



Treaty Series No. 36 (1969)

Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland,
the Government of Japan
and the International Atomic Energy Agency

for the
Application of Agency Safeguards in respect
of the Agreement between those
Governments for Co-operation in the
Peaceful Uses of Atomic Energy

Vienna, 15 October 1968

[The Agreement entered into force on 15 October 1968]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
March 1969*

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AGREEMENT
BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY,
THE GOVERNMENT OF JAPAN AND THE GOVERNMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN
IRELAND FOR THE APPLICATION OF AGENCY SAFEGUARDS
IN RESPECT OF THE AGREEMENT BETWEEN THOSE
GOVERNMENTS FOR CO-OPERATION IN THE
PEACEFUL USES OF ATOMIC ENERGY

WHEREAS the Government of Japan (hereinafter referred to as "Japan"), and the Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as "the United Kingdom") signed an Agreement for Co-operation in the Peaceful Uses of Atomic Energy on 16 June 1958,⁽¹⁾ which required that certain items be subjected to a system of safeguards designed to verify that they are used only for peaceful purposes ;

WHEREAS the International Atomic Energy Agency (hereinafter referred to as "the Agency"), Japan and the United Kingdom signed on 26 September 1967⁽²⁾ an Agreement, in accordance with Article III.A.5 of the Statute of the Agency,⁽³⁾ whereby such safeguards were to be administered by the Agency in accordance with the Agency's safeguards system ;

WHEREAS Japan and the United Kingdom signed an Agreement for Co-operation in the Peaceful Uses of Atomic Energy (hereinafter referred to as "the Agreement for Co-operation") which on 15 October 1968⁽⁴⁾ superseded the Agreement of 16 June 1958 referred to above ;

WHEREAS certain materials, equipment and facilities are required by the Agreement for Co-operation to be subjected to a system of safeguards to verify that they are used only for peaceful purposes ;

WHEREAS Japan and the United Kingdom have recognized in the Agreement for Co-operation the desirability of continuing to make use of the facilities and services of the Agency in the application of its safeguards system and have requested the Agency to enter into an Agreement to this effect ; and

WHEREAS the Board of Governors of the Agency (hereinafter referred to as "the Board") has acceded to that request on 20 September 1968 ;

The Agency, Japan and the United Kingdom have agreed as follows :

Undertakings by the Governments and the Agency

Section 1. Japan undertakes that it will use only for peaceful purposes any materials, equipment or facilities required to be listed in the Inventory for Japan.

(1) "Treaty Series No. 6 (1959)", Cmnd. 625.

(2) "Treaty Series No. 3 (1968)", Cmnd. 3496.

(3) "Treaty Series No. 19 (1958)", Cmnd. 450, as amended by "Treaty Series No. 38 (1963)", Cmnd. 2053.

(4) "Treaty Series No. 3 (1969)", Cmnd. 3853.

Section 2. The United Kingdom undertakes that it will use only for peaceful purposes any materials, equipment or facilities required to be listed in the Inventory for the United Kingdom.

Section 3. The Agency undertakes to apply its safeguards system, in accordance with the provisions of this Agreement, to materials, equipment and facilities while they are listed in either Inventory to ensure as far as it is able that they will be used only for peaceful purposes.

Section 4. Japan and the United Kingdom undertake to facilitate the application of such safeguards and to co-operate with the Agency and each other to that end.

Section 5. The respective rights and obligations of the two Governments under Articles V and X (5) of the Agreement for Co-operation shall not be regarded as operative:

- (a) In relation to materials, equipment and facilities, while they are listed in the appropriate Inventory ; or
- (b) In relation to materials, when safeguards with respect to them have been terminated in accordance with Sections 20 or 21 of this Agreement.

If the Board determines, pursuant to Section 24, that the Agency is unable to apply safeguards to any such material, equipment or facility, it shall be removed from the Inventory for the Government concerned until the Board determines that the Agency is able to apply safeguards to it. In such case, the Agency may, at the request of the other Government, provide it with information available to the Agency about such material, equipment or facility in order to enable that Government to exercise effectively any rights it may have thereto.

Section 6. The two Governments shall promptly notify the Agency of any amendment to the Agreement for Co-operation and of any notice of termination given with regard to that Agreement.

Application of Safeguards by the Agency

Section 7. The Agency shall establish and maintain two Inventories in accordance with Sections 8, 9 and 10. The Inventories shall be maintained on the basis of the reports and notifications received from the Governments pursuant to the procedures provided for in Sections 11 to 21 and any other arrangements made pursuant to this Agreement.

Section 8. The following shall be listed in the Inventory for Japan :

(a) *Part I—Main*

- (i) Equipment and facilities transferred to Japan and subject to safeguards under the Agreement for Co-operation ;
- (ii) Materials transferred to Japan and subject to safeguards under the Agreement for Co-operation, or nuclear material substituted therefor in accordance with paragraph 25 or 26 (d) of the Safeguards Document ;

- (iii) Special fissionable materials produced in Japan in or by the use of any of the materials, equipment or facilities required to be listed in this Part, or any nuclear material substituted therefor in accordance with paragraph 25 or 26 (d) of the Safeguards Document ; and
- (iv) Other nuclear materials while they are contained or when they have been improved in any of the materials, equipment or facilities required to be listed under (i), (ii) or (iii) above, or any nuclear materials substituted therefor in accordance with paragraph 25 or 26 (d) of the Safeguards Document.

(b) *Part II—Subsidiary*

- (i) Any other facility while it incorporates any equipment listed in Part I ;
and
- (ii) Any other facility while it is containing any material listed in Part I.

(c) *Part III—Inactive*

Any nuclear material which would normally be listed in Part I, but is not so listed because :

- (i) It has been exempted from safeguards pursuant to Section 19 ; or
- (ii) Safeguards thereon have been suspended pursuant to Section 19.

Section 9. The following shall be listed in the Inventory for the United Kingdom :

(a) *Part I—Main*

- (i) Equipment and facilities transferred to the United Kingdom and subject to safeguards under the Agreement for Co-operation ;
- (ii) Materials transferred to the United Kingdom and subject to safeguards under the Agreement for Co-operation, or nuclear material substituted therefor in accordance with paragraph 25 or 26 (d) of the Safeguards Document ;
- (iii) Special fissionable materials produced in the United Kingdom in or by the use of any of the materials, equipment or facilities required to be listed in this Part, or any nuclear material substituted therefor in accordance with paragraph 25 or 26 (d) of the Safeguards Document ; and
- (iv) Other nuclear materials while they are contained or when they have been improved in any of the materials, equipment or facilities required to be listed under (i), (ii) or (iii) above, or any nuclear materials substituted therefor in accordance with paragraph 25 or 26 (d) of the Safeguards Document.

(b) *Part II—Subsidiary*

- (i) Any other facility while it incorporates any equipment listed in Part I ; and
- (ii) Any other facility while it is containing any material listed in Part I.

(c) *Part III—Inactive*

Any nuclear material which would normally be listed in Part I, but is not so listed because:

- (i) It has been exempted from safeguards pursuant to Section 19 ; or
- (ii) Safeguards thereon have been suspended pursuant to Section 19.

Section 10. Those items, which at the time of termination of the Agreement between the Agency, Japan and the United Kingdom signed on 26 September 1967, are required to be listed in the Inventory established in accordance with the Annex to that Agreement, shall constitute the initial listings in the Inventories referred to in Sections 8 and 9, and the Agency shall accordingly commence the application of its safeguards system under this Agreement from the moment of its entry into force.

Section 11.

(a) After the Inventories have been established in accordance with Section 10:

- (i) Japan and the United Kingdom shall jointly notify the Agency of any transfer from one country to the other under the Agreement for Co-operation, of materials, equipment or facilities which are subject to safeguards under that Agreement ;
- (ii) Either Japan or the United Kingdom shall individually notify the Agency of any other facilities which are required to be listed in Part II of the appropriate Inventory.

(b) The Agency shall, within thirty days of its receipt of a notification under sub-paragraph (i) or (ii) of paragraph (a) above, advise both Governments that:

- (i) The items covered by the notification are listed in the appropriate Inventory as from the date of the Agency's advice ; or
- (ii) The items covered by the notification are no longer listed in either Inventory as a result of the operation of the provisions of Section 15 ; or
- (iii) The Agency is unable to apply safeguards to such items, in which case, however, it may indicate at what future time or under what conditions it would be able to apply safeguards to them.

Section 12. Each Government shall notify the Agency, by means of reports in accordance with the Safeguards Document, of any special fissionable material produced during the period covered by the report and required to be listed in Part I(iii) of its Inventory. Upon receipt by the Agency of the notification, such produced material shall be so listed, provided that it shall be deemed to have been listed from the moment it was produced. The Agency may verify the calculations of the amount of such material. Appropriate adjustments in the amounts appearing in the Inventory may be made by agreement between the Parties, but, pending such agreement, the Agency's calculations shall govern.

Section 13. Each Government shall notify the Agency, by means of reports in accordance with the Safeguards Document, of any nuclear material required to be listed in Part I (iv) of its Inventory. Upon receipt by the Agency of the notification, such nuclear material shall be so listed, provided that it shall be deemed to have been listed from the time it is contained or has been improved in any of the materials, equipment or facilities concerned.

Section 14. The joint notifications provided for in Section 11 (a) (i) shall normally be made not more than two weeks after the material, equipment or facility arrives in Japan or the United Kingdom as the case may be, except that shipment of source material in quantities not exceeding one metric ton may be notified to the Agency at intervals not exceeding three months. All notifications under Section 11 shall include, to the extent relevant, the nuclear and chemical composition, the physical form and the quantity of the material and the type and capacity of the equipment or facility involved, the date of shipment, the date of receipt, the identity of the consignee and any other relevant information. The two Governments also undertake to give the Agency as much advance notice as possible of the transfer of large quantities of nuclear materials or major equipment or facilities:

Section 15. Notifications of re-transfers to the supplying country of materials, equipment or facilities which are listed in Parts I (i) or (ii) of the Inventory of the re-transferring Government shall be made in accordance with Section 11 (a) (i), and shall include a statement to the effect that the items covered by the notifications are being returned to the country of origin. On the receipt of such a notification the Agency shall, in accordance with paragraph 26 of the Safeguards Document, remove the items concerned from the Inventory of the re-transferring Government and, except in the case of improved nuclear material, shall not include them on the Inventory of the receiving Government.

Section 16. The two Governments shall jointly notify the Agency of any intended transfer of materials, equipment or facilities, listed in Part I of either Inventory, to a recipient which is not under the jurisdiction of either of the two Governments. Such materials, equipment or facilities shall not be transferred unless:

- (a) Arrangements have been made by the Agency to safeguard such materials, equipment or facilities; or
- (b) The materials, equipment or facilities will be subject to safeguards other than those of the Agency but generally consistent with such safeguards and accepted by the Agency.

Such materials, equipment or facilities shall upon transfer be deleted from the Inventory.

Section 17. Whenever either Government intends to transfer materials or equipment, listed in Part I of its Inventory, to a principal nuclear facility within its jurisdiction which the Agency has not previously accepted for listing in that Government's inventory, such transfer shall not be effected before the notification required by Section 11 (a) (ii) has been accepted by the Agency.

Section 18. The notifications provided for in Sections 16 and 17 shall, unless otherwise agreed with the Agency, be made at least two weeks in advance of any intended transfer. The contents of these notifications shall conform, as far as appropriate, to the requirements of Section 14.

Section 19. The Agency shall exempt nuclear material, listed in Part I of either Inventory, from safeguards under the conditions specified in paragraphs 21, 22 and 23 of the Safeguards Document and shall suspend safeguards with respect to nuclear material under the conditions specified in paragraphs 24 and 25 of that Document, and shall thereupon transfer the listing of the items concerned to Part III of the Inventory in question.

Section 20. The Agency shall terminate safeguards under this Agreement with respect to those items deleted from either Inventory as provided in Sections 15 and 16. Safeguards on nuclear material other than that covered by the preceding sentence shall be terminated under the conditions specified in paragraphs 26 and 27 of the Safeguards Document and nuclear material for which safeguards are so terminated shall thereupon be deleted from the Inventory in question.

Section 21. The two Governments and the Agency shall agree on the conditions for exemption, suspension or termination of safeguards on items not covered by Sections 19 and 20.

Safeguards Procedures

Section 22. In applying safeguards, the Agency shall observe the principles set forth in paragraphs 9 to 14 of the Safeguards Document.

Section 23. The safeguards to be applied by the Agency to the items listed in the Inventories are those procedures specified in the Safeguards Document. The Agency shall make subsidiary arrangements with each Government concerning the implementation of such procedures. The Agency shall have the right to request the information referred to in paragraph 41 of the Safeguards Document and to make the inspections referred to in paragraphs 51 and 52 of the Safeguards Document.

Section 24. If the Board determines, in accordance with Article XII.C of the Statute, that there has been any non-compliance with this Agreement, the Board shall call upon the Government concerned to remedy such non-compliance forthwith, and shall make such reports as it thinks appropriate. In the event of failure by such Government to take fully corrective action within a reasonable time:

- (a) The Agency shall be relieved of its responsibility to apply safeguards under this Agreement for such time as the Board determines that the Agency cannot effectively apply the safeguards provided for in this Agreement; and
- (b) The Board may take any other measures provided for in Article XII.C of the Statute.

The Agency shall promptly notify the other Parties in the event of any determination by the Board pursuant to this Section.

Agency Inspectors

Section 25. The provisions of paragraphs 1 to 10 and 12 to 14 of the Inspectors' Document shall apply to Agency inspectors performing functions pursuant to this Agreement. However, whenever the Agency has the right of access to a principal nuclear facility or to nuclear material at all times, it may perform inspections of which notice as required by paragraph 4 of the Inspectors' Document need not be given, insofar as this is necessary for the effective application of safeguards.

Section 26. The relevant provisions of the Agreement on the Privileges and Immunities of the Agency shall apply to the Agency, its inspectors, and its property used by them in performing their functions pursuant to this Agreement.

Finance

Section 27. In connection with the implementation of this Agreement, all expenses incurred by, or at the request or direction of, the Agency, its inspectors or other officials will be borne by the Agency and neither Japan nor the United Kingdom shall be required to bear any expense for equipment, accommodation, or transport furnished pursuant to the provisions of paragraph 6 of the Inspectors' Document. These provisions shall not prejudice the allocation of expenses which are reasonably attributable to a failure by a Party to comply with this Agreement.

Settlement of Disputes

Section 28. Any dispute arising out of the interpretation or application of this Agreement which is not settled by negotiation or as may otherwise be agreed by the Parties concerned shall on the request of any Party be submitted to an arbitral tribunal composed as follows:

- (a) If the dispute involves only two of the Parties to this Agreement, all three Parties agreeing that the third is not concerned, the two Parties involved shall each designate one arbitrator, and the two arbitrators so designated shall elect a third, who shall be the Chairman. If within 30 days of the request for arbitration either Party has not designated an arbitrator, the other Party to the dispute may request the President of the International Court of Justice to appoint an arbitrator. The same procedure shall apply if, within 30 days of the designation or appointment of the second arbitrator, the third arbitrator has not been elected ;
- (b) If the dispute involves all three Parties to this Agreement, each Party shall designate one arbitrator, and the three arbitrators so designated shall by unanimous decision elect a fourth arbitrator, who shall be the Chairman, and a fifth arbitrator. If within 30 days of the request for arbitration any Party has not designated an arbitrator, any other Party may request the President of the International Court of Justice to appoint the necessary number of arbitrators. The same procedure shall apply, if within 30 days of designation or appointment of the third arbitrator, the Chairman or the fifth arbitrator has not been elected.

A majority of the members of the tribunal shall constitute a quorum, and all decisions shall be made by majority vote. The arbitral procedure shall be fixed by the tribunal. The remuneration of the arbitrators shall be determined on the same basis as that of *ad hoc* judges of the International Court of Justice under paragraph 4 of Article 32 of the Statute of the Court.

Section 29. If necessary to ensure that this Agreement continues to function effectively pending a final decision on the dispute, the arbitral tribunal shall, upon request by any Party, be empowered to decide on interim measures ; such decisions shall not restrict the powers of the Board under Section 24.

Section 30. All decisions of the tribunal, including rulings concerning its constitution, procedure, jurisdiction, the division of the expenses of the arbitration between the Parties and decisions on interim measures, shall be binding on all Parties and shall be implemented by them, in accordance with their respective constitutional procedures.

Agency Safeguards System and Definitions

Section 31. The Parties shall, at the request of any one of them, consult about amending this Agreement. If the Board modifies the Safeguards Document, or the scope of the safeguards system, this Agreement shall be amended if the Governments jointly so request to take account of any or all of such modifications. If the Board modifies the Inspectors' Document, this Agreement shall be amended if the Governments jointly so request to take account of any or all such modifications.

Section 32. For the purposes of this Agreement:

- (a) "Improved" means, with respect to nuclear material, that either:
 - (i) The concentration of fissionable isotopes in it has been increased ;
or
 - (ii) The amount of chemically separable fissionable isotopes in it has been increased ; or
 - (iii) Its chemical or physical form has been changed so as to facilitate further use or processing ;
- (b) "Inspectors' Document" means the Annex to Agency document GC(V)/INF/39, which was placed in effect by the Board on 29 June 1961 ;
- (c) "Nuclear material" means any source or special fissionable material as defined in Article XX of the Agency's Statute :
- (d) "Principal nuclear facility" means a reactor, a plant for processing nuclear material irradiated in a reactor, a plant for separating the isotopes of a nuclear material, a plant for processing or fabricating nuclear material (excepting a mine or ore-processing plant) or a facility or plant of such other type as may be designated by the Board from time to time, including associated storage facilities ;
- (e) "Safeguards Document" means Agency document INFCIRC/66/Rev. 2 ;
- (f) The terms "Materials", "Equipment" and "Facilities" have the same meaning as in the Agreement for Co-operation.

Entry into Force and Duration

Section 33. This Agreement shall enter into force upon signature, and shall thereupon supersede the Agreement between the Parties signed at Vienna on 26 September 1967.

Section 34. This Agreement shall remain in force for the duration of the Agreement for Co-operation, unless terminated sooner by any Party upon six months' notice to the other Parties or as may otherwise be agreed.

DONE in Vienna, this 15th day of October 1968, in triplicate in the English language.

For the International Atomic Energy Agency:

U. GOSWAMI

For the Government of Japan:

K. NIISEKI

For the Government of the United Kingdom of Great Britain and Northern Ireland:

ANTHONY RUMBOLD

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