

No. 9035

**INTERNATIONAL ATOMIC ENERGY AGENCY,
UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND 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 26 September 1967

Official text : English.

Registered by the International Atomic Energy Agency on 18 March 1968.

**AGENCE INTERNATIONALE DE L'ÉNERGIE ATOMIQUE,
ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD et JAPON**

Accord relatif à l'application des garanties de l'Agence prévues dans l'Accord bilatéral de coopération conclu entre ces deux Gouvernements pour l'utilisation de l'énergie atomique à des fins pacifiques (avec annexe). Signé à Vienne, le 26 septembre 1967

Texte officiel anglais.

Enregistré par l'Agence internationale de l'énergie atomique le 18 mars 1968.

No. 9035. AGREEMENT¹ 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 BILATERAL AGREEMENT BETWEEN THOSE GOVERNMENTS FOR CO-OPERATION IN THE PEACEFUL USES OF ATOMIC ENERGY. SIGNED AT VIENNA, ON 26 SEPTEMBER 1967

WHEREAS the Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter called the "United Kingdom") and the Government of Japan (hereinafter called "Japan") concluded an Agreement for Co-operation in the Peaceful Uses of Atomic Energy on 16 June 1958² (hereinafter called the "Agreement for Co-operation"), which requires that materials and equipment made available by the United Kingdom to Japan be used solely for peaceful purposes and establishes a system of safeguards to that end;

WHEREAS Japan and the United Kingdom recognize the desirability of the International Atomic Energy Agency (hereinafter called the "Agency") safeguarding all peaceful nuclear energy activities and in particular all power reactors, and consequently have expressed in the Agreement for Co-operation their intention of arranging for the Agency to administer as soon as practicable the safeguards established by that Agreement;

WHEREAS the Agency is prepared to assume, in accordance with the Agency's safeguards system set forth in Agency documents INF/CIRC/66, including GC(X)/INF/86 (hereinafter referred to as the "Safeguards Document") and GC(V)/INF/39, Annex (hereinafter referred to as the "Inspectors Document"), the responsibility for administering safeguards provided for in bilateral agreements between Member States;

WHEREAS the United Kingdom and Japan have requested the Agency to enter into an agreement for the administration of safeguards by the Agency in respect of facilities, equipment and materials which are subject to the Agreement for Co-operation, in accordance with Article III.A.5 of the Statute;³ and

¹ Came into force on 26 September 1967 by signature, in accordance with article VII, section 27.

² United Nations, *Treaty Series*, Vol. 325, p. 185, and Vol. 588, p. 322.

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

WHEREAS the Board has acceded to that request on 17 June 1965;
The Agency, Japan and the United Kingdom agree as follows :

Article I

USE FOR PEACEFUL PURPOSES

Section 1. Japan undertakes in accordance with the Agreement for Co-operation that it will not use in such a way as to further any military purpose any facilities or materials which are subject to the Agreement for Co-operation and listed in part 1 of the inventory provided for in the Annex to this Agreement (hereinafter referred to as the "Inventory") and any equipment subject to the Agreement for Co-operation and contained or to be contained in a facility so listed or to be listed.

Section 2. The United Kingdom hereby undertakes that it will not use in such a way as to further any military purpose any special fissionable material listed in part 2 of the Inventory.

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 the 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 in accordance with the provisions of Part II, B, of the Safeguards Document, or to nuclear material while safeguards are suspended with respect to it pursuant to Section 12.

Section 4. The United Kingdom 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 the United Kingdom and Japan arising from Articles III (2), V, VI (b), VI (c), VII (b), VII (c) and XI (2) of the Agreement for Co-operation shall be suspended in respect of :

- (a) Any facility and material while it is listed in the Inventory;
- (b) Any material with respect to which safeguards have been terminated pursuant to Section 13 this Agreement.

If the Board determines, pursuant to Section 19, that the Agency is unable to apply safeguards to any such facility or material, 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 facility or

material in order to enable that Government to exercise effectively any rights it may have with regard 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.

Article II

APPLICATION OF SAFEGUARDS BY THE AGENCY

Section 7. The United Kingdom and Japan shall jointly notify the Agency of any facilities and nuclear material transferred from the United Kingdom to Japan under the Agreement for Co-operation and of any facilities containing equipment so transferred. Such notification is to be submitted :

- (a) Within thirty days of the entry into force of this Agreement, if the transfer took place previously, after taking full account of :
- (i) Any burn-up or loss of transferred material;
 - (ii) Any nuclear material produced, processed or used in a transferred principal nuclear facility or produced in or by the use of any transferred nuclear material;
- if such transferred, produced, processed or used material is still within the jurisdiction of Japan;
- (b) Otherwise normally within two weeks of the transfer to the jurisdiction of Japan of the material or facility, except that transfers of source material in quantities not exceeding one metric ton may be notified at quarterly intervals.

Such notifications shall include the type, form and quantity of the materials or the type and capacity (where appropriate) of the facilities, the date of dispatch and the date of receipt, the name and address of the consignee and any other relevant information.

Section 8. The Agency shall list such facilities and materials in the Inventory, unless within thirty days of receipt of such notification it 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.

Section 9. Japan shall notify the Agency, by means of routine safeguards reports, of any special fissionable material produced, during the period covered by each report, in or by the use of any facilities or materials listed in sub-parts 1 (a)-(d) of the Inventory. Upon receipt by the Agency of the notification, such special fissionable material shall be listed in sub-part 1 (c) of the Inventory, but shall be deemed to be subject to the safeguards provided for by this Agreement from the time it is produced. The Agency may verify the calculations of

the amounts of such material and may, where necessary and with the agreement of Japan, adjust the amounts thereof listed in the Inventory.

Section 10. The United Kingdom and Japan shall jointly notify the Agency of the return or transfer to the United Kingdom of any facility or material listed in sub-parts 1 (a)-(d) of the Inventory and upon receipt by the Agency of the notification such facility or material shall be removed from the Inventory, except that special fissionable material listed in sub-part 1 (c) of the Inventory shall be transferred to sub-part 2 (a). In order to enable the Agency to carry out its responsibilities under paragraph 54 of the Safeguards Document, such notifications shall be sent to the Agency normally not less than two weeks before the return or transfer of the facility or material is due to take place. Such notifications shall include the information specified in Section 7, as appropriate.

Section 11. The Government concerned shall notify the Agency before transferring any facility or material listed in sub-parts 1 (a)-(d) or in sub-part 2 (a) of the 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 12. Safeguards with respect to nuclear material listed in the Inventory may be suspended in accordance with the provisions of paragraph 24 or 25 of the Safeguards Document, and material with respect to which safeguards are suspended shall be listed in sub-part 1 (e) or 2 (b) of the Inventory, as the case may be.

Section 13. Safeguards shall be terminated with respect to nuclear material listed in the Inventory :

- (a) Which is the subject of a determination by the Agency in accordance with paragraph 26 (b) or (c) of the Safeguards Document; or
- (b) For which substitute material has been placed under safeguards in accordance with paragraph 26 (d) of the Safeguards Document, under an agreement between the Agency and the Government concerned.

Nuclear material with respect to which safeguards are thus terminated shall be removed from the Inventory.

Section 14. Substitute material placed under safeguards in accordance with paragraph 25 or 26 (d) of the Safeguards Document shall thereupon be listed in the corresponding part of the Inventory.

Section 15. Facilities or materials listed in sub-parts 1 (a)-(d) and sub-part 2 (a) of the Inventory shall only be transferred beyond the jurisdiction of Japan and the United Kingdom in accordance with the provisions, *mutatis mutandis*, of paragraphs 28 (c)-(d) of the Safeguards Document. Any such material or facility that is transferred in accordance with this Section shall thereupon be removed from the Inventory.

Section 16. The provisions of Sections 5, 7, 10, 11, 15 and 26 that refer to facilities shall also apply to equipment transferred from the United Kingdom to Japan under the Agreement for Co-operation that is or is to be contained in any facility listed or to be listed in sub-part 1 (a) of the Inventory.

Section 17. In applying safeguards, the Agency shall observe the principles set forth in paragraphs 9-14 of the Safeguards Document.

Section 18. The procedures for the application of safeguards by the Agency under this Agreement shall be those specified in the Safeguards Document. The Agency shall make arrangements with each Government concerning the detailed implementation of those procedures. 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 19. 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 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 the other Parties in the event of any determination by the Board pursuant to this Section.

Article III

AGENCY INSPECTORS

Section 20. The provisions of paragraphs 1 to 10, 12 and 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.

Section 21. 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

FINANCE

Section 22. 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.

Article V

SETTLEMENT OF DISPUTES

Section 23. 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

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

thirty 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 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 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 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 under paragraph 4 of Article 32 of the Statute of the Court.

Section 24. Decisions of the Board concerning the implementation of this Agreement 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 25. If the Board adopts any change in the safeguards system as set out in the Safeguards Document, the United Kingdom and Japan may, if they agree, require that this Agreement be amended to take account of such change. The Agency and the Government concerned may similarly agree, with respect to inspections to be carried out within the jurisdiction of the Government, to take account of any changes adopted by the Board in the Inspectors Document.

Section 26. The terms "Statute", "Board", "nuclear material" and "principal nuclear facility" have the same meaning in this Agreement and the Annex hereto as in the Safeguards Document. The terms "special fissionable material" and "source material" have the same meaning in this Agreement and the Annex hereto as in the Statute. The term "equipment" means major items of machinery, plant or instrumentation, or major components thereof, specially suitable for use in an atomic energy programme. The term "safe-

guards ” as used in this Agreement means the measures prescribed in this Agreement, including those incorporated by reference, to prevent diversion to any military purpose of the facilities and materials listed in the Inventory. “ Party ” means any party to this Agreement. “ Government concerned ” means Japan with respect to facilities and materials listed in part 1 of the Inventory or the United Kingdom with respect to materials listed in part 2, as appropriate.

Article VII

ENTRY INTO FORCE, AMENDMENT AND DURATION

Section 27. This Agreement shall enter into force upon signature by the authorized representatives of the United Kingdom and Japan and by or for the Director General.

Section 28. At the request of any one of them, the Parties shall consult together about the amendment of this Agreement.

Section 29. This Agreement shall remain in force until 4 December 1968, and thereafter for the duration of any contracts made pursuant to 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 26 day of September 1967, in triplicate in the English language.

For the International Atomic Energy Agency :
Sigvard EKLUND

For the Government of Japan :
Shinsaku HOGEN

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

ANNEX

THE INVENTORY

An Inventory of the facilities and materials subject to safeguards by the Agency pursuant to this Agreement shall be currently maintained by the Agency on the basis of the notifications, reports, agreements and determinations provided for in Sections 6-16 of this Agreement. The Inventory shall be considered an integral part of this Agreement. The Agency shall communicate it to the United Kingdom and Japan every three months and also within two weeks of receipt of a request therefor from either the United Kingdom or Japan.

The Inventory shall consist of the following parts :

1. (a) Facilities transferred to Japan or containing equipment so transferred;
- (b) Nuclear material transferred to Japan, or material substituted therefor;
- (c) Special fissionable material produced in Japan, as provided in Section 9 of this Agreement, or material substituted therefor;
- (d) Nuclear material which is being or has been processed or used in Japan in any facility listed in part 1 (a) of the Inventory, or material substituted therefor;
- (e) Nuclear material that was previously listed in another sub-part of part 1 of the Inventory and that was transferred to this sub-part while it is being suspended from safeguards in Japan pursuant to Section 12 of this Agreement; and
- (f) Nuclear material that was previously listed in another sub-part of part 1 of the Inventory and that was transferred to this sub-part upon being exempted from safeguards in Japan pursuant to Section 3 of this Agreement.

In addition to the facilities listed in sub-part 1 (a) of the Inventory other facilities in Japan 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 sub-parts 1 (b)-(d) of the Inventory.

2. (a) Produced special fissionable material transferred from Japan to the United Kingdom, or material substituted therefor; and

(b) Nuclear material that was previously listed in sub-part 2 (a) of the Inventory and that was transferred to this sub-part while it is being suspended from safeguards in the United Kingdom pursuant to Section 12 of this Agreement.