

No. 20738

**INTERNATIONAL ATOMIC ENERGY AGENCY,
PORTUGAL and UNITED STATES OF AMERICA**

Protocol to suspend the application of safeguards pursuant to the Agreement of 11 July 1969 between the International Atomic Energy Agency, the Government of Portugal and the Government of the United States of America for the application of safeguards and providing for the application of safeguards pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons and to the Agreement of 18 November 1977 between the United States of America and the International Atomic Energy Agency for the application of safeguards in the United States of America, approved by the Board of Governors of the International Atomic Energy Agency. Signed at Vienna on 23 September 1980

Authentic text: English.

Registered by the International Atomic Energy Agency on 12 February 1982.

PROTOCOL¹ TO SUSPEND THE APPLICATION OF SAFEGUARDS PURSUANT TO THE AGREEMENT BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY, THE GOVERNMENT OF PORTUGAL AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA FOR THE APPLICATION OF SAFEGUARDS² AND PROVIDING FOR THE APPLICATION OF SAFEGUARDS PURSUANT TO THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS³ AND TO THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR THE APPLICATION OF SAFEGUARDS IN THE UNITED STATES OF AMERICA,⁴ APPROVED BY THE BOARD OF GOVERNORS OF THE INTERNATIONAL ATOMIC ENERGY AGENCY

The International Atomic Energy Agency (hereinafter referred to as the "Agency"), the Government of Portugal (hereinafter referred to as "Portugal"), and the Government of the United States of America (hereinafter referred to as the "United States"):

RECOGNIZING that the Agency has been applying safeguards in accordance with the provisions of the agreement between the International Atomic Energy Agency, the Government of Portugal and the Government of the United States of America for the application of safeguards, signed on 11 July 1969² (hereinafter referred to as the "Safeguards Transfer Agreement") to material, equipment and facilities required to be safeguarded under the Agreement for Co-operation between the Government of the United States of America and the Government of Portugal concerning civil uses of atomic energy, signed on 16 May 1974³ (hereinafter referred to as the "Agreement for Co-operation") to ensure so far as it is able that they will not be used in such a way as to further any military purpose;

RECOGNIZING that Portugal, as a non-nuclear-weapon State party to the Treaty on the Non-Proliferation of Nuclear Weapons³ (hereinafter referred to as the "Treaty") has concluded with the Agency an agreement for the application of safeguards in connection with the Treaty⁶ pursuant to paragraph 4 of article III of the Treaty (hereinafter referred to as the "Treaty Safeguards Agreement");

RECOGNIZING that article 23 of the Treaty Safeguards Agreement provides for the suspension of Agency safeguards applied pursuant to other safeguards agreements with the Agency;

RECOGNIZING that, under article X of the Agreement for Co-operation, Portugal has guaranteed that no material, including equipment and devices, transferred to Portugal or authorized persons under its jurisdiction pursuant to the Agreement for Co-operation and no special nuclear material produced through the use of such

¹ Came into force on 23 September 1980 by signature, in accordance with section 4.

² United Nations, *Treaty Series*, vol. 694, p. 315.

³ *Ibid.*, vol. 729, p. 161.

⁴ *Ibid.*, vol. 1261, No. 1-20737.

⁵ *Ibid.*, vol. 954, p. 23.

⁶ *Ibid.*, vol. 1161, p. 325.

material, equipment and devices, will be used for atomic weapons, or for research on or development of atomic weapons, or for any other military purpose;

Have agreed:

1. The Treaty Safeguards Agreement shall be applied as therein provided and the application of safeguards in Portugal pursuant to the Safeguards Transfer Agreement shall be suspended during the time and to the extent that the Treaty Safeguards Agreement is in force and safeguards specified in the Treaty Safeguards Agreement are being applied by the Agency.

2. The Agreement between the International Atomic Energy Agency and the Government of the United States of America for the application of safeguards in the United States of America¹ (hereinafter referred to as the "US-IAEA Safeguards Agreement"), which was approved by the Board of Governors of the Agency on 17 September 1976, shall be applied as therein provided, when it enters into force, and the application of safeguards in the United States of America pursuant to the Safeguards Transfer Agreement shall be suspended during the time and to the extent that the USA-IAEA Safeguards Agreement is in force and safeguards specified therein are being applied by the Agency.

3. In the event that Portugal intends to exercise its discretion in accordance with article 14 of the Treaty Safeguards Agreement to use nuclear material required to be safeguarded under that agreement in a military activity not proscribed by the Treaty, Portugal will satisfy the Agency and the United States that such material is not subject to the guarantees made by Portugal in article X of the Agreement for Co-operation. Moreover, Portugal will satisfy the United States that no material, including equipment and devices, transferred to Portugal under the Agreement for Co-operation will be involved in such use.

4. This Protocol shall enter into force upon signature by or for the Director General of the Agency and by the authorized representatives of Portugal and the United States.

DONE in Vienna on the twenty-third day of September 1980 in triplicate in the English language.

For the International Atomic Energy Agency:

SIGVARD EKLUND

For the Government of Portugal:

ANTONIO NOVAIS MACHADO

For the Government of the United States of America:

GERARD C. SMITH

¹ United Nations, *Treaty Series*, vol. 1261, No. I-20737.