



International Atomic Energy Agency

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THE TEXT OF THE SAFEGUARDS TRANSFER AGREEMENT RELATING TO THE BILATERAL AGREEMENT BETWEEN PAKISTAN AND CANADA

1. The text^[1] of the Safeguard Transfer Agreement between Pakistan, Canada and the Agency relating to the agreement of 14 May 1959 between the two Governments for co-operation in the peaceful uses of atomic energy is reproduced in this document for the information of all Members.
2. The Safeguards Transfer Agreement entered into force on 17 October 1969.

[1] The footnotes to the text have been added in the present information circular.

AGREEMENT BETWEEN THE GOVERNMENT OF THE ISLAMIC REPUBLIC
OF PAKISTAN, THE GOVERNMENT OF CANADA AND THE
INTERNATIONAL ATOMIC ENERGY AGENCY FOR THE
APPLICATION OF SAFEGUARDS

WHEREAS the Government of the Islamic Republic of Pakistan (hereinafter referred to as "Pakistan") and the Government of Canada (hereinafter referred to as "Canada") have been co-operating in the peaceful uses of atomic energy;

WHEREAS the two Governments concluded at Ottawa on 14 May 1959 an Agreement for Co-operation in the Peaceful Uses of Atomic Energy[2] (hereinafter referred to as "the Agreement for Co-operation") and, pursuant to that Agreement, consulted together with a view to having the application of safeguards carried out by the International Atomic Energy Agency;

WHEREAS the International Atomic Energy Agency is now in a position to apply safeguards in respect of the Agreement for Co-operation and the two Governments have requested the Agency to do so; and

WHEREAS the Board of Governors of the Agency approved the request of the two Governments on 30 September 1969;

NOW THEREFORE the International Atomic Energy Agency and the two Governments have agreed as follows:

Undertaking by Pakistan

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

Undertaking by Canada

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

Undertaking by the Agency

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.

Safeguards Principles

Section 4. In applying safeguards, the Agency shall observe the principles set forth in paragraphs 9 to 14 of the Safeguards Document[3].

Safeguards Procedures, Subsidiary Arrangements and Inspections

Section 5. The safeguards procedures 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 obtain 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.

[2] Text reproduced in United Nations Treaty Series, Vol. 426, p.129

[3] INFCIRC/66/Rev.2

Co-operation to Facilitate Safeguards

Section 6. Pakistan and Canada undertake to facilitate the application of the safeguards system and to co-operate with the Agency and each other to that end.

Effect on Article IV of Agreement for Co-operation

Section 7. The respective rights and obligations of the two Governments under Article IV of the Agreement for Co-operation shall not be operative:

- (a) In relation to materials, equipment and facilities, while they are listed in the Inventory for Pakistan or Canada, as the case may be; or
- (b) In relation to materials, when safeguards with respect to them have been terminated in accordance with Section 22 or 23 of this Agreement.

Notification of Amendments and Termination

Section 8. 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.

Establishment and Maintenance of Inventories

Section 9. The Agency shall establish and maintain the two Inventories provided for in Sections 10 and 11 of this Agreement. The Inventories shall be established and maintained pursuant to the procedures provided for in this Agreement and any other arrangements made pursuant to this Agreement.

Inventory for Pakistan

Section 10. The following shall be listed in the Inventory for Pakistan:

(a) Part I - Main

- (i) Equipment and facilities transferred to Pakistan and subject to safeguards under the Agreement for Co-operation;
- (ii) Heavy water transferred to Pakistan under the Agreement for Co-operation;
- (iii) Materials transferred to Pakistan 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; and
- (iv) Nuclear materials produced or improved in Pakistan 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.

(b) Part II - Subsidiary

- (i) Facilities not listed in Part I while incorporating any equipment listed in Part I;
- (ii) Facilities not listed in Part I while containing any material listed in Part I; and
- (iii) Nuclear materials and heavy water not listed in Part I while they are contained in a principal nuclear facility listed in Part I(i) or in sub-parts (i) or (ii) of this Part.

(c) Part III – Inactive

Any nuclear material which is not listed in Part I because:

- (i) It has been exempted from safeguards pursuant to Section 21 of this Agreement; or
- (ii) Safeguards thereon have been suspended pursuant to Section 21 of this Agreement.

Inventory for Canada

Section 11. The following shall be listed in the Inventory for Canada:

(a) Part I - Main

- (i) Equipment and facilities transferred to Canada and subject to safeguards under the Agreement for Co-operation;
- (ii) Heavy water transferred to Canada under the Agreement for Co-operation;
- (iii) Materials transferred to Canada 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; and
- (iv) Nuclear materials produced or improved in Canada 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.

(b) Part II - Subsidiary

- (i) Facilities not listed in Part I while incorporating any equipment listed in Part I;
- (ii) Facilities not listed in Part I while containing any material listed in Part I; and
- (iii) Nuclear materials and heavy water not listed in Part I while they are contained in a principal nuclear facility listed in Part I(i) or in sub-parts (i) or (ii) of this Part.

(c) Part III - Inactive

Any nuclear material which is not listed in Part I because:

- (i) It has been exempted from safeguards pursuant to Section 21 of this Agreement; or
- (ii) Safeguards thereon have been suspended pursuant to Section 21 of this Agreement.

Initial Listings

Section 12. With a view to the establishment of the Inventories, Pakistan and Canada shall jointly notify the Agency, within 30 days of the entry into force of this Agreement, of any materials, equipment or facilities which have been transferred between them at that date and subject to safeguards under the Agreement for Co-operation, and heavy water transferred under that Agreement. Subject to the provisions of Section 14 of this Agreement, the items covered by the notification shall constitute the initial listings in the Inventories and the Agency shall commence the application of safeguards pursuant to this Agreement.

Further Listings

Section 13. After the Inventories have been established in accordance with Section 12 of this Agreement:

- (a) Pakistan and Canada shall jointly notify the Agency of any transfer between them of materials, equipment or facilities subject to safeguards under the Agreement for Co-operation and of heavy water transferred under that Agreement;
- (b) Either Pakistan or Canada shall individually notify the Agency of any items which are required to be listed in Part II of the appropriate Inventory.

Advice by the Agency

Section 14. The Agency shall, within thirty days of its receipt of a notification under Sections 12 and 13 of this Agreement, advise both Governments that:

- (a) The items covered by the notification are listed in the appropriate Inventory as from the date of the Agency's advice; or
- (b) The items covered by the notification are no longer listed in either Inventory as a result of the operation of the provisions of Section 18 of this Agreement; or
- (c) 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.

Reports on Produced or Improved Material

Section 15. Each Government shall notify the Agency, by means of reports in accordance with the Safeguards Document, of any special fissionable material produced or improved during the period covered by the report and required to be listed in Part I(iv) of its Inventory. Upon receipt by the Agency of the notification, such produced or improved material shall be so listed, provided that it shall be deemed to have been listed from the moment it was produced or improved. 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.

Reports on Other Contained Material

Section 16. Each Government shall notify the Agency, by means of reports in accordance with the Safeguards Document, of any nuclear material or heavy water required to be listed in Part II(iii) of its Inventory. Upon receipt by the Agency of the notification, such nuclear material and heavy water shall be so listed, provided that it shall be deemed to have been listed from the time it is contained in any of the facilities concerned.

Time and Contents of Notifications

Section 17. The joint notifications provided for in Section 13(a) of this Agreement shall normally be made not more than two weeks after the material, equipment or facility arrives in Pakistan or Canada 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 Sections 12, 13, 19 and 20 of this Agreement 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.

Notifications of Re-transfers

Section 18. Notifications of re-transfers to the supplying country of materials, equipment or facilities which are listed in Part I(i), (ii) or (iii) of the Inventory of the re-transferring Government shall be made in accordance with Section 13(a), 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 nuclear material which has been improved while subject to safeguards under this Agreement, shall not include them on the Inventory of the receiving Government.

Transfers Outside the Jurisdiction of Either Government

Section 19. 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 be transferred only in accordance with the provisions of sub-paragraphs (c) and (d) of paragraph 28 of the Safeguards Document. Such materials, equipment or facilities shall upon transfer be deleted from the corresponding Inventory.

Transfers Within the Jurisdiction of Either Government

Section 20. Whenever either Government intends to transfer materials or equipment listed in Part I of its Inventory to a 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 13 of this Agreement has been accepted by the Agency.

Exemptions and Suspension

Section 21. 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; it shall transfer the listing of the items concerned to Part III of the Inventory in question.

Termination

Section 22. The Agency shall terminate safeguards under this Agreement with respect to those items deleted from either Inventory as provided in Sections 18 and 19 of this Agreement. 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 corresponding Inventory.

Exemption, Suspension or Termination with Respect to Other Items

Section 23. The two Governments and the Agency shall agree on the conditions for exemption, suspension or termination of safeguards on items not covered by Sections 21 and 22 of this Agreement.

Non-Compliance

Section 24. If the Board determines, in accordance with Article XII.0 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 the 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 until such time as the Board determines that the Agency can effectively apply the safeguards provided for in this Agreement, provided that if the determination relates only to a particular item listed in an Inventory, such item shall be removed from the corresponding Inventory until such time as the Board determines that the Agency can effectively apply safeguards thereto; 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[4] shall apply to Agency inspectors performing functions pursuant to this Agreement. However, when the Agency has the right of access to a principal nuclear facility or to nuclear material at all times, it may perform inspections without the notice required by paragraph 4 of the Inspectors' Document in so far as this is necessary for the effective application of safeguards.

Privileges and Immunities

Section 26. The relevant provisions of the Agreement on the Privileges and Immunities of the Agency[5] shall apply to the Agency, its inspectors, and its property used by them in performing their functions pursuant to this Agreement.

Expenses

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 Pakistan nor Canada 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.

Protection Against Third-Party Liability

Section 28. Pakistan and 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 their respective jurisdictions shall apply to the Agency and its inspectors when carrying out their functions under this Agreement as that protection applies to nationals of Pakistan and Canada respectively.

Settlement of Disputes

Section 29. 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 involved 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

[4] GC(V)/INF/39.

[5] INFCIRC/9/Rev.2.

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;

- (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.

Decisions of the Board Concerning Implementation of the Agreement

Section 30. Decisions of the Board concerning the implementation of this Agreement, except such as relate only to Sections 27 and 28 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 involved.

Amendments

Section 31. The Parties shall, at the request of any one of them, consult about amending this Agreement and take such action as may be mutually agreed.

Modification of the Safeguards Document

Section 32. 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 such modifications.

The Safeguards Document

Section 33. For the purposes of this Agreement, terms shall have the same meaning as those given to them in the Safeguards Document. The Safeguards Document referred to in this Agreement shall mean the Safeguards Document as modified from time to time, unless one of the Governments objects to the application of such modifications to this Agreement.

Entry into Force

Section 34. This Agreement shall enter into force upon signature by all Parties.
Duration

Section 35. 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; provided, however, that this Agreement shall continue in force with respect to produced special fissionable material required to be listed in Part I of the Inventory for either Government.

DONE in Vienna, this seventeenth day of October 1969, in triplicate in English and French, the texts in both languages being equally authentic.

For the GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN:

(signed) Enver Murad

For the GOVERNMENT OF CANADA:

(signed) John McCordick

For the INTERNATIONAL ATOMIC ENERGY AGENCY:

(signed) U. Goswami