

## II

*(Acts whose publication is not obligatory)*

**COMMISSION****AGREEMENT**

**between the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the European Atomic Energy Community and the International Atomic Energy Agency in implementation of Article III (1) and (4) of the Treaty on the non-proliferation of nuclear weapons**

(78/164/Euratom)

WHEREAS the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, Ireland, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands (hereinafter referred to as 'the States') are signatories of the Treaty on the non-proliferation of nuclear weapons (hereinafter referred to as 'the Treaty') opened for signature at London, Moscow and Washington on 1 July 1968 and which entered into force on 5 March 1970;

RECALLING that pursuant to Article IV (1) of the Treaty nothing in the Treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with Articles I and II of the Treaty;

RECALLING that according to Article IV (2) of the Treaty all the Parties to the Treaty undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy;

RECALLING further that under the terms of the same paragraph the Parties to the Treaty in a position to do so shall also cooperate in contributing alone or together with other States or international organizations to the further development of the applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear-weapon States party to the Treaty;

WHEREAS Article III (1) of the Treaty provides that each non-nuclear-weapon State party to the Treaty undertakes to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic

Energy Agency (hereinafter referred to as 'the Agency') in accordance with the Statute of the Agency (hereinafter referred to as 'the Statute') and the Agency's safeguards system, for the exclusive purpose of verification of the fulfilment of its obligations assumed under this Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices;

WHEREAS Article III (4) provides that non-nuclear-weapon States party to the Treaty shall conclude agreements with the Agency to meet the requirements of the said Article either individually or together with other States in accordance with the Statute;

WHEREAS the States are members of the European Atomic Energy Community (Euratom) (hereinafter referred to as 'the Community') and have assigned to institutions common to the European Communities regulatory, executive and judicial powers which these institutions exercise in their own right in those areas for which they are competent and which may take effect directly within the legal systems of the Member States;

WHEREAS, with this institutional framework, the Community has in particular the task of ensuring, through appropriate safeguards, that nuclear materials are not diverted to purposes other than those for which they were intended, and will, from the time of the entry into force of the Treaty within the territories of the States, thus be required to satisfy itself through the system of safeguards established by the Euratom Treaty, that source and special fissionable material in all peaceful nuclear activities within the territories of the States is not diverted to nuclear weapons or other nuclear explosive devices;

WHEREAS these safeguards include notification to the Community of the basic technical characteristics of nuclear facilities, maintenance and submission of operating records to permit nuclear materials accounting for the Community as a whole, inspections by officials of the Community, and a system of sanctions;

WHEREAS the Community has the task of establishing with other countries and with international organizations relations which may promote progress in the use of nuclear energy for peaceful purposes and is expressly authorized to assume special safeguard obligations in an agreement with a third State or an international organization;

WHEREAS the Agency's international safeguards system referred to in the Treaty comprises, in particular, provisions for the submission of design information to the Agency, the maintenance of records, the submission of reports on all nuclear material subject to safeguards to the Agency, inspections carried out by the Agency's inspectors, requirements for the establishment and maintenance of a system of accounting for and control of nuclear material by a State, and measures in relation to verification of non-diversion;

WHEREAS the Agency, in the light of its statutory responsibilities and its relationship to the General Assembly and the Security Council of the United Nations, has the responsibility to assure the international community that effective safeguards are being applied under the Treaty;

NOTING that the States, which were members of the Community when they signed the Treaty, made it known on that occasion that safeguards provided for in Article III (1) of the Treaty would have to be set out in a verification agreement between the Community, the States and the Agency and defined in such a way that the rights and obligations of the States and the Community would not be affected;

WHEREAS the Board of Governors of the Agency (hereinafter referred to as 'the Board') has approved a comprehensive set of model provisions for the structure and content of agreements between the Agency and States required in connection with the Treaty to be used as the basis for negotiating safeguards agreements between the Agency and non-nuclear-weapon States party to the Treaty;

WHEREAS the Agency is authorized under Article III (A) (5) of the Statute, to apply safeguards, at the request of the Parties, to any bilateral or multilateral arrangement, or at the request of a State, to any of that State's activities in the field of atomic energy;

WHEREAS it is the desire of the Agency, the Community and the States to avoid unnecessary duplication of safeguards activities;

NOW, THEREFORE, THE AGENCY, THE COMMUNITY AND THE STATES HAVE AGREED AS FOLLOWS:

## PART I

### BASIC UNDERTAKING

#### *Article 1*

The States undertake, pursuant to Article III (1) of the Treaty, to accept safeguards, in accordance with the terms of this Agreement, on all source or special fissionable material in all peaceful nuclear activities within their territories, under their jurisdiction or carried out under their control anywhere, for the exclusive purpose of verifying that such material is not diverted to nuclear weapons or other nuclear explosive devices.

with the terms of this Agreement, on all source or special fissionable material in all peaceful nuclear activities within the territories of the States, under their jurisdiction or carried out under their control anywhere, for the exclusive purpose of verifying that such material is not diverted to nuclear weapons or other nuclear explosive devices.

#### *Article 3*

- (a) The Community undertakes, in applying its safeguards on source and special fissionable material in all peaceful nuclear activities within the territories of the States, to cooperate with the Agency, in accordance with the terms of this Agreement, with a view to ascertaining that such source and special fissionable material is not diverted to nuclear weapons or other nuclear explosive devices.

### APPLICATION OF SAFEGUARDS

#### *Article 2*

The Agency shall have the right and the obligation to ensure that safeguards will be applied, in accordance

(b) The Agency shall apply its safeguards, in accordance with the terms of this Agreement, in such a manner as to enable it to verify, in ascertaining that there has been no diversion of nuclear material from peaceful uses to nuclear weapons or other nuclear explosive devices, findings of the Community's system of safeguards. The Agency's verification shall include *inter alia* independent measurements and observations conducted by the Agency in accordance with the procedures specified in this Agreement. The Agency, in its verification, shall take due account of the effectiveness of the Community's system of safeguards in accordance with the terms of this Agreement.

#### COOPERATION BETWEEN THE AGENCY, THE COMMUNITY AND THE STATES

##### Article 4

The Agency, the Community and the States shall cooperate, in so far as each Party is concerned, to facilitate the implementation of the safeguards provided for in this Agreement and shall avoid unnecessary duplication of safeguards activities.

#### IMPLEMENTATION OF SAFEGUARDS

##### Article 5

The safeguards provided for in this Agreement shall be implemented in a manner designed:

- (a) to avoid hampering the economic and technological development in the Community or international cooperation in the field of peaceful nuclear activities, including international exchange of nuclear material;
- (b) to avoid undue interference in the peaceful nuclear activities in the Community, and in particular in the operation of facilities; and
- (c) to be consistent with prudent management practices required for the economic and safe conduct of nuclear activities.

##### Article 6

- (a) The Agency shall take every precaution to protect commercial and industrial secrets and other confidential information coming to its knowledge in the implementation of this Agreement.

- (b) (i) The Agency shall not publish or communicate to any State, organization or person any information obtained by it in connection with the implementation of this Agreement, except that specific information relating to the implementation thereof may be given to the Board and to such Agency staff members as require such knowledge by reason of their official duties in connection with safeguards, but only to the extent necessary for the Agency to fulfil its responsibilities in implementing this Agreement.
- (ii) Summarized information on nuclear material subject to safeguards under this Agreement may be published upon decision of the Board if the States directly concerned or the Community, in so far as either Party is individually concerned, agree thereto.

##### Article 7

- (a) In implementing safeguards under this Agreement, full account shall be taken of technological development in the field of safeguards, and every effort shall be made to ensure optimum cost-effectiveness and the application of the principle of safeguarding effectively the flow of nuclear material subject to safeguards under this Agreement by use of instruments and other techniques at certain strategic points to the extent that present or future technology permits.
- (b) In order to ensure optimum cost-effectiveness, use shall be made, for example, of such means as:
  - (i) containment as a means of defining material balance areas for accounting purposes;
  - (ii) statistical techniques and random sampling in evaluating the flow of nuclear material; and
  - (iii) concentration of verification procedures on those stages in the nuclear fuel cycle involving the production, processing, use or storage of nuclear material from which nuclear weapons or other nuclear explosive devices could readily be made, and minimization of verification procedures in respect of the nuclear material, on condition that this does not hamper the implementation of this Agreement.

**PROVISION OF INFORMATION TO THE AGENCY***Article 8*

- (a) In order to ensure the effective implementation of safeguards under this Agreement, the Community shall, in accordance with the provisions set out in this Agreement, provide the Agency with information concerning nuclear material subject to such safeguards and the features of facilities relevant to safeguarding such material.
- (b) (i) The Agency shall require only the minimum amount of information and data consistent with carrying out its responsibilities under this Agreement.
- (ii) Information pertaining to facilities shall be the minimum necessary for safeguarding nuclear material subject to safeguards under this Agreement.
- (c) If the Community so requests, the Agency shall be prepared to examine, on premises of the Community, design information which the Community regards as being of particular sensitivity. Such information need not be physically transmitted to the Agency provided that it remains readily available for further examination by the Agency on premises of the Community.

**AGENCY INSPECTORS***Article 9*

- (a) (i) The Agency shall secure the consent of the Community and the States to the designation of Agency inspectors to the States.
- (ii) If the Community, either upon proposal of a designation or at any other time after a designation has been made, objects to the designation, the Agency shall propose to the Community and the States an alternative designation or designations.
- (iii) If, as a result of the repeated refusal of the Community to accept the designation of Agency inspectors, inspections to be conduc-

ted under this Agreement would be impeded, such refusal shall be considered by the Board, upon referral by the Director-General of the Agency (hereinafter referred to as 'the Director-General'), with a view to its taking appropriate action.

- (b) The Community and the States concerned shall take the necessary steps to ensure that Agency inspectors can effectively discharge their functions under this Agreement.
- (c) The visits and activities of Agency inspectors shall be so arranged as:
- (i) to reduce to a minimum the possible inconvenience and disturbance to the Community and the States and to the peaceful nuclear activities inspected; and
- (ii) to ensure protection of industrial secrets or any other confidential information coming to the knowledge of Agency inspectors.

**PRIVILEGES AND IMMUNITIES***Article 10*

Each State shall apply to the Agency, including its property, funds and assets, and to its inspectors and other officials, performing functions under this Agreement, the relevant provisions of the Agreement on the privileges and immunities of the International Atomic Energy Agency.

**CONSUMPTION OR DILUTION OF NUCLEAR MATERIAL***Article 11*

Safeguards under this Agreement shall terminate on nuclear material upon determination by the Community and the Agency that the material has been consumed, or has been diluted in such a way that it is no longer usable for any nuclear activity relevant from the point of view of safeguards, or has become practically irrecoverable.

## TRANSFER OF NUCLEAR MATERIAL OUT OF THE STATES

### Article 12

The Community shall give the Agency notification of transfers of nuclear material subject to safeguards under this Agreement out of the States, in accordance with the provisions of this Agreement. Safeguards under this Agreement shall terminate on nuclear material when the recipient State has assumed responsibility therefore as provided for in this Agreement. The Agency shall maintain records indicating each transfer and, where applicable, the re-application of safeguards to the transferred nuclear material.

## PROVISIONS RELATING TO NUCLEAR MATERIAL TO BE USED IN NON-NUCLEAR ACTIVITIES

### Article 13

Where nuclear material subject to safeguards under this Agreement is to be used in non-nuclear activities, such as the production of alloys or ceramics, the Community shall agree with the Agency, before the material is so used, on the circumstances under which the safeguards under this Agreement on such material may be terminated.

## NON-APPLICATION OF SAFEGUARDS TO NUCLEAR MATERIAL TO BE USED IN NON-PEACEFUL ACTIVITIES

### Article 14

If a State intends to exercise its direction to use nuclear material which is required to be safeguarded under this Agreement in a nuclear activity which does not require the application of safeguards under this Agreement, the following procedures shall apply:

- (a) the Community and the State shall inform the Agency of the activity, and the State shall make it clear:
  - (i) that the use of the nuclear material in a non-prescribed military activity will not be in conflict with an undertaking the State may

have given and in respect of which Agency safeguards apply, that the material will be used only in a peaceful nuclear activity; and

- (ii) that during the period of non-application of safeguards under this Agreement the nuclear material will not be used for the production of nuclear weapons or other nuclear explosive devices;
- (b) the Agency and the Community shall make an arrangement so that, only while the nuclear material is in such an activity, the safeguards provided for in this Agreement will not be applied. The arrangement shall identify, to the extent possible, the period or circumstances during which such safeguards will not be applied. In any event, the safeguards provided for in this Agreement shall apply again as soon as the nuclear material is reintroduced into a peaceful nuclear activity. The Agency shall be kept informed of the total quantity and composition of such material in the State or in the States concerned and of any transfer of such material out of that State or those States; and
- (c) each arrangement shall be made in agreement with the Agency. Such agreement shall be given as promptly as possible and shall relate only to such matters as *inter alia* temporal and procedural provisions and reporting arrangements, but shall not involve any approval or classified knowledge of the military activity or relate to the use of the nuclear material therein.

## FINANCE

### Article 15

The Agency, the Community and the States will bear the expenses incurred by each of them in implementing their respective responsibilities under this Agreement. However, if the Community, the States or persons under their jurisdiction, incur extraordinary expenses as a result of a specific request by the Agency, the Agency shall reimburse such expenses provided that it has agreed in advance to do so. In any case, the Agency shall bear the cost of any additional measuring or sampling which Agency inspectors may request.

### THIRD PARTY LIABILITY FOR NUCLEAR DAMAGE

#### *Article 16*

The Community and the States shall ensure that any protection against third party liability in respect of nuclear damage, including any insurance or other financial security which may be available under their laws or regulations shall apply to the Agency and its officials for the purpose of the implementation of this Agreement, in the same way as that protection applies to nationals of the States.

### INTERNATIONAL RESPONSIBILITY

#### *Article 17*

Any claim by the Community or a State against the Agency or by the Agency against the Community or a State in respect of any damage resulting from the implementation of safeguards under this Agreement, other than damage arising out of a nuclear incident, shall be settled in accordance with international law.

### MEASURES IN RELATION TO VERIFICATION OF NON-DIVERSION

#### *Article 18*

If the Board, upon report of the Director-General, decides that an action by the Community or a State, in so far as either Party is individually concerned, is essential and urgent in order to ensure verification that nuclear material subject to safeguards under this Agreement is not diverted to nuclear weapons or other nuclear explosive devices, the Board may call upon the Community or that State to take the required action without delay, irrespective of whether procedures have been invoked pursuant to Article 22 for the settlement of a dispute.

#### *Article 19*

If the Board, upon examination of relevant information reported to it by Director-General, finds that the Agency is not able to verify that there has been no diversion of nuclear material required to be safeguarded under this Agreement, to nuclear weapons or other nuclear explosive devices, it may make the reports provided for in Article XII (C) of

the Statute and may also take, where applicable, the other measures provided for in that paragraph. In taking such action, the Board shall take account of the degree of assurance provided by the safeguards measures that have been applied and shall offer the Community or the State, in so far as either Party is individually concerned, every reasonable opportunity to furnish the Board with any necessary reassurance.

### INTERPRETATION AND APPLICATION OF THE AGREEMENT AND SETTLEMENT OF DISPUTES

#### *Article 20*

At the request of the Agency, the Community or a State, there shall be consultations about any question arising out of the interpretation or application of this Agreement.

#### *Article 21*

The Community and the States shall have the right to request that any question arising out of the interpretation or application of this Agreement be considered by the Board. The Board shall invite the Community and the State concerned to participate in the discussion of any such question by the Board.

#### *Article 22*

Any dispute arising out of the interpretation or application of this Agreement except a dispute with regard to a finding by the Board under Article 19 or an action taken by the Board pursuant to such a finding, which is not settled by negotiation or another procedure agreed to by the Agency, the Community and the States shall, at the request of any one of them, be submitted to an arbitral tribunal composed of five arbitrators. The Community and the States shall designate two arbitrators and the Agency shall also designate two arbitrators, and the four arbitrators so designated shall elect a fifth, who shall be the chairman.

If, within 30 days of the request for arbitration, the Community and the States, or the Agency have not designated two arbitrators each, the Community or the Agency may request the President of the International Court of Justice to appoint these arbitrators. The same procedure shall apply if, within 30 days of the designation or appointment of the fourth arbitrator, the fifth arbitrator has not been elected.

A majority of the members of the arbitral tribunal shall constitute a quorum, and all decisions shall require the concurrence of at least three arbitrators. The arbitral procedure shall be fixed by the tribunal. The decisions of the tribunal shall be binding on the Agency, the Community and the States concerned.

- (b) All amendments shall require the agreement of the Agency, the Community and the States.
- (c) The Director-General shall promptly inform all Member States of the Agency of any amendment to this Agreement.

## ACCESSION

### *Article 23*

- (a) This Agreement shall come into force for non-nuclear-weapon States party to the Treaty which become Members of the Community, upon:
  - (i) notification to the Agency by the State concerned that its procedures with respect to the coming into force of this Agreement have been completed; and
  - (ii) notification to the Agency by the Community that it is in a position to apply its safeguards in respect of that State for the purposes of this Agreement.
- (b) Where the State concerned has concluded other agreements with the Agency for the application of Agency safeguards, upon the coming into force of this Agreement for that State, the application of Agency safeguards under such agreements shall be suspended while this Agreement is in force; provided, however, that the State's undertaking in those agreements not to use items which are subject thereto in such a way as to further any military purpose shall continue to apply.

## AMENDMENT OF THE AGREEMENT

### *Article 24*

- (a) The Agency, the Community and the States shall, at the request of any one of them, consult on amendment to this Agreement.

## ENTRY INTO FORCE AND DURATION

### *Article 25*

- (a) This Agreement shall enter into force on the date upon which the Agency receives from the Community and the States written notification that their own requirements for entry into force have been met. The Director-General shall promptly inform all Member States of the Agency of the entry into force of this Agreement.
- (b) This Agreement shall remain in force as long as the States are parties to the Treaty.

## PROTOCOL

### *Article 26*

The Protocol attached to this Agreement shall be an integral part thereof. The term 'Agreement' as used in this instrument means the Agreement and the Protocol together.

## PART II

### INTRODUCTION

#### *Article 27*

The purpose of this part of the Agreement is to specify, as required, the procedures to be applied in the implementation of the safeguards provisions of Part I.

### OBJECTIVE OF SAFEGUARDS

#### *Article 28*

The objective of the safeguards procedures set forth in this Agreement is the timely detection of diversion of significant quantities of nuclear material from peaceful nuclear activities to the manufacture of

nuclear weapons or of other nuclear explosive devices or for purposes unknown, and deterrence of such diversion by the risk of early detection.

#### *Article 29*

For the purpose of achieving the objective set forth in Article 28, material accountancy shall be used as a safeguards measure of fundamental importance, with containment and surveillance as important complementary measures.

#### *Article 30*

The technical conclusion of the Agency's verification activities shall be a statement, in respect of each material balance area, of the amount of material unaccounted for over a specific period, and giving the limits of accuracy of the amounts stated.

### THE COMMUNITY'S SYSTEM OF SAFEGUARDS

#### *Article 31*

Pursuant to Article 3, the Agency, in carrying out its verification activities, shall make full use of the Community's system of safeguards.

#### *Article 32*

The Community's system of accounting for and control of nuclear material under this Agreement shall be based on a structure of material balance areas. The Community, in applying its safeguards, will make use of and, to the extent necessary, make provision for, as appropriate and specified in the subsidiary arrangements such measures as:

- (a) a measurement system for the determination of the quantities of nuclear material received, produced, shipped, lost or otherwise removed from inventory, and the quantities on inventory;
- (b) the evaluation of precision and accuracy of measurements and the estimation of measurement uncertainty;
- (c) procedures for indentifying, reviewing and evaluating differences in shipper/receiver measurements;
- (d) procedures for taking a physical inventory;
- (e) procedures for the evaluation of accumulations of unmeasured inventory and unmeasured losses;

- (f) a system of records and reports showing, for each material balance area, the inventory of nuclear material and the changes in that inventory including receipts into and transfers out of the material balance area;
- (g) provisions to ensure that the accounting procedures and arrangements are being operated correctly; and
- (h) procedures for the provision of reports to the Agency in accordance with Articles 59 to 65 and 67 to 69.

#### *Article 33*

Safeguards under this Agreement shall not apply to material in mining or ore processing activities.

#### *Article 34*

- (a) When any material containing uranium or thorium which has not reached the stage of the nuclear fuel cycle described in paragraph (c) is directly or indirectly exported to a non-nuclear-weapon State not party to this Agreement, the Community shall inform the Agency of its quantity, composition and destination, unless the material is exported for specifically non-nuclear purposes.
- (b) When any material containing uranium or thorium which has not reached the stage of the nuclear fuel cycle described in paragraph (c) is imported into the States, the Community shall inform the Agency of its quantity and composition, unless the material is imported for specifically non-nuclear purposes.
- (c) When any nuclear material of a composition and purity suitable for fuel fabrication or for isotopic enrichment leaves the plant or the process stage in which it has been produced, or when such nuclear material, or any other nuclear material produced at a later stage in the nuclear fuel cycle, is imported into the States, the nuclear material shall become subject to the other safeguards procedures specified in this Agreement.

### TERMINATION OF SAFEGUARDS

#### *Article 35*

- (a) Safeguards under this Agreement shall terminate on nuclear material, under the conditions set forth

in Article 11. Where the conditions of that Article are not met, but the Community considers that the recovery of nuclear material subject to safeguards under this Agreement from residues is not for the time being practicable or desirable, the Agency and the Community shall consult on the appropriate safeguards measures to be applied.

- (b) Safeguards under this Agreement shall terminate on nuclear material, under the conditions set forth in Article 13, provided that the Agency and the Community agree that such nuclear material is practicably irrecoverable.

#### EXEMPTIONS FROM SAFEGUARDS

##### *Article 36*

At the request of the Community, the Agency shall exempt nuclear material from safeguards under this Agreement, as follows:

- (a) special fissionable material, when it is used in gram quantities or less as a sensing component in instruments;
- (b) nuclear material, when it is used in non-nuclear activities in accordance with Article 13, if such nuclear material is recoverable; and
- (c) plutonium with an isotopic concentration of plutonium-238 exceeding 80 %.

##### *Article 37*

At the request of the Community the Agency shall exempt from safeguards under this Agreement nuclear material that would otherwise be subject to such safeguards, provided that the total quantity of nuclear material which has been exempted in the States in accordance with this Article may not at any time exceed:

- (a) one kilogram in total of special fissionable material, which may consist of one or more of the following:
- (i) plutonium;
- (ii) uranium with an enrichment of 0.2 (20 %) and above, taken account of by multiplying its weight by its enrichment; and
- (iii) uranium with an enrichment below 0.2 (20 %) and above that of natural uranium,

taken account of by multiplying its weight by five times the square of its enrichment;

- (b) 10 tonnes in total of natural uranium and depleted uranium with an enrichment above 0.005 (0.5 %);
- (c) 20 tonnes of depleted uranium with an enrichment of 0.005 (0.5 %) or below; and
- (d) 20 tonnes of thorium;
- or such greater amounts as may be specified by the Board for uniform application.

##### *Article 38*

If exempted nuclear material is to be processed or stored together with nuclear material subject to safeguards under this Agreement, provision shall be made for the re-application of such safeguards thereto.

#### SUBSIDIARY ARRANGEMENTS

##### *Article 39*

The Community shall make subsidiary arrangements with the Agency which shall specify in detail, to the extent necessary to permit the Agency to fulfil its responsibilities under this Agreement in an effective and efficient manner, how the procedures laid down in this Agreement are to be applied. The subsidiary arrangements may be extended or changed by agreement between the Agency and the Community without amendment of this Agreement.

##### *Article 40*

The subsidiary arrangement shall enter into force at the same time as, or as soon as possible after, the entry into force of this Agreement. The Agency, the Community and the States shall make every effort to achieve their entry into force within 90 days of the entry into force of this Agreement; an extension of that period shall require agreement between the Agency, the Community and the States. The Community shall provide the Agency promptly with the information required for completing the subsidiary arrangements. Upon the entry into force of this Agreement, the Agency shall have the right to apply the procedures laid down therein in respect of the nuclear material listed in the inventory provided for in Article 41, even if the subsidiary arrangements have not yet entered into force.

## INVENTORY

*Article 41*

On the basis of the initial report referred to in Article 62, the Agency shall establish a unified inventory of all nuclear material in the States subject to safeguards under this Agreement, irrespective of its origin, and shall maintain this inventory on the basis of subsequent reports and of the results of its verification activities. Copies of the inventory shall be made available to the Community at intervals to be agreed.

## DESIGN INFORMATION

## General provisions

*Article 42*

Pursuant to Article 8, design information in respect of existing facilities shall be provided to the Agency by the Community during the discussion of the subsidiary arrangements. The time limits for the provision of design information in respect of the new facilities shall be specified in the subsidiary arrangements and such information shall be provided as early as possible before nuclear material is introduced into a new facility.

*Article 43*

The design information to be provided to the Agency shall include, in respect of each facility, when applicable:

- (a) the identification of the facility, stating its general character, purpose, nominal capacity and geographic location, and the name and address to be used for routine business purposes;
- (b) a description of the general arrangement of the facility with reference, to the extent feasible, to the form, location and flow of nuclear material and to the general layout of important items of equipment which use, produce or process nuclear material;
- (c) a description of features of the facility relating to material accountancy, containment and surveillance; and
- (d) a description of the existing and proposed procedures at the facility for nuclear material accountancy and control, with special reference to material balance areas established by the

operator, measurements of flow and procedures for physical inventory-taking.

*Article 44*

Other information relevant to the application of safeguards under this Agreement shall also be provided to the Agency in respect of each facility, if so specified in the subsidiary arrangements. The Community shall provide the Agency with supplementary information on the health and safety procedures which the Agency shall observe and with which Agency inspectors shall comply at the facility.

*Article 45*

The Agency shall be provided by the Community with design information in respect of a modification relevant for purposes of safeguards under this Agreement, for examination, and shall be informed of any change in the information provided to it under Article 44, sufficiently in advance for the safeguards procedures to be applied under this Agreement to be adjusted when necessary.

*Article 46*

## Purpose of examination of design information

The design information provided to the Agency shall be used for the following purposes:

- (a) to identify the features of facilities and nuclear material relevant to the application of safeguards to nuclear material in sufficient detail to facilitate verification;
- (b) to determine material balance areas to be used for accounting purposes under this Agreement and to select those strategic points which are key measurement points and which will be used to determine flow and inventory of nuclear material; in determining such material balance areas the following criteria shall *inter alia* be used:
  - (i) the size of the material balance area shall be related to the accuracy with which the material balance can be established;
  - (ii) in determining the material balance area advantage shall be taken of any opportunity to use containment and surveillance to help

ensure the completeness of flow measurements and thereby to simplify the application of safeguards and to concentrate measurement efforts at key measurement points;

- (iii) a special material balance area may be established at the request of the Community or of the State concerned around a process step involving commercially sensitive information;
- (c) to establish the nominal timing and procedures for taking of physical inventory of nuclear material for accounting purposes under this Agreement;
- (d) to establish the records and reports requirements and records evaluation procedures;
- (e) to establish requirements and procedures for verification of the quantity and location of nuclear material; and
- (f) to select appropriate combinations of containment and surveillance methods and techniques and the strategic points at which they are to be applied.

The results of the examination of the design information, as agreed upon between the Agency and the Community, shall be included in the subsidiary arrangements.

#### *Article 47*

##### **Re-examination of design information**

Design information shall be re-examined in the light of changes in operating conditions, of developments in safeguards technology or of the experience in the application of verification procedures, with a view to modifying action taken pursuant to Article 46.

#### *Article 48*

##### **Verification of design information**

The Agency, in cooperation with the Community and the State concerned, may send inspectors to facilities to verify the design information provided to the Agency pursuant to Articles 42 to 45 for the purposes stated in Article 46.

## **INFORMATION IN RESPECT OF NUCLEAR MATERIAL OUTSIDE FACILITIES**

#### *Article 49*

The Agency shall be provided by the Community with the following information when nuclear material is to be customarily used outside facilities, as applicable:

- (a) a general description of the use of the nuclear material, its geographic location, and the user's name and address for routine business purposes; and
- (b) a general description of the existing and proposed procedures for nuclear material accountancy and control, as specified in the subsidiary arrangements.

The Agency shall be informed by the Community, on a timely basis, of any change in the information provided to it under this Article.

#### *Article 50*

The information provided to the Agency pursuant to Article 49 may be used, to the extent relevant, for the purposes set out in Article 46 (b) to (f).

## **RECORDS SYSTEM**

### **General provisions**

#### *Article 51*

The Community shall arrange that records are kept in respect of each material balance area. The records to be kept shall be described in the subsidiary arrangements.

#### *Article 52*

The Community shall make arrangements to facilitate the examination of records by Agency inspectors, particularly if the records are not kept in English, French, Russian or Spanish.

#### *Article 53*

Records shall be retained for at least five years.

*Article 54*

Records shall consist, as appropriate, of:

- (a) accounting records of all nuclear material subject to safeguards under this Agreement; and
- (b) operating records for facilities containing such nuclear material.

*Article 55*

The system of measurements on which the records used for the preparation of reports are based shall either conform to the latest international standards or be equivalent in quality to such standards.

**Accounting records***Article 56*

The accounting records shall set forth the following in respect of each material balance area:

- (a) all inventory changes, so as to permit a determination of the book inventory at any time;
- (b) all measurement results that are used for determination of the physical inventory; and
- (c) all adjustments and corrections that have been made in respect of inventory changes, book inventories and physical inventories.

*Article 57*

For all inventory changes and physical inventories the records shall show, in respect of each batch of nuclear material: material identification, batch data and source data. The records shall account for uranium, thorium and plutonium separately in each batch of nuclear material. For each inventory change, the date of the inventory change and, when appropriate, the originating material balance area and the receiving material balance area or the recipient, shall be indicated.

*Article 58***Operating records**

The operating records shall set forth, as appropriate, in respect of each material balance area:

- (a) those operating data which are used to establish changes in the quantities and composition of nuclear material;
- (b) the data obtained from the calibration of tanks and instruments and from sampling and analyses, the procedures to control the quality of measurements and the derived estimates of random and systematic error;
- (c) a description of the sequence of the actions taken in preparing for, and in taking, a physical inventory, in order to ensure that it is correct and complete; and
- (d) a description of the actions taken in order to ascertain the cause and magnitude of any accidental or unmeasured loss that might occur.

**REPORTS SYSTEMS****General provisions***Article 59*

The Community shall provide the Agency with reports as detailed in Articles 60 to 65 and 67 to 69 in respect of nuclear material subject to safeguards under this Agreement.

*Article 60*

Reports shall be made in English, French, Russian or Spanish, except as otherwise specified in the subsidiary arrangements.

*Article 61*

Reports shall be based on the records kept in accordance with Articles 51 to 58 and shall consist, as appropriate, of accounting reports and special reports.

**Accounting reports***Article 62*

The Agency shall be provided by the Community with an initial report on all nuclear material subject to safeguards under this Agreement. The initial report shall be dispatched to the Agency within 30 days of the last day of the calendar month in which this

Agreement enters into force, and shall reflect the situation as of the last day of that month.

#### *Article 63*

The Community shall provide the Agency with the following accounting reports for each material balance area:

- (a) inventory change reports showing all changes in the inventory of nuclear material. The reports shall be dispatched as soon as possible and in any event within the time limits specified in the subsidiary arrangements; and
- (b) material balance reports showing the material balance based on a physical inventory of nuclear material actually present in the material balance area. The reports shall be dispatched as soon as possible and in any event within the time limits specified in the subsidiary arrangements.

The reports shall be based on data available as of the date of reporting and may be corrected at a later date, as required.

#### *Article 64*

Inventory change reports shall specify identification and batch data for each batch of nuclear material, the date of the inventory change and, as appropriate, the originating material balance area and the receiving material balance area or the recipient. These reports shall be accompanied by concise notes:

- (a) explaining the inventory changes, on the basis of the operating data contained in the operating records provided for under Article 58 (a); and
- (b) describing, as specified in the subsidiary arrangements, the anticipated operational programme, particularly the taking of a physical inventory.

#### *Article 65*

The Community shall report each inventory change, adjustment and correction, either periodically in a consolidated list or individually. Inventory changes shall be reported in terms of batches. As specified in the subsidiary arrangements, small changes in

inventory of nuclear material, such as transfers of analytical samples, may be combined in one batch and reported as one inventory change.

#### *Article 66*

The Agency shall provide the Community, for the use of the interested parties, with semi-annual statements of book inventory of nuclear material subject to safeguards under this Agreement, for each material balance area, as based on the inventory change reports for the period covered by each such statement.

#### *Article 67*

Material balance reports shall include the following entries, unless otherwise agreed by the Agency and the Community:

- (a) beginning physical inventory;
- (b) inventory changes (first increases, then decreases);
- (c) ending book inventory;
- (d) shipper/receiver differences;
- (e) adjusted ending book inventory;
- (f) ending physical inventory; and
- (g) material unaccounted for.

A statement of the physical inventory, listing all batches separately and specifying material identification and batch data for each batch, shall be attached to each material balance report.

#### *Article 68*

##### **Special reports**

The Community shall make special reports without delay:

- (a) if any unusual incident or circumstance leads the Community to believe that there is or may have been loss of nuclear material that exceeds the limits specified for this purpose in the subsidiary arrangements; or
- (b) if the containment has unexpectedly changed from that specified in the subsidiary arrangements to the extent that unauthorized removal of nuclear material has become possible.

*Article 69***Amplification and clarification of reports**

If the Agency so requests, the Community shall provide it with amplifications or clarifications of any report, in so far as relevant for the purpose of safeguards under this Agreement.

**INSPECTIONS***Article 70***General provisions**

The Agency shall have the right to make inspections as provided for in this Agreement.

**Purpose of inspections***Article 71*

The Agency may make *ad hoc* inspections in order to:

- (a) verify the information contained in the initial report on the nuclear material subject to safeguards under this Agreement and identify and verify changes in the situation which have occurred between the date of the initial report and the date of the entry into force of the subsidiary arrangements in respect of a given facility; and
- (b) identify, and if possible verify the quantity and composition of, nuclear material subject to safeguards under this Agreement in accordance with Articles 93 and 96, before its transfer out of or upon its transfer into the States except for transfers within the Community.

*Article 72*

The Agency may make routine inspections in order to:

- (a) verify that reports are consistent with records;
- (b) verify the location, identity, quantity and composition of all nuclear material subject to safeguards under this Agreement; and
- (c) verify information on the possible causes of material unaccounted for, shipper/receiver

differences and uncertainties in the book inventory.

*Article 73*

Subject to the procedures laid down in Article 77, the Agency may make special inspections:

- (a) in order to verify the information contained in special reports; or
- (b) if the Agency considers that information made available by the Community, including explanations from the Community and information obtained from routine inspections, is not adequate for the Agency to fulfil its responsibilities under this Agreement.

An inspection shall be deemed to be special when it is either additional to the routine inspection effort provided for in this Agreement or involves access to information or locations in addition to the access specified in Article 76 for *ad hoc* and routine inspections, or both.

**Scope of inspections***Article 74*

For the purposes specified in Articles 71 to 73, the Agency may:

- (a) examine the records kept pursuant to Articles 51 to 58;
- (b) make independent measurements of all nuclear material subject to safeguards under this Agreement;
- (c) verify the functioning and calibration of instruments and other measuring and control equipment;
- (d) apply and make use of surveillance and containment measures; and
- (e) use other objective methods which have been demonstrated to be technically feasible.

*Article 75*

Within the scope of Article 74, the Agency shall be enabled:

- (a) to observe that samples at key measurement points for material balance accountancy are taken in accordance with procedures which produce

- representative samples, to observe the treatment and analysis of the samples and to obtain duplicates of such samples;
- (b) to observe that the measurements of nuclear material at key measurement points for material balance accountancy are representative, and to observe the calibration of the instruments and equipment involved;
- (c) to make arrangements with the Community and to the extent necessary with the State concerned that, if necessary:
- (i) additional measurements are made and additional samples taken for the Agency's use;
  - (ii) the Agency's standard analytical samples are analyzed;
  - (iii) appropriate absolute standards are used in calibrating instruments and other equipment; and
  - (iv) other calibrations are carried out;
- (d) to arrange to use its own equipment for independent measurement and surveillance, and if so agreed and specified in the subsidiary arrangements to arrange to install such equipment;
- (e) to apply its seals and other identifying and tamper-indicating devices to containments, if so agreed and specified in the subsidiary arrangements; and
- (f) to make arrangements with the Community or the State concerned for the shipping of samples taken for the Agency's use.

#### Access for inspections

##### *Article 76*

- (a) For the purposes specified in Article 71 (a) and until such time as the strategic points have been specified in the subsidiary arrangements, the Agency inspectors shall have access to any location where the initial report or any inspections carried out in connection with it indicate that nuclear material subject to safeguards under this Agreement is present.
- (b) For the purposes specified in Article 71 (b), the Agency inspectors shall have access to any location of which the Agency has been notified in accordance with Article 92 (d) (iii) or 95 (d) (iii).

- (c) For the purposes specified in Article 72, the inspectors shall have access only to the strategic points specified in the subsidiary arrangements and to the records maintained pursuant to Articles 51 to 58.
- (d) In the event of the Community concluding that any unusual circumstances require extended limitations on access by the Agency, the Community and the Agency shall promptly make arrangements with a view to enabling the Agency to discharge its safeguards responsibilities in the light of these limitations. The Director-General shall report each such arrangement to the Board.

##### *Article 77*

In the circumstances which may lead to special inspections for the purposes specified in Article 73, the Community and the Agency shall consult forthwith. As a result of such consultations the Agency may:

- (a) make inspections in addition to the routine inspection effort provided for in this Agreement; and
- (b) obtain access, in agreement with the Community, to information or locations in addition to those specified in Article 76. Any disagreement shall be resolved in accordance with Articles 21 and 22. In case action by the Community or a State, in so far as either Party is individually concerned, is essential and urgent, Article 18 shall apply.

#### Frequency and intensity of routine inspections

##### *Article 78*

The number, intensity and duration of routine inspections, applying optimum timing, shall be kept to the minimum consistent with the effective implementation of the safeguards procedures set forth in this Agreement, and optimum and most economical use of available inspection resources under the Agreement shall be made.

##### *Article 79*

The Agency may carry out one routine inspection per year in respect of facilities and material balance areas outside facilities with a content or annual

throughput, whichever is greater, of nuclear material not exceeding five effective kilograms.

#### Article 80

The number, intensity, duration, timing and mode of routine inspections in respect of facilities with a content or annual throughput of nuclear material exceeding five effective kilograms shall be determined on the basis that in the maximum or limiting case the inspection regime shall be no more intensive than is necessary and sufficient to maintain continuity of knowledge of the flow and inventory of nuclear material, and the maximum routine inspection effort in respect of such facilities shall be determined as follows:

- (a) for reactors and sealed storage installations the maximum total of routine inspection per year shall be determined by allowing one-sixth of a man-year of inspection for each such facility;
- (b) for facilities, other than reactors or sealed storage installations, involving plutonium or uranium enriched to more than 5 %, the maximum total of routine inspection per year shall be determined by allowing for each such facility  $30 \times \sqrt{E}$  man-days of inspection per year, where E is the inventory or annual throughput of nuclear material, whichever is greater, expressed in effective kilograms. The maximum established for any such facility shall not, however, be less than 1.5 man-years of inspection; and
- (c) for facilities not covered by paragraph (a) or (b), the maximum total of routine inspection per year shall be determined by allowing for each such facility one-third of a man-year of inspection plus  $0.4 \times E$  man-days of inspection per year, where E is the inventory or annual throughput of nuclear material, whichever is greater, expressed in effective kilograms.

The Parties to this Agreement may agree to amend the figures for the maximum inspection effort, specified in this Article, upon determination by the Board that such amendment is reasonable.

#### Article 81

Subject to Articles 78 to 80 the criteria to be used for determining the actual number, intensity, duration, timing and mode of routine inspections in respect of any facility shall include:

- (a) *the form of the nuclear material*, in particular, whether the nuclear material is in bulk form or

contained in a number of separate items; its chemical composition and, in the case of uranium, whether it is of low or high enrichment; and its accessibility;

- (b) *the effectiveness of the Community's safeguards*, including the extent to which the operators of facilities are functionally independent of the Community's safeguards; the extent to which the measures specified in Article 32 have been implemented by the Community; the promptness of reports provided to the Agency; their consistency with the Agency's independent verification; and the amount and accuracy of the material unaccounted for, as verified by the Agency;
- (c) *characteristics of the nuclear fuel cycle in the States*, in particular, the number and types of facilities containing nuclear material subject to safeguards under this Agreement, the characteristics of such facilities relevant to safeguards under this Agreement, notably the degree of containment; the extent to which the design of such facilities facilitates verification of the flow and inventory of nuclear material; and the extent to which information from different material balance areas can be correlated;
- (d) *international interdependence*, in particular, the extent to which nuclear material is received from or sent to other States for use or processing; any verification activities by the Agency in connection therewith; and the extent to which the nuclear activities in each State are interrelated with those in other States; and
- (e) *technical developments in the field of safeguards*, including the use of statistical techniques and random sampling in evaluating the flow of nuclear material.

#### Article 82

The Agency and the Community shall consult if the latter considers that the inspection effort is being deployed with undue concentration on particular facilities.

#### Notice of inspections

#### Article 83

The Agency shall give advance notice to the Community and to the States concerned before

arrival of Agency inspectors at facilities or material balance areas outside facilities, as follows:

- (a) for *ad hoc* inspections pursuant to Article 71 (b), at least 24 hours; for those pursuant to Article 71 (a), as well as the activities provided for in Article 48, at least one week;
- (b) for special inspections pursuant to Article 73, as promptly as possible after the Agency and the Community have consulted as provided for in Article 77, it being understood that notification of arrival normally will constitute part of the consultations; and
- (c) for routine inspections pursuant to Article 72, at least 24 hours in respect of the facilities referred to in Article 80 (b) and sealed storage installations containing plutonium or uranium enriched to more than 5 %, and one week in all other cases.

Such notice of inspections shall include the names of the Agency inspectors and shall indicate the facilities and the material balance areas outside facilities to be visited and the period during which they will be visited. If the Agency inspectors are to arrive from outside the States, the Agency shall also give advance notice of the place and time of their arrival in the States.

#### Article 84

Notwithstanding the provisions of Article 83, the Agency may, as a supplementary measure, carry out without advance notification a portion of the routine inspections pursuant to Article 80 in accordance with the principle of random sampling. In performing any unannounced inspections, the Agency shall fully take into account any operational programme provided to it pursuant to Article 64 (b). Moreover, whenever practicable, and on the basis of the operational programme, it shall advise the Community and the State concerned periodically of its general programme of announced and unannounced inspections, specifying the general periods when inspections are foreseen. In carrying out any unannounced inspections, the Agency shall make every effort to minimize any practical difficulties for the Community and the State concerned and for facility operators, bearing in mind the relevant provisions of Articles 44 and 89. Similarly the Community and the State concerned shall make every effort to facilitate the task of Agency inspectors.

### Designation of agency inspectors

#### Article 85

The following procedures shall apply to the designation of Agency inspectors:

- (a) the Director-General shall inform the Community and the States in writing of the name, qualifications, nationality, grade and such other particulars as may be relevant, of each Agency official he proposes for designation as an Agency inspector for the States;
- (b) the Community shall inform the Director-General within 30 days of the receipt of such a proposal whether the proposal is accepted;
- (c) the Director-General may designate each official who has been accepted by the Community and the States as one of the Agency inspectors for the States, and shall inform the Community and the States of such designations; and
- (d) the Director-General, acting in response to a request by the Community or on his own initiative, shall immediately inform the Community and the States of the withdrawal of the designation of any official as an Agency inspector for the States.

However, in respect of Agency inspectors needed for the activities provided for in Article 48 and to carry out *ad hoc* inspections pursuant to Article 71 (a), the designation procedures shall be completed if possible within 30 days after the entry into force of this Agreement. If such designation appears impossible within this time limit, Agency inspectors for such purposes shall be designated on a temporary basis.

#### Article 86

The States shall grant or renew as quickly as possible appropriate visas, where required, for each Agency inspector designated pursuant to Article 85.

### Conduct and visits of Agency inspectors

#### Article 87

Agency inspectors, in exercising their functions under Articles 48 and 71 to 75, shall carry out their activities in a manner designed to avoid hampering or delaying the construction, commissioning or operation of facilities, or affecting their safety. In particular, Agency inspectors shall not operate any

facility themselves or direct the staff of a facility to carry out any operation. If Agency inspectors consider that in pursuance of Articles 74 and 75, particular operations in a facility should be carried out by the operator, they shall make a request therefor.

#### *Article 88*

When Agency inspectors require services available in a State, including the use of equipment in connection with the performance of inspections, the State concerned and the Community shall facilitate the procurement of such services and the use of such equipment by Agency inspectors.

#### *Article 89*

The Community and the States concerned shall have the right to have Agency inspectors accompanied during their inspections by its inspectors and their representatives respectively, provided that Agency inspectors shall not thereby be delayed or otherwise impeded in the exercise of their functions.

### STATEMENT ON THE AGENCY'S VERIFICATION ACTIVITIES

#### *Article 90*

The Agency shall inform the Community for the use of the interested Parties of:

- (a) the results of its inspections, at intervals to be specified in the subsidiary arrangements; and
- (b) the conclusions it has drawn from its verification activities.

### TRANSFERS INTO OR OUT OF THE STATES

#### *Article 91*

##### **General provisions**

Nuclear material subject or required to be subject to safeguards under this Agreement which is transferred into or out of the States shall, for purposes of this Agreement, be regarded as being the responsibility of the Community and of the State concerned:

- (a) in the case of transfers into the States, from the time that such responsibility ceases to lie with the State from which the material is transferred, and no later than the time at which the material reaches its destination; and
- (b) in the case of transfers out of the States up to the time at which the recipient State has such responsibility, and no later than the time at which the nuclear material reaches its destination.

The point at which the transfer of responsibility will take place shall be determined in accordance with suitable arrangements to be made by the Community and the State concerned on the one hand, and the State to which or from which the nuclear material is transferred on the other. Neither the Community nor a State shall be deemed to have such responsibility for nuclear material merely by reason of the fact that the nuclear material is in transit on or over a State's territory, or that it is being transported on a ship under a State's flag or in the aircraft of a State.

### Transfers out of the States

#### *Article 92*

- (a) The Community shall notify the Agency of any intended transfer out of the States of nuclear material subject to safeguards under this Agreement if the shipment exceeds one effective kilogram, or, for facilities which normally transfer significant quantities to the same State in shipments each not exceeding one effective kilogram, if so specified in the subsidiary arrangements.
- (b) Such notification shall be given to the Agency after the conclusion of the contractual arrangements leading to the transfer and within the time limit specified in the subsidiary Arrangements.
- (c) The Agency and the Community may agree on different procedures for advance notification.
- (d) The notification shall specify:
  - (i) the identification and, if possible, the expected quantity and the composition of the nuclear material to be transferred, and the material balance area from which it will come;
  - (ii) the State for which the nuclear material is destined;

- (iii) the dates on and locations at which the nuclear material is to be prepared for shipping;
- (iv) the approximate dates of dispatch and arrival of the nuclear material; and
- (v) at what point of the transfer the recipient State will assume responsibility for the nuclear material for the purpose of this Agreement, and the probable date on which that point will be reached.

#### Article 93

The notification referred to in Article 92 shall be such as to enable the Agency to make, if necessary, an *ad hoc* inspection to identify, and if possible verify, the quantity and composition of the nuclear material before it is transferred out of the States, except for transfers within the Community and, if the Agency so wishes or the Community so requests, to affix seals to the nuclear material when it has been prepared for shipping. However the transfer of the nuclear material shall not be delayed in any way by any action taken or contemplated by the Agency pursuant to such a notification.

#### Article 94

If nuclear material will not be subject to Agency safeguards in the recipient State the Community shall make arrangements for the Agency to receive within three months of the time when the recipient State accepts responsibility for the nuclear material, confirmation by the recipient State of the transfer.

### Transfers into the States

#### Article 95

- (a) The Community shall notify the Agency of any expected transfer into the States of nuclear material required to be subject to safeguards under this Agreement if the shipment exceeds one effective kilogram, or, for facilities to which significant quantities are normally transferred from the same State in shipments each not exceeding one effective kilogram, if so specified in the subsidiary arrangements.
- (b) The Agency shall be notified as much in advance as possible of the expected arrival of the nuclear material, and in any case within the time limits specified in the subsidiary arrangements.

- (c) The Agency and the Community may agree on different procedures for advance notification.
- (d) The notification shall specify:
  - (i) the identification and, if possible, the expected quantity and composition of the nuclear material;
  - (ii) at what point of the transfer the Community and the State concerned will have responsibility for the nuclear material for the purpose of this Agreement, and the probable date on which that point will be reached; and
  - (iii) the expected date of arrival, the location where, and the date on which, the nuclear material is intended to be unpacked.

#### Article 96

The notification referred to in Article 95 shall be such as to enable the Agency to make, if necessary, an *ad hoc* inspection to identify, and if possible verify, the quantity and composition of, the nuclear material transferred into the States, except for transfers within the Community, at the time the consignment is unpacked. However, unpacking shall not be delayed by any action taken or contemplated by the Agency pursuant to such a notification.

#### Article 97

### Special reports

The Community shall make a special report as envisaged in Article 68 if any unusual incident or circumstance leads the Community to believe that there is or may have been loss of nuclear material, including the occurrence of significant delay, during a transfer into or out of the States.

### DEFINITIONS

#### Article 98

For the purposes of this Agreement:

1. A. *Community* means both:
  - (a) the legal person created by the Treaty establishing the European Atomic Energy Community (Euratom), Party to this Agreement; and

- (b) the territories to which the Euratom Treaty applies.
- B. *States* means the non-nuclear-weapon States, members of the Community, party to this Agreement.
2. A. *Adjustment* means an entry into an accounting record or a report showing a shipper/receiver difference or material unaccounted for.
- B. *Annual throughput* means, for the purposes of Articles 79 and 80, the amount of nuclear material transferred annually out of a facility working at nominal capacity.
- C. *Batch* means a portion of nuclear material handled as a unit for accounting purposes at a key measurement point and for which the composition and quantity are defined by a single set of specifications or measurements. The nuclear material may be in bulk form or contained in a number of separate items.
- D. *Batch data* means the total weight of each element of nuclear material and, in the case of plutonium and uranium, the isotopic composition when appropriate. The units of account shall be as follows:
- (a) grams of contained plutonium;
  - (b) grams of total uranium and grams of contained uranium-235 plus uranium-233 for uranium enriched in these isotopes; and
  - (c) kilograms of contained thorium, natural uranium or depleted uranium.
- For reporting purposes the weights of individual items in the batch shall be added together before rounding to the nearest unit.
- E. *Book inventory* of a material balance area means the algebraic sum of the most recent physical inventory of that material balance area and of all inventory changes that have occurred since that physical inventory was taken.
- F. *Correction* means an entry into an accounting record or a report to rectify an identified mistake or to reflect an improved measurement of a quantity previously entered into the record or report. Each correction must identify the entry to which it pertains.
- G. *Effective kilogram* means a special unit used in safeguarding nuclear material. The quantity in effective kilograms is obtained by taking:
- (a) for plutonium, its weight in kilograms;
  - (b) for uranium with an enrichment of 0.01 (1 %) and above, its weight in kilograms multiplied by the square of its enrichment;
  - (c) for uranium with an enrichment below 0.01 (1 %) and above 0.005 (0.5 %), its weight in kilograms multiplied by 0.0001; and
  - (d) for depleted uranium with an enrichment of 0.005 (0.5 %) or below, and for thorium, its weight in kilograms multiplied by 0.00005.
- H. *Enrichment* means the ratio of the combined weight of the isotopes uranium-223 and uranium-235 to that of the total uranium in question.
- I. *Facility* means:
- (a) a reactor, a critical facility, a conversion plant, a fabrication plant, a reprocessing plant, an isotope separation plant or a separate storage installation; or
  - (b) any location where nuclear material in amounts greater than one effective kilogram is customarily used.
- J. *Inventory change* means an increase or decrease, in terms of batches, of nuclear material in a material balance area; such a change shall involve one of the following:
- (a) Increases:
    - (i) import;
    - (ii) domestic receipt: receipts from within the States; from other material balance areas; from a non-safeguarded (non-peaceful) activity; at the starting point of safeguards;
    - (iii) nuclear production: production of special fissionable material in a reactor; and

- (iv) de-exemption: reapplication of safeguards on nuclear material previously exempted therefrom on account of its use or quantity.
- (b) Decreases:
- (i) export;
- (ii) domestic shipment: shipments within the States to other material balance areas or for a non-safeguarded (non-peaceful) activity;
- (iii) nuclear loss: loss of nuclear material due to its transformation into other element(s) or isotope(s) as a result of nuclear reactions;
- (iv) measured discard: nuclear material which has been measured, or estimated on the basis of measurements, and disposed of in such a way that it is not suitable for further nuclear use;
- (v) retained waste: nuclear material generated from processing or from an operational accident, which is deemed to be unrecoverable for the time being but which is stored;
- (vi) exemption: exemption of nuclear material from safeguards on account of its use or quantity; and
- (vii) other loss: for example, accidental loss (that is, irretrievable and inadvertent loss of nuclear material as the result of an operational accident) or theft.
- K. *Key measurement point* means a location where nuclear material appears in such a form that it may be measured to determine material flow or inventory. Key measurement points thus include, but are not limited to, the inputs and outputs (including measured discards) and storages in material balance areas.
- L. *Man-year of inspection* means, for the purposes of Article 80, 300 man-days of inspection, a man-day being a day during which a single inspector has access to a facility at any time for a total of not more than eight hours.
- M. *Material balance area* means an area in or outside of a facility such that:
- (a) the quantity of nuclear material in each transfer into or out of each material balance area can be determined; and
- (b) the physical inventory of nuclear material in each material balance area can be determined when necessary in accordance with specified procedures,
- in order that the material balance for Agency safeguards purposes can be established.
- N. *Material unaccounted for* means the difference between book inventory and physical inventory.
- O. *Nuclear material* means any source or any special fissionable material as defined in Article XX of the Statute. The term 'source material' shall not be interpreted as applying to ore or ore residue. Any determination by the Board under Article XX of the Statute after the entry into force of this Agreement which adds to the materials considered to be source material or special fissionable material shall have effect under this Agreement only upon acceptance by the Community and the States.
- P. *Physical inventory* means the sum of all the measured or derived estimates of batch quantities of nuclear material on hand at a given time within a material balance area, obtained in accordance with specified procedures.
- Q. *Shipper/receiver difference* means the difference between the quantity of nuclear material in a batch as stated by the shipping material balance area and as measured at the receiving material balance area.
- R. *Source data* means those data, recorded during measurement or calibration or used to derive empirical relationships, which identify nuclear material and provide batch data. Source data may include, for example, weight of compounds, conversion factors to determine weight of element, specific gravity, element

concentration, isotopic ratios, relationship between volume and manometer readings and relationship between plutonium produced and power generated.

- S. *Strategic point* means a location selected during examination of design information where, under normal conditions and when

combined with the information from all strategic points taken together, the information necessary and sufficient for the implementation of safeguards measures is obtained and verified; a strategic point may include any location where key measurements related to material balance accountancy are made and where containment and surveillance measures are executed.

## PROTOCOL

*Article 1*

This Protocol amplifies certain provisions of the Agreement and, in particular, specifies the conditions and means according to which cooperation in the application of the safeguards provided for under the Agreement shall be implemented in such a way as to avoid unnecessary duplication of the Community's safeguards activities.

*Article 2*

The Community shall collect the information on facilities and on nuclear material outside facilities to be provided to the Agency under the Agreement on the basis of the agreed indicative questionnaire annexed to the subsidiary arrangements.

*Article 3*

The Agency and the Community shall carry out jointly the examination of design information provided for in Article 46 (a) to (f) of the Agreement and shall include the agreed results thereof in the subsidiary arrangements. The verification of design information provided for in Article 48 of the Agreement shall be carried out by the Agency in cooperation with the Community.

*Article 4*

When providing the Agency with the information referred to in Article 2 of this Protocol, the Community shall also transmit information on the inspection methods which it proposes to use and the complete proposals, including estimates of inspection efforts for the routine inspection activities, for attachments to the subsidiary arrangements for facilities and material balance areas outside facilities.

*Article 5*

The preparation of the attachments to the subsidiary arrangements shall be performed together by the Community and the Agency.

*Article 6*

The Community shall collect the reports from the operators, keep centralized accounts on the basis of these reports and proceed with the technical and accounting control and analysis of the information received.

*Article 7*

Upon completion of the tasks referred to in Article 6 of this Protocol the Community shall, on a monthly basis, produce and provide the Agency with the inventory change reports within the time limits specified in the subsidiary arrangements.

*Article 8*

Further, the Community shall transmit to the Agency the material balance reports and physical inventory listings with frequency depending on the frequency of physical inventory taking as specified in the subsidiary arrangements.

*Article 9*

The form and format of reports referred to in Articles 7 and 8 of this Protocol, as agreed between the Agency and the Community, shall be specified in the subsidiary arrangements.

*Article 10*

The routine inspection activities of the Community and of the Agency, including the inspections referred to in Article 84 of the Agreement, for the purposes of the Agreement, shall be coordinated pursuant to the provisions of Articles 11 to 23 of this Protocol.

*Article 11*

Subject to Articles 79 and 80 of the Agreement, in determining the actual number, intensity, duration, timing and mode of the Agency inspections in respect of each facility, account shall be taken of the inspection effort carried out by the Community in the framework of its multinational system of safeguards pursuant to the provisions of this Protocol.

*Article 12*

Inspection efforts under the Agreement for each facility shall be determined by the use of the criteria of Article 81 of the Agreement. Such criteria shall be implemented by using the rules and methods set forth in the subsidiary arrangements which have been used for the calculation of the inspection efforts in respect of specific examples attached to the subsidiary arrangements. These rules and methods shall be reviewed from time to time, pursuant to Article 7 of the Agreement, to take into account new technological developments in the field of safeguards and experience gained.

*Article 13*

Such inspection efforts, expressed as agreed estimates of the actual inspection efforts to be applied, shall be set out in the subsidiary arrangements together with relevant descriptions of verification approaches and scopes of inspections to be carried out by the Community and by the Agency. These inspection efforts shall constitute, under normal operating conditions and under the conditions set out below, the actual maximum inspection efforts at the facility under the Agreement:

- (a) the continued validity of the information on Community safeguards provided for in Article 32 of the Agreement, as specified in the subsidiary arrangements;
- (b) the continued validity of the information provided to the Agency in accordance with Article 2 of this Protocol;
- (c) the continued provision by the Community of the reports pursuant to Articles 60, 61, 63 to 65 and 67 to 69 of the Agreement, as specified in the subsidiary arrangements;
- (d) the continued application of the coordination arrangements for inspections pursuant to Articles 10 to 23 of this Protocol, as specified in the subsidiary arrangements; and
- (e) the application by the Community of its inspection effort with respect to the facility, as specified in the subsidiary arrangements, pursuant to this Article.

*Article 14*

- (a) Subject to the conditions of Article 13 of this Protocol, the Agency inspections shall be carried out simultaneously with the inspection activities of the Community. Agency inspectors shall be present during the performance of certain of the Community inspections.
- (b) Subject to the provisions of paragraph (a), whenever the Agency can achieve the purposes of its routine inspections set out in the Agreement, the Agency inspectors shall implement the provisions of Articles 74 and 75 of the Agreement through the observation of the inspection activities of the Community inspectors, provided, however, that:
  - (i) with respect to inspection activities of Agency inspectors to be implemented other than through the observation of the inspection activities of the Community inspectors, which can be foreseen, these shall be specified in the subsidiary arrangements; and
  - (ii) in the course of an inspection, Agency inspectors may carry out inspection activities other than through the observation of the inspection activities of the Community inspectors where they find this to be essential and urgent, if the Agency could not otherwise achieve the purposes of its routine inspections and this was unforeseeable.

*Article 15*

The general scheduling and planning of the Community inspections under the Agreement shall be established by the Community in cooperation with the Agency.

*Article 16*

Arrangements for the presence of Agency inspectors during the performance of certain of the Community inspections shall be agreed in advance by the Agency and the Community for each type of facility, and to the extent necessary, for individual facilities.

*Article 17*

In order to enable the Agency to decide, based on requirements for statistical sampling, as to its presence at a particular Community inspection, the Community shall provide the Agency with an advance statement of the numbers, types and contents of items to be inspected according to the information available to the Community from the operator of the facility.

*Article 18*

Technical procedures in general for each type of facility and, to the extent necessary, for individual facilities, shall be agreed in advance by the Agency and the Community, in particular, with respect to:

- (a) the determination of techniques for random selection of statistical samples; and
- (b) the checking and indentification of standards.

*Article 19*

The coordination arrangements for each type of facility set out in the subsidiary arrangements shall serve as a basis for the coordination arrangements to be specified in each facility attachment.

*Article 20*

The specific coordination actions on matters specified in the facility attachments pursuant to Article 19 of this Protocol shall be taken between Community and Agency officials designated for that purpose.

*Article 21*

The Community shall transmit to the Agency its working papers for these inspections at which Agency inspectors were present and inspection reports for all other Community inspections performed under the Agreement.

*Article 22*

The samples of nuclear material for the Agency shall be drawn from the same randomly selected batches of items as for the Community and shall be taken together with Community samples, except when the maintenance of or reduction to the lowest practical level of the Agency inspection effort requires independent sampling by the Agency, as agreed in advance and specified in the subsidiary arrangements.

*Article 23*

The frequencies of physical inventories to be taken by facility operators and to be verified for safeguards

purposes will be in accordance with those laid down as guidelines in the subsidiary arrangements. If additional activities under the Agreement in relation to physical inventories are considered to be essential, they will be discussed in the Liaison Committee provided for in Article 25 of this Protocol and agreed implementation.

*Article 24*

Whenever the Agency can achieve the purposes of its *ad hoc* inspections set out in the Agreement through observation of the inspection activities of Community inspectors, it shall do so.

*Article 25*

- (a) With a view to facilitating the application of the Agreement and of this Protocol, a Liaison Committee shall be established, composed of representatives of the Community and of the Agency.
- (b) The Committee shall meet at least once a year:
  - (i) to review, in particular, the performance of the coordination arrangements provided for in this Protocol, including agreed estimates of inspection efforts;
  - (ii) to examine the development of safeguards methods and techniques; and
  - (iii) to consider any questions which have been referred to it by the periodic meetings referred to in paragraph (c).
- (c) The Committee shall meet periodically at a lower level to discuss, in particular and to the extent necessary, for individual facilities, the operation of the coordination arrangements provided for in this Protocol, including, in the light of technical and operational developments, up-dating of agreed estimates of inspection efforts with respect to changes in throughput, inventory and facility operational programmes, and the application of inspection procedures in different types of routine inspection activities and, in general terms, statistical sampling requirements. Any questions which could not be settled would be referred to the meetings mentioned in paragraph (b).

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(d) Without prejudice to urgent actions which might be required under the Agreement, should problems arise in the application of Article 13 of this Protocol, in particular, when the Agency considered that the conditions specified therein had not been met, the Committee would meet as soon as possible at the suitable level in order to assess the situation and to discuss the measures to be taken. If a problem could not be settled, the

Committee may make appropriate proposals to the Parties, in particular, with the view to modifying the estimates of inspection efforts for routine inspection activities.

(e) The Committee shall elaborate proposals, as necessary, with respect to questions which require the agreement of the Parties.

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