

No. 8318

**INTERNATIONAL ATOMIC ENERGY AGENCY,
CANADA and JAPAN**

**Agreement for the application of agency safeguards in respect
of the Bilateral Agreement between those Governments
for co-operation in the peaceful uses of atomic energy
(with annex). Signed at Vienna, on 20 June 1966**

Official texts: English and French.

Registered by the International Atomic Energy Agency on 20 September 1966.

**AGENCE INTERNATIONALE DE L'ÉNERGIE ATOMIQUE,
CANADA et JAPON**

**Accord relatif à l'application des garanties prévues dans
l'Accord bilatéral de coopération conclu entre ces Gou-
vernements pour l'utilisation de l'énergie atomique à
des fins pacifiques (avec annexe). Signé à Vienne, le
20 juin 1966**

Textes officiels anglais et français.

Enregistré par l'Agence internationale de l'énergie atomique le 20 septembre 1966.

No. 8318. AGREEMENT¹ BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY, THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF JAPAN FOR THE APPLICATION OF AGENCY SAFEGUARDS IN RESPECT OF THE BILATERAL AGREEMENT² BETWEEN THOSE GOVERNMENTS FOR CO-OPERATION IN THE PEACEFUL USES OF ATOMIC ENERGY. SIGNED AT VIENNA, ON 20 JUNE 1966

WHEREAS the Government of Canada (hereinafter called "Canada") and the Government of Japan (hereinafter called "Japan") entered into an Agreement for Cooperation in the Peaceful Uses of Atomic Energy (hereinafter called the "Cooperation Agreement") supplemented by a Protocol³ and by Agreed Minutes, all of which were signed on 2 July 1959, in which Agreement it is provided that it is the intention of the Governments to avail themselves of the safeguards facilities created by the International Atomic Energy Agency (hereinafter called the "Agency");

WHEREAS the Agency is prepared to assume the responsibility of administering safeguards in respect of bilateral arrangements between Member States in accordance with Article XII of its Statute³ and with its safeguards system set forth in Agency documents INFCIRC/66 (hereinafter called the "Safeguards Document") and GC (V)/INF/39, Annex (hereinafter called the "Inspectors Document"); and

WHEREAS Canada and Japan have requested the Agency to administer safeguards in respect of the Cooperation Agreement and the Board of Governors of the Agency (hereinafter called the "Board") has acceded to that request on 17 September 1965;

The Agency, Canada and Japan agree as follows :

Article I

UNDERTAKINGS BY THE GOVERNMENTS AND THE AGENCY

Section 1. Japan undertakes in accordance with the Cooperation Agreement that it will not use in such a way as to further any military purpose any nuclear materials or reactors which are subject to the Cooperation Agreement and listed in the inventory, provided for in Section 11 (hereinafter referred to as the "Inventory"), for Japan.

¹ Came into force on 20 June 1966, upon signature, in accordance with Section 26.

² United Nations, *Treaty Series*, Vol. 383, p. 243.

³ United Nations, *Treaty Series*, Vol. 276, p. 3, and Vol. 471, p. 334.

Section 2. Canada undertakes in accordance with the Cooperation Agreement that it will not use in such a way as to further any military purpose any nuclear materials or reactors which are subject to the Cooperation Agreement and listed in the Inventory for Canada.

Section 3. The Agency hereby undertakes to apply safeguards during the term of and in accordance with the provisions of this Agreement to materials, and in connection therewith to facilities, while they are listed in either Inventory, in order to ascertain whether the undertakings of each Government are being fulfilled, provided that safeguards shall not be applied to nuclear material exempted from safeguards pursuant to Section 12 or to nuclear material while safeguards are suspended with respect to it pursuant to Section 12.

Section 4. Canada and Japan 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 Canada and Japan arising from sub-paragraphs (b) (ii), (b) (iii) and (d) of Article III and paragraphs 1 and 4 of Article IV of the Cooperation Agreement shall be suspended in respect of:

- (a) Nuclear material and reactors while they are listed in either Inventory;
- (b) Nuclear material with regard to which safeguards have been terminated pursuant to Section 12; and
- (c) Non-nuclear material and equipment while they are contained in any reactor listed in either Inventory.

If the Board determines, pursuant to Section 17, that the Agency is unable to apply safeguards to any such material or reactor, it shall be removed from the Inventory 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 or reactor in order to enable that Government to exercise effectively any rights it may have with regard thereto.

Section 6. Canada and Japan shall promptly notify the Agency of any amendment to the Cooperation Agreement and of any notice of termination given with regard to that Agreement.

Article II

APPLICATION OF SAFEGUARDS BY THE AGENCY

Section 7. Canada and Japan shall jointly notify the Agency of any transfer between them under the Cooperation Agreement of any nuclear material or any reactor. Such notification is to be submitted :

- (a) If the transfer took place before the entry into force of this Agreement, within 30 days of the date of such entry into force, after taking full account of :
- (i) Any burn-up or loss of transferred material;
 - (ii) Any nuclear material produced or used in a transferred reactor or produced in or by the use of any transferred nuclear material;

if such transferred, produced or used material is still within the jurisdiction of the Receiving Government;

- (b) If the transfer takes place after the entry into force of this Agreement, normally within two weeks of the transfer to the jurisdiction of the Receiving Government; in addition the Transferring Government shall inform the Agency not later than at the date of dispatch of any transfer to the Receiving Government. The provisions of this sub-section shall however not apply to :

- (i) Transfer of reactors or materials already listed in parts (a)-(d) of either Inventory which shall instead be notified to the Agency normally not less than two weeks before such transfer is due to take place, in order to enable the Agency to carry out its responsibilities under paragraph 54 of the Safeguards Document;

- (ii) Transfers of source material in quantities not exceeding one metric ton which may instead be notified at quarterly intervals.

The Transferring Government shall give to the Agency as much advance notice as possible concerning large quantities of materials or any reactor to be notified pursuant to this Section.

Section 8. The notifications made pursuant to Section 7 shall include the type, form and quantity of the materials or the type and power of the reactors, the date of dispatch and the date of receipt, the name and address of the consignee and any other relevant information.

Section 9. The Agency shall list reactors and materials notified pursuant to Section 7 in the Inventory for the Receiving Government, unless within 30 days of receipt of such notification the Agency informs the other Parties that it is unable to apply safeguards thereto, either because it has not established the necessary procedures or for unforeseeable reasons that may emerge. However, in cases of transfers referred to in Section 7 (b) (i) the transferred reactor or material shall be removed from the Inventory for the Transferring Government upon receipt by the Agency of the notification, but transferred special fissionable material listed in part (c) of the Inventory shall be listed in part (c) of the other Inventory.

Section 10. The Government concerned shall notify the Agency before transferring any nuclear material listed in parts (b)-(d) of its Inventory to a principal nuclear facility within its jurisdiction in connection with which the Agency is not applying safeguards and shall submit the design information provided for in paragraph 32 of the Safeguards Document before such transfer takes place to enable the Agency to determine whether it can apply safeguards in connection with the receiving facility. The Government shall also submit to the Agency proposals for the systems of records and reports with respect to the receiving facility in sufficient time to allow the Agency to review them before the records need be kept or the reports need be submitted.

Section 11. The Agency shall establish, separately for Canada and Japan, Inventories of the nuclear material and facilities specified in the Annex hereto. The Inventories shall be maintained on the basis of the joint notifications received and accepted pursuant to Sections 7-9, of the reports received from Canada or Japan pursuant to the safeguards procedures provided for in Section 14 and of any other decisions, determinations and arrangements made pursuant to this Agreement. Nuclear material referred to in part (c) or (d) of the Annex shall be considered as being listed in the appropriate Inventory from the time that it is produced or used within the meaning of those parts. The Agency shall communicate both Inventories to Canada and Japan every twelve months and also within two weeks of a request therefor from Canada or Japan.

Section 12. The Agency shall exempt from safeguards nuclear material under the conditions specified in paragraph 21, 22 or 23 of the Safeguards Document and shall suspend safeguards with respect to nuclear material under the conditions specified in paragraph 24 or 25 of the Document; upon such exemption or suspension, the nuclear material affected shall be transferred to part (e) or (f) of the same Inventory, as appropriate. The Agency shall terminate safeguards with respect to nuclear material under the conditions specified in paragraph 26 of the Document and may make arrangements with Canada or Japan, as appropriate, for termination pursuant to paragraph 27; upon such termination, the nuclear material affected shall be removed from the Inventory.

Section 13. In applying safeguards, the Agency shall observe the principles set forth in paragraphs 9-14 of the Safeguards Document.

Section 14. The procedures for the application of safeguards by the Agency under this Agreement shall be those specified in Part III of the Safeguards Document. The Agency shall make arrangements with each Government concerning the detailed implementation of those procedures.

Section 15. In connection with principal nuclear facilities to which its safeguards procedures extend, the Agency shall have the right to make an initial inspection or inspections, in accordance with paragraphs 51 and 52 of the Safeguards Document, and may request information as contemplated in paragraph 41 of the Document.

Section 16. Nuclear material or reactors listed in parts (a)-(d) of either Inventory shall only be transferred beyond the jurisdiction of Canada and Japan in accordance with the provisions, *mutatis mutandis*, of paragraphs 28 (c)-(d) of the Safeguards Document. Any such material or reactor that is transferred in accordance with this Section shall thereupon be removed from the Inventory.

Section 17. If the Board determines, in accordance with Article XII.C of the Agency's 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 deems appropriate. In the event of failure by the Government to take fully corrective action within a reasonable time :

- (a) The Agency shall be relieved of its responsibility to apply safeguards under Section 3 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 both Governments in the event of any determination by the Board pursuant to this Section.

Article III

AGENCY INSPECTORS

Section 18. The provisions of paragraphs 1-10 and 12-14 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, in so far as this is necessary for the effective application of safeguards; actual procedures for implementing paragraph 50 of the Safeguards Document shall be agreed with the Government concerned in an agreement supplementing this Agreement, before such facility or material is listed in the Inventory.

Section 19. The relevant provisions of the Agreement on the Privileges and Immunities of the Agency¹ shall apply to the Agency, its inspectors and its property used by them in performing their functions pursuant to this Agreement.

Article IV

FINANCIAL PROVISIONS

Section 20. 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 Canada nor Japan 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.

Section 21. Canada shall ensure that any protection against third-party liability, including any insurance or other financial security, in respect of a nuclear incident occurring in a nuclear installation under its jurisdiction shall apply to the Agency and its inspectors when carrying out their functions under this Agreement as that protection applies to nationals of Canada.

Article V

SETTLEMENT OF DISPUTES

Section 22. 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 thirty days of the request for arbitration either Party has not designated an arbitrator, either 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 thirty days of the designation or appointment of the second arbitrator, the third arbitrator has not been elected;

¹ United Nations, *Treaty Series*, Vol. 374, p. 147.

- (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 thirty days of the request for arbitration any Party has not designated an arbitrator, any 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 thirty days of the designation or appointment of the third arbitrator, the Chairman or the fifth arbitrator has not been elected.

A majority of the members of the arbitral tribunal shall constitute a quorum, and all decisions shall be made by majority vote. The arbitral procedure shall be fixed by the tribunal. The decisions of the tribunal, including all rulings concerning its constitution, procedure, jurisdiction and the division of the expenses of arbitration between the Parties, shall be binding on all Parties and shall be implemented by them, in accordance with their respective constitutional procedures. The remuneration of the arbitrators shall be determined on the same basis as that of *ad hoc* judges of the International Court of Justice.

Section 23. Decisions of the Board concerning the implementation of this Agreement, except such as relate only to Article IV, shall, if they so provide, be given effect immediately by the Parties, pending the conclusion of any consultation, negotiation or arbitration that may be or may have been invoked.

Article VI

AGENCY SAFEGUARDS SYSTEM AND DEFINITIONS

Section 24. Should the Board adopt any change in the Safeguards Document, the Governments may request that this Agreement be amended to take account of such change. The Agency and each Government may similarly agree, with respect to inspections to be carried out within the jurisdiction of that Government, to take account of any change adopted by the Board in the Inspectors Document.

Section 25. The terms “nuclear material”, “principal nuclear facility” and “reactor” have the same meaning in this Agreement as in the Safeguards Document. The terms “source material” and “special fissionable material” have the same meaning in this Agreement as in the Agency’s Statute. “Party” means any party to this Agreement. “Transferring Government” means the Government having made or intending to make a transfer referred to in Section 7; “Receiving Government” means the other Government. “Government concerned” means Canada or Japan, as appropriate, with respect to nuclear material or reactors listed on the Inventory maintained with respect to it.

Article VII

ENTRY INTO FORCE, AMENDMENT AND DURATION

Section 26. This Agreement shall enter into force upon signature by or for the Director General of the Agency and by the authorized representatives of Canada and Japan.

Section 27. At the request of any one of them, the Parties shall consult about amending this Agreement.

Section 28. This Agreement shall remain in force until the day on which the period expires for which the Cooperation Agreement was concluded or extended, unless terminated sooner by any Party upon six months' notice to the other Parties or as may otherwise be agreed.

DONE in Vienna, this 20th day of June 1966, in triplicate in English and French, the texts in both languages being equally authentic.

For the International Atomic Energy Agency :
Sigvard EKLUND

For the Government of Canada :
B. Margaret MEAGHER

For the GOVERNMENT of JAPAN :
Shinsaku HOGEN

A N N E X

THE INVENTORIES

The Inventory with respect to each Government shall consist of the following parts :

- (a) Reactors transferred to its jurisdiction, for which the Agency has accepted a joint notification pursuant to Section 9 of this Agreement;
- (b) Nuclear material transferred to its jurisdiction, for which the Agency has accepted a joint notification pursuant to Section 9 of this Agreement, or material substituted therefor;
- (c) Special fissionable material produced during the term of this Agreement in a reactor listed in the same Inventory or in or by the use of any nuclear material listed in part (b) or (c) of the same Inventory and any such material transferred from the jurisdiction of the other Government, or material substituted therefor;

- (d) Nuclear material which is being or has been used in a reactor listed in the same Inventory, or material substituted therefor;
- (e) Nuclear material that was previously listed in another part of the same Inventory and that was transferred to this part while it is being suspended from safeguards pursuant to Section 12 of this Agreement; and
- (f) Nuclear material that was previously listed in another part of the same Inventory and that was transferred to this part upon being exempted from safeguards pursuant to Section 12 of this Agreement.

In addition to the reactors listed in part (a) of the Inventory other facilities shall also be considered as part of the Inventory, on the basis of routine reports or other notifications received by the Agency, while they are producing, processing or using any material listed in parts (b)-(d) of the same Inventory.
