKS ON DIEGO GARCIA (REF E), AND VIA AN ESTABLISHED CHANNEL FOR MATTERS RELATED TO DIEGO GARCIA BETWEEN THE DEPARTMENT'S POLITICAL-MILITARY AFFAIRS BUREAU, AND THE FCC'S BLOT ADMINISTRATION. IN AN AUGUST 20 LETTER LAST YEAR, THE BLOT ADMINISTRATOR INDICATED THAT THE TEXT OF THE EXCHANGE WAS ACCEPTABLE TO THE UK SIDE, WITH MINOR STYLISTIC CHANGES AND THE ADDITION OF A COVER LETTER.

3. IN THE INTERVENING MONTHS, HOWEVER, U.S. OFFICIALS HAVE IDENTIFIED CONCERNS THAT REQUIRE MODEST AMENDMENTS TO THE TEXT OF THE EXCHANGE OF NOTES. BEFORE EXECUTING- THE EXCHANGE, THEREFORE, WE WISH TO PROPOSE THESE AMENDMENTS

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TO THE BRITISH SIDE. WE HAVE TRIED TO KEEP THE NUMBER OF CHANGES TO AN ABSOLUTE MINIMUM, BOTH TO AVOID DISTURBING A LARGELY AGREED TEXT, AND BECAUSE WE WOULD LIKE TO COME TO CLOSURE ON THIS ISSUE AS SOON AS POSSIBLE. WITH FUNDING ISSUES SOLVED, AND WORK ON THE STATION LIKELY TO COMMENCE SOON, IT IS CLEARLY ADVISABLE TO AGREE PROMPTLY ON THE DOCUMENT PROVIDING IMPLEMENTING AUTHORITY IN THE BLOT. WE ALSO BELIEVE IT WOULD BE ADVANTAGEOUS TO EXECUTE THIS EXCHANGE OF NOTES AT THE MAY 11-13 U.S.-UK POLITICAL-MILITARY TALKS IN WASHINGTON.

4. THE TEXT OF THE REVISED EXCHANGE OF NOTES IS IN PARA SIX BELOW. THE U.S. EXPLANATIONS FOR ITS SUGGESTED CHANGES ARE IN PARA V. THE TEXT SHOWING CHANGES TO PROPOSED UK LANGUAGE WILL BE PASSED TO THE BLOT ADMINISTRATION VIA THE ESTABLISHED PM-EGO CHANNEL. HOWEVER, EMBASSY LONDON IS ASKED TO FOLLOW UP WITH THE EGO TO UNDERLINE OUR INTEREST IN WRAPPING THIS EXCHANGE UP QUICKLY, IF AT ALL POSSIBLE. IF NECESSARY, THE U.S. IS PREPARED TO SEND AN INTERAGENCY TEAM TO LONDON TO EXPLAIN OUR CONCERNS AND RESPOND TO ANY QUESTIONS THE BRITISH HAVE. THE TEAM WILL HAVE AUTHORITY TO NEGOTIATE A FINAL TEXT.

5. FOR UNVIE: WE UNDERSTAND THAT UK AMBASSADOR EREEMAN HAS BEEN FOLLOWING THIS ISSUE CLOSELY. THE MISSION SHOULD ADVISE HIM OF THIS APPROACH, AND HAND OVER A COPY OF THE REVISED NOTE WITH U.S. EXPLANATIONS.

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6. BEGIN TEXT OF REVISED EXCHANGE OF NOTES

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I HAVE THE HONOUR TO REFER TO THE AGREEMENT CONSTITUTED BY THE EXCHANGE OF NOTES DATED 30 DECEMBER 199E BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA CONCERNING THE AVAILABILITY OF THE BRITISH INDIAN OCEAN TERRITORY FOR DEFENCE PURPOSES AND TO THE AGREEMENT CONSTITUTED BY THE EXCHANGE OF NOTES DATED 25 FEBRUARY 1976 BETWEEN THE TWO GOVERNMENTS CONCERNING A UNITED STATES NAVY SUPPORT FACILITY ON DIEGO GARCIA, BRITISH INDIAN OCEAN TERRITORY. PURSUANT TO PARAGRAPH 2(B) OF THE FORMER AGREEMENT, I NOW CONVEY THE APPROVAL OF

THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND TO THE CONSTRUCTION ON DIEGO GARCIA, BRITISH INDIAN OCEAN TERRITORY, OF A MONITORING FACILITY FOR INCLUSION IN THE INTERNATIONAL MONITORING SYSTEM TO BE ESTABLISHED PURSUANT TO THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY, ADOPTED AT NEW YORK ON 10 SEPTEMBER 199E, AND FOR SATISFYING REQUIREMENTS OF THE UNITED STATES OF AMERICA, AND PROPOSE AN AGREEMENT IN THE FOLLOWING TERMS:

SCOPE OF AND RESPONSIBILITY FOR THE MONITORING FACILITY

(1) THE GOVERNMENT OF THE UNITED STATES OF AMERICA SHALL UNDERTAKE, AT NO EXPENSE TO THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, TO CONSTRUCT, MAINTAIN AND OPERATE A HYDROACOUSTIC MONITORING FACILITY ON DIEGO GARCIA, BRITISH INDIAN OCEAN TERRITORY, TO MEET U.S. REQUIREMENTS AND FOR INCLUSION IN THE INTERNATIONAL MONITORING SYSTEM TO BE ESTABLISHED,

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PURSUANT TO THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY, BY THE PREPARATORY COMMISSION AND ITS PROVISIONAL TECHNICAL SECRETARIAT. NOTWITHSTANDING THAT THE MONITORING FACILITY SHALL BE CONSTRUCTED, MAINTAINED AND OPERATED BY THE GOVERNMENT OF THE UNITED STATES, THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND SHALL BE THE STATE RESPONSIBLE FOR THE MONITORING FACILITY PURSUANT TO SECTION A OF PART I OF THE PROTOCOL OF THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY.

PURPOSE OF THE MONITORING FACILITY

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(2) THE PURPOSE OF THE MONITORING FACILITY SHALL BE TO PROVIDE DATA TO THE INTERNATIONAL DATA CENTRE AND, AS APPROPRIATE, THE PROVISIONAL OR PROTOTYPE INTERNATIONAL DATA CENTRE, ESTABLISHED BY THE PREPARATORY COMMISSION AND THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY ORGANIZATION IN ACCORDANCE WITH THE TERMS OF THE TREATY, AND DIRECTLY TO THE UNITED STATES OF AMERICA. AT ITS OWN EXPENSE, THE GOVERNMENT OF THE UNITED STATES OF AMERICA MAY INSTALL AND MAINTAIN A SEPARATE DATA CHANNEL FOR ITS OWN PURPOSES.

COMPLIANCE WITH THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY

(3) THE MONITORING FACILITY SHALL BE SURVEYED, CONSTRUCTED, OPERATED AND MAINTAINED IN ACCORDANCE WITH U.S. REQUIREMENTS AND APPLICABLE PROVISIONS OF THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY, THE TECHNICAL SPECIFICATIONS APPROVED BY THE PREPARATORY COMMISSION ON 18 AUGUST 1998, AND THE ASSOCIATED OPERATIONAL MANUALS

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ADOPTED BY THE PREPARATORY COMMISSION OF THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY ORGANIZATION. THE TWO GOVERNMENTS SHALL TAKE ANY MEASURES NECESSARY TO WORK, AS APPROPRIATE, WITH THE PREPARATORY COMMISSION OR THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY ORGANIZATION TO ENSURE THAT THE STATION WILL BE CERTIFIED TO OPERATE AS AN INTERNATIONAL MONITORING SYSTEM STATION. GIVEN THE OBLIGATION OF THE ORGANIZATION IN ARTICLE TV OF THE TREATY AND THE PROVISIONAL OBLIGATION OF THE PREPARATORY COMMISSION IN PARAGRAPH 5 (C) OF THE ANNEX TO THE RESOLUTION ESTABLISHING THE PREPARATORY COMMISSION FOR THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY TO MEET THE COSTS OF IMS FACILITIES, THE U.S. AND THE UK SHALL COOPERATE IN ANY EFFORT TO OBTAIN FUNDING FROM THE ORGANIZATION OR THE PREPARATORY COMMISSION, AS APPROPRIATE, FOR SOME OR ALL OF THE COSTS OF ESTABLISHING, OPERATING, AND MAINTAINING THIS STATION. INSTALLATION, OPERATION, MAINTENANCE, AND FUNDING OF ANY FUTURE UPGRADES OF THE STATION FOLLOWING INITIAL CERTIFICATION WILL BE A MATTER FOR CONSULTATION AND AGREEMENT BETWEEN GOVERNMENTS.

(3 BIS) THE GOVERNMENTS SHALL COOPERATE WITH THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY ORGANIZATION TO PROVIDE A DIRECT CONNECTION FROM THE MONITORING FACILITY TO THE GLOBAL COMMUNICATIONS INFRASTRUCTURE (GCI) OF THE TREATY ORGANIZATION TO ENSURE COMPLIANCE WITH THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY AND ITS PREPARATORY COMMISSION REQUIREMENTS. CONTINUOUS DATA FROM THE MONITORING FACILITY SHALL BE TRANSMITTED USING THE CCI,

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UNINTERRUPTED TO THE INTERNATIONAL DATA CENTRE AND, AS  
APPROPRIATE, THE PROVISIONAL OR PROTOTYPE INTERNATIONAL  
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DATA CENTRE.

COMPLIANCE WITH BRITISH INDIAN OCEAN TERRITORY LAWS AND  
REGULATIONS

(4) THE GOVERNMENT OF THE UNITED STATES SHALL ENDEAVOR TO  
TAKE STEPS TO MINIMISE ANY ADVERSE IMPACT THAT THE  
MONITORING FACILITY MIGHT HAVE ON THE LOCAL ENVIRONMENT.

CONSTRUCTION OF THE FACILITY

(5) THE PLANS FOR THE CONSTRUCTION OF THE MONITORING  
FACILITY, AND ITS PRECISE LOCATION, SHALL BE AGREED  
BETWEEN THE TWO GOVERNMENTS, AND THEY SHALL JOINTLY REVIEW  
THE CONSTRUCTION PLANS WITH THE PROVISIONAL TECHNICAL  
SECRETARIAT OF THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY  
PREPARATORY COMMISSION PRIOR TO COMMENCEMENT OF  
CONSTRUCTION. PRIOR TO, AND DURING, CONSTRUCTION OF THE  
MONITORING FACILITY, THE GOVERNMENT OF THE UNITED STATES  
SHALL KEEP THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT  
BRITAIN AND NORTHERN IRELAND INFORMED OF PROGRESS AND OF  
ANY SIGNIFICANT DIFFICULTIES ENCOUNTERED OR ENVISAGED.

OVERSIGHT

6) THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN  
AND NORTHERN IRELAND SHALL HAVE THE RIGHT TO OVERSEE  
PLANNING, CONSTRUCTION, MAINTENANCE AND OPERATION OF THE  
MONITORING FACILITY AND, GIVEN ITS OVERALL RESPONSIBILITY  
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FOR THE FACILITY, SHALL SERVE AS THE CONDUIT OF  
INFORMATION ON THIS FACILITY TO THE PREPARATORY COMMISSION  
OF THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY ORGANIZATION.

REDUCED ASSESSMENT

(W) AS SET FORTH IN ARTICLE IV, PARAGRAPH 22 OF THE  
COMPREHENSIVE NUCLEAR TEST-BAN TREATY, AND THE APPROPRIATE  
PROVISIONS OF THE FINANCIAL REGULATIONS OF THE PREPARATORY  
COMMISSION FOR THE COMPREHENSIVE NUCLEAR TEST-BAN-TREATY  
ORGANIZATION, DECISIONS OF THE PREPARATORY COMMISSION (FOR  
EXAMPLE, CTBT/PC/ITI/CRP.2/REV.2 AND  
CTBT/PC/II/CRP.L5/REV.L) AND TAKING INTO ACCOUNT ANY

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SUBSEQUENT DECISIONS TAKEN BY THE PREPARATORY COMMISSION -AND THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY ORGANIZATION, THE TWO GOVERNMENTS MAY SUBMIT REQUESTS, EITHER INDEPENDENTLY OR JOINTLY, FOR A REDUCED ASSESSMENT TO THE PREPARATORY COMMISSION OR THE EXECUTIVE COUNCIL.

PRIOR TO SUCH REQUEST, THE TWO GOVERNMENTS SHALL HAVE AGREED ON THE DIVISION OF ANY FUNDING THAT EACH GOVERNMENT SHALL HAVE CONTRIBUTED TOWARD THE ESTABLISHMENT/UPGRADE OF THE STATION, AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND SHALL HAVE INFORMED THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY PREPARATORY COMMISSION OR THE EXECUTIVE COUNCIL OF THE RESULTS OF SUCH C-AGREEMENTS.

NOTIFICATION

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(8) THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND SHALL REGISTER THIS AGREEMENT WITH THE SECRETARY GENERAL OF THE UNITED NATIONS AND SHALL INFORM THE PROVISIONAL TECHNICAL SECRETARIAT OF THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY ORGANIZATION OF ITS CONCLUSION.

AVAILABILITY OF FUNDS

(9) TO THE EXTENT THAT THE CARRYING OUT OF ANY ACTIVITY OR THE IMPLEMENTATION OF ANY PART OF THIS AGREEMENT DEPENDS UPON FUNDS TO BE APPROPRIATED BY THE CONGRESS OF THE UNITED STATES, IT SHALL BE SUBJECT TO THE AVAILABILITY OF SUCH FUNDS.

DURATION

(10) THIS AGREEMENT SHALL CONTINUE IN FORCE INDEFINITELY. AFTER 10 YEARS, EITHER PARTY MAY TERMINATE THIS AGREEMENT UPON ONE-YEAR NOTICE.

OPTIONS FOR FUTURE INFRASOUND AND RADIONUCLIDE STATIONS

(11) THE GOVERNMENT OF THE UNITED STATES OF AMERICA MAY, SUBJECT TO THE AVAILABILITY OF FUNDS AND MUTUAL AGREEMENT BETWEEN THE TWO GOVERNMENTS, LATER INCLUDE ADDITIONAL MONITORING FACILITIES CONSISTING OF AN INFRASOUND STATION AND A RADIONUCLIDE STATION.

IF THE GOVERNMENT OF THE UNITED STATES OF AMERICA IS

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CONTENT WITH THESE PROPOSALS, I HAVE THE HONOUR TO PROPOSE  
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THAT THIS NOTE TOGETHER WITH YOUR REPLY TO THAT EFFECT  
SHALL CONSTITUTE AN AGREEMENT BETWEEN OUR TWO GOVERNMENTS  
WHICH SHALL ENTER INTO FORCE ON THE DATE OF YOUR REPLY AND  
SHALL BE KNOWN AS THE BRITISH INDIAN OCEAN TERRITORY  
AGREEMENT OF 1999.

END TEXT.

W. BEGIN EXPLANATIONS FOR U.S.-PROPOSED CHANGES

MOST, IF NOT ALL, OF THE PROPOSED CHANGES ARE FUNDING  
RELATED.

WE HAVE CHANGED FACILITIES TO -FACILITY THROUGHOUT,  
CHARACTERIZED THE FACILITY AS A HYDROACOUSTIC STATION,  
REMOVED REFERENCES TO INFRASOUND AND RADIONUCLIDE STATIONS  
FROM PARAGRAPH (1), AND ADDED A NEW SECTION, PARAGRAPH  
(11), ON OPTIONS FOR THE FUTURE FOR SUCH STATIONS. AT  
HIS TIME, WE ARE UNABLE TO COMMIT TO INSTALL, OPERATE,  
AND MAINTAIN AN INFRASOUND STATION AND A RADIONUCLIDE  
STATION. HOWEVER, WE WANT TO KEEP OPEN THE POSSIBILITY OF  
DOING SO IN THE FUTURE.

WE HAVE ADDED REFERENCES TO U.S. REQUIREMENTS BECAUSE WE  
WANT TO MAKE CLEAR THAT THE BLOT HYDROACOUSTIC STATION  
MEETS U.S. REQUIREMENTS. SUCH AN EXPLICIT STATEMENT TO  
THAT EFFECT WILL BE HELPFUL IN JUSTIFYING EXPENDITURE OF  
U.S. FUNDS FOR THIS PROJECT.

LAST SENTENCE IN PARAGRAPH (1): WE CHANGED SHALL RETAIN  
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RESPONSIBILITY FOR THE MONITORING FACILITY PURSUANT TO  
SECTION A OF PART I OF THE... (CTBTJ TO ENSURE THAT THE IDEA  
OF RESPONSIBILITY CARRIED THE SAME MEANING AS IN THE CTBT.

PARAGRAPH (2): WE ADDED LANGUAGE GIVING US THE RIGHT TO  
PROVIDE FOR THE DIRECT TRANSMISSION OF HYDROACOUSTIC DATA  
FROM DIEGO OARCIA TO THE U.S. THE DATA FROM THIS STATION  
ARE VERY IMPORTANT TO U.S. MONITORING CAPABILITIES; DIRECT  
TRANSMISSION WOULD GIVE US THE HIGHEST CONFIDENCE IN DATA  
RELIABILITY AND INTEGRITY. THIS RIGHT IS NECESSARY TO  
JUSTIFY EXPENDITURE OF U.S. FUNDS; HOWEVER, WE DO NOT  
EXPECT TO EXERCISE IT IN THE NEAR FUTURE.

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FIRST SENTENCE IN (3) : "...ANY RELEVANT PREPARATORY COMMISSION-APPROVED TECHNICAL SPECIFICATIONS" IS TOO OPEN-ENDED. WE WANTED TO MAKE CLEAR THAT WE WILL CONSTRUCT, OPERATE, AND MAINTAIN THE STATION IN ACCORDANCE WITH THE APPLICABLE TECHNICAL SPECIFICATIONS APPROVED BY THE PREPCOM ON 18 AUGUST 1998.

LAST TWO SENTENCES IN (3) : WE WANTED TO MAKE CLEAR THAT U.S. FUNDING MIGHT NOT ALWAYS BE AVAILABLE FOR OPERATING AND MAINTAINING THE STATION, ESPECIALLY IN THE EVENT OF MAJOR EQUIPMENT FAILURE. THE U.S. MAY NEED UK ASSISTANCE IN THE FUTURE TO OBTAIN FUNDING FROM THE CTBTO OR PREPCOM, AS APPROPRIATE, FOR SOME OR ALL OF THE COSTS OF OPERATING AND MAINTAINING THE STATION. THE LAST SENTENCE POINTS OUT THAT THE U.S. IS NOT PREPARED AT THIS TIME TO COMMIT TO THE FUNDING OF UPGRADES.

PARAGRAPH (4): THE FIRST PART OF THE FIRST SENTENCE GOES  
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BEYOND SIMILAR PROVISIONS IN THE BASIC BLOT AGREEMENTS,  
WHICH SHOULD BE SUFFICIENT FOR THIS CASE.

WE ADDED A NEW PARAGRAPH (9) TO EMPHASIZE THAT OUR PERFORMANCE UNDER THIS AGREEMENT IS CONTINGENT UPON THE AVAILABILITY OF FUNDS FROM CONGRESS.

WE SIMPLIFIED THE DURATION PARAGRAPH BECAUSE WE BELIEVE -HAT IT IS IMPOSSIBLE TO COVER ALL POSSIBLE CONTINGENCIES. DIEGO GARCIA WILL BE AN IMPORTANT MONITORING STATION WHETHER CTBT ENTERS INTO FORCE OR NOT; THEREFORE, WE BELIEVE THAT THE AGREEMENT SHOULD HAVE AN INDEFINITE DURATION. HOWEVER, WE ALSO WANT TO PROVIDE FOR THE POSSIBILITY THAT IN THE LONG TERM EITHER GOVERNMENT MIGHT WANT TO END THE AGREEMENT. FOR EXAMPLE, TECHNOLOGICAL ADVANCES MIGHT PROVIDE BETTER WAYS OF MONITORING. HENCE, WE HAVE ADDED LANGUAGE THAT AFTER 10 YEARS, AN ARBITRARILY LONG PERIOD, EITHER GOVERNMENT COULD TERMINATE THE AGREEMENT WITH ONE YEAR 5 NOTICE.

END U.S. EXPLANATIONS  
ALBRIGHT

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