

No. 9318

**INTERNATIONAL ATOMIC ENERGY AGENCY
and
MEXICO**

Agreement for the application of safeguards under the
Treaty for the Prohibition of nuclear weapons in
Latin America. Signed at Vienna, on 6 September 1968

Official texts : English and Spanish.

Registered by the International Atomic Energy Agency on 20 November 1968.

**AGENCE INTERNATIONALE
DE L'ÉNERGIE ATOMIQUE
et
MEXIQUE**

Accord relatif à l'application de garanties dans le cadre du
Traité visant l'interdiction des armes nucléaires en
Amérique latine. Signé à Vienne, le 6 septembre 1968

Textes officiels anglais et espagnol.

Enregistré par l'Agence internationale de l'énergie atomique le 20 novembre 1968.

No. 9318. AGREEMENT¹ BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY AND MEXICO FOR THE APPLICATION OF SAFEGUARDS UNDER THE TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA. SIGNED AT VIENNA, ON 6 SEPTEMBER 1968

WHEREAS the Agency is authorized by its Statute to apply safeguards at the request of the parties to any bilateral or multilateral agreement, or at the request of a State to any of that State's activities in the field of atomic energy ;

WHEREAS Article 13 of the Treaty² for the Prohibition of Nuclear Weapons in Latin America provides that each Party to the Treaty shall negotiate multilateral or bilateral agreements for the application of Agency safeguards to its nuclear activities ;

WHEREAS the Government of the United States of Mexico is a Party to that Treaty and has requested the Agency to apply safeguards, for the purposes of the Treaty, to its nuclear activities ;

WHEREAS the Agency, according to its Statute,³ in carrying out its functions conducts its activities in accordance with the purposes and principles of the United Nations to promote peace and international co-operation and in conformity with policies of the United Nations furthering the establishment of safeguarded world-wide disarmament and in conformity with any international agreements entered into pursuant to such policies ;

WHEREAS the Board of Governors has acceded to that request on 13 June 1968 ;

NOW THEREFORE, the Agency and the Government hereby agree as follows :

Part I

DEFINITIONS

Section 1. For the purposes of this Agreement :

(a) "Agency" shall mean the International Atomic Energy Agency ;

¹ Came into force on 6 September 1968 by signature, in accordance with Part. X, section 30.

² United Nations, *Treaty Series*, Vol. 634, p. 281.

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

- (b) "Board" shall mean the Board of Governors of the Agency;
- (c) "Government" shall mean the Government of the United States of Mexico;
- (d) "Equipment" shall mean equipment which is required to be safeguarded pursuant to an arrangement between the Government and any Export State or any other international arrangement to which the Government is a party;
- (e) "Export State" shall mean any State or group of States from whose jurisdiction any material, equipment or nuclear facility was or is to be transferred into the jurisdiction of the Government;
- (f) "Inspectors Document" shall mean the Annex to Agency Document GC(V)/INF/39;
- (g) "Inventory" shall mean the list of material, equipment and facilities to be established by the Agency pursuant to Section 11;
- (h) "Material" shall mean nuclear material, and other material which is required to be safeguarded pursuant to an arrangement between the Government and an Export State or any other international arrangement to which the Government is a party;
- (i) "Nuclear material" shall mean any source or special fissionable material as defined in Article XX of the Statute, except source material in the form of ore;
- (j) "Principal nuclear facility" shall have the meaning stated in paragraph 78 of the Safeguards Document;
- (k) "Safeguards Document" shall mean Agency Document INFCIRC/66/Rev. 1 and any annexes thereto as might be adopted by the Board;
- (l) "Statute" shall mean the Statute of the Agency.

Part II

UNDERTAKINGS BY THE GOVERNMENT AND THE AGENCY

Section 2. The Government undertakes that any material, equipment or nuclear facility required to be notified to the Agency pursuant to this Agreement shall not be used in such a way as to further any military purpose.

Section 3. The Agency undertakes to apply its safeguards system to material, equipment and nuclear facilities listed in the Inventory to ensure, as far as the Agency is able, that they will not be used in such a way as to further any military purpose.

Section 4. The Government undertakes to facilitate the application of safeguards by the Agency and to co-operate with the Agency and any Export State to that end.

Part III

NOTIFICATIONS

Section 5. The Government shall notify the Agency of the following :

- (a) Any material, equipment or principal nuclear facility transferred into its jurisdiction ;
- (b) Any principal nuclear facility within its jurisdiction whether completed or under construction ;
- (c) Any nuclear material that is being or has been produced, processed or used in a principal nuclear facility within its jurisdiction ;
- (d) Any other nuclear material which at the date of signature is within its jurisdiction or which thereafter comes into existence within its jurisdiction.

Section 6. (a) An initial notification of all such materials, equipment and principal nuclear facilities which are within the jurisdiction of the Government at the date of the entry into force of this Agreement shall be submitted by the Government to the Agency within 30 days, of that date ;

(b) Thereafter the Agency shall be notified by the Government within 30 days after :

- (i) the material, equipment or principal nuclear facility arrives in Mexican territory. Source material in quantities not exceeding one metric ton may be notified at quarterly intervals ;
- (ii) the construction of a principal nuclear facility has started ;
- (c) Nuclear material that has come into existence, or that is being or has been produced, processed or used within a principal nuclear facility shall be notified by the Government by means of reports pursuant to the Safeguards Document.

Section 7. Notifications of transfers shall, as far as possible, be made jointly by the Government and the Export State concerned. It is also recognized that an Export State may unilaterally notify the Agency of a transfer, in which case the Agency reserves to itself the right to seek from the Government or the Export State confirmation and other relevant details of the transfer.

Section 8. A notification shall specify, to the extent relevant, the nuclear and chemical composition, the physical form, and the quantity of the material or the type and capacity of the equipment or the principal nuclear facility, the date of shipment, the date of receipt, the location, the identity of the consignor and consignee, and any other relevant information.

Section 9. The Government shall, and the Export State is expected to inform the Agency as much in advance as possible of the intended transfer of large quantities of material, major equipment or any principal nuclear facility and provide the same information as required by Section 8.

Section 10. The Agency shall, within 30 days of its receipt of a notification which meets its requirements, advise the Government that the material, equipment and principal nuclear facilities covered by the notification are listed in the Inventory.

Part IV

INVENTORY

Section 11. The Agency shall establish an Inventory in accordance with Section 12. It shall be maintained on the basis of notifications made in conformity with this Agreement, reports received from the Government pursuant to the application of the procedures provided for in Section 18 and any other arrangements made pursuant to this Agreement. The Agency shall send copies of the Inventory to the Government every twelve months and also at any other time specified by the Government in a request communicated to the Agency at least two weeks in advance. The Agency may also inform the Export State concerned on its express request of material, equipment and principal nuclear facilities transferred from that State which are listed in the Inventory.

Section 12. The following material, equipment and principal nuclear facilities shall be listed in the indicated parts of the Inventory :

(a) Active Part :

Material, equipment and principal nuclear facilities required to be notified pursuant to Section 5 with the exception of nuclear material exempted from safeguards under paragraph 22 of the Safeguards Document ;

(b) Inactive Part :

(i) Material which is or has been exempted by the Agency from safeguards pursuant to Section 13 or 16, provided that no quanti-

tative statement is required in respect of nuclear material exempted pursuant to paragraph 22 of the Safeguards Document;

- (ii) Material, equipment and principal nuclear facilities with regard to which safeguards have been suspended pursuant to Section 13 or 16.

Section 13. The Agency shall exempt nuclear material from safeguards under the conditions specified in paragraph 21 of the Safeguards Document and shall suspend safeguards with respect to nuclear material under the conditions specified in paragraph 24. Upon such exemption or suspension, the nuclear material affected shall be transferred from the active to the inactive part of the Inventory. Nuclear material shall also be exempted from safeguards under the conditions specified in paragraph 22 of the Safeguards Document.

Section 14. The Agency shall terminate safeguards with respect to nuclear material in accordance with paragraph 26 of the Safeguards Document, and may make arrangements with the Government to terminate safeguards pursuant to paragraph 27. Upon such termination the nuclear material affected shall be removed from the Inventory.

Section 15. Nuclear material listed in the active part of the Inventory shall only be transferred beyond the jurisdiction of the Government in accordance with the provisions of paragraph 28 of the Safeguards Document. Other types of material and equipment and principal nuclear facilities so listed may only be so transferred in accordance with such provisions, *mutatis mutandis*.

Section 16. The Agency shall exempt from safeguards and shall suspend or terminate safeguards on items not covered by Sections 13 and 14 in accordance with the provisions of these Sections, *mutatis mutandis*.

Part V

SAFEGUARDS PROCEDURES

Section 17. In applying safeguards, the Agency shall observe the principles set forth in the Safeguards Document.

Section 18. The procedures for the application of safeguards by the Agency under this Agreement shall be those set forth in the Safeguards Document. The Agency and the Government will from time to time make any necessary subsidiary arrangements concerning the detailed implementation of this Agreement.

Section 19. The Agency may request the information referred to in paragraph 41 of the Safeguards Document and make an initial inspection or inspections in accordance with paragraphs 51 and 52 of the Document.

Part VI

NON-COMPLIANCE

Section 20. If the Board determined that there has been any non-compliance with this Agreement, the Board shall call upon the Government to remedy such non-compliance forthwith, and shall make such reports as it deems appropriate. If the Government fails to take fully corrective action within a reasonable time the Board may take any measures provided for in Article XIIC of the Statute. The Agency shall promptly notify the Government and the Export State concerned in the event of any determination by the Board pursuant to this Section.

Part VII

AGENCY INSPECTORS

Section 21. The provisions of paragraphs 1-9 and 12-14 of the Inspectors Document shall apply to Agency inspectors performing functions pursuant to this Agreement. However, as foreseen in paragraph 50 of the Safeguards Document, paragraph 4 of the Inspectors Document shall not apply with regard to any principal nuclear facility or to nuclear material to which the Agency has access at all times.

Section 22. With respect to the Agency, its inspectors and its property used by them in performing their functions pursuant to this Agreement, the Government shall apply the relevant provisions of the Agreement on the Privileges and Immunities of the Agency¹.

Section 23. (a) The Government shall take all the necessary steps to ensure that inspectors designated by the Agency in accordance with the Inspectors Document are able to carry out their functions under this Agreement;

(b) The Government recognizes the right of the Agency to station in Mexico one or more resident inspectors designated in accordance with the Inspectors Document. The provisions of sub-Section *(a)* shall apply also to such resident inspectors;

(c) The Government shall grant or renew visas, if required, for inspectors, resident inspectors and their immediate families.

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

Part VIII

FINANCIAL PROVISIONS

Section 24. Expenses shall be borne as follows:

- (a) Subject to sub-Section (b) below, each Party shall bear any expenses incurred in the implementation of its responsibilities under this Agreement;
- (b) All special expenses incurred by the Government or persons under its jurisdiction at the written request of the Agency, its inspectors, or other officials, shall be reimbursed by the Agency, if the Government notifies the Agency before the expense is incurred that reimbursement will be required. It is understood that the Government will not submit claims in connection with the establishment and keeping of records, the making of reports, notifications and design data, or in connection with any official it assigns to accompany Agency inspectors.

These provisions shall not prejudice the allocation of expenses which are reasonably attributable to a failure by either Party to comply with this Agreement.

Section 25. The Government 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 Mexico.

Part IX

SETTLEMENT OF DISPUTES

Section 26. 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 either Party be submitted to an arbitral tribunal composed as follows: each Party shall 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. 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 both Parties. The remuneration of the arbitrators shall be determined on the same basis as that of *ad hoc* judges of the International Court of Justice. It is understood that the competence of the arbitral tribunal shall not extend to the functions of the Board which are referred to in Section 20 of this Agreement.

Section 27. Decisions of the Board concerning the implementation of this Agreement, except such as relate only to Part VIII, shall, if they so provide, be given effect immediately by the Parties, pending the final settlement of any dispute.

Part X

ENTRY INTO FORCE, AMENDMENTS AND DURATION

Section 28. The Parties shall, at the request of either of them, consult about amending this Agreement. Such consultations shall take place, in particular, in the following circumstances :

- (a) If the Board decides to make any change in the Safeguards Document or the Inspectors Document, to take account of such change ;
- (b) If the Agency concludes safeguards agreements under Article 13 of the Treaty for the Prohibition of Nuclear Weapons in Latin America (Tlatelolco Treaty) which contain safeguards provisions which are substantially different from those of this Agreement.

Section 29. The Agency and the Government hereby agree that the provisions concerning the application of Agency safeguards under any previous agreement to which they are parties shall be suspended while this Agreement is in force.

Section 30. This Agreement shall enter into force upon signature on behalf of the Agency and the Government.

Section 31. (a) This Agreement shall remain in force as long as Mexico is a Party to the Treaty for the Prohibition of Nuclear Weapons in Latin America (Tlatelolco Treaty).

(b) The Government or the Agency may terminate this Agreement if the Agency is not in a position to apply safeguards as provided for in Section 3, or if consultations between the Parties on the subjects covered by sub-Sections (a) and (b) of Section 28 fail to bring about results which are satisfactory to the Agency and the Government ;

(c) Any notice of termination shall be given to the other Party three months in advance and any notice shall also indicate the reasons for termination. However, this Agreement shall remain in force with regard to any produced nuclear material listed in the active part of the Inventory until the Agency has notified the Government that it has terminated safeguards on such material in accordance with Section 14.

DONE in Vienna this 6th day of September 1968, in duplicate in English and Spanish, the texts in both languages being equally authentic.

For the International Atomic Energy Agency :

Sigvard EKLUND

For the Government of the United States of Mexico :

Alfonso GARCÍA ROBLES