

Information Circular

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General Distribution

Original: English

Agreement of 3 August 1992 between the Government of the Republic of Malawi and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons

An Agreement by Exchange of Letters with the Republic of Malawi to amend the Protocol to the Safeguards Agreement

1. The text of the Exchange of Letters, constituting an agreement to amend the Protocol¹ to the Agreement between the Government of the Republic of Malawi and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons², is reproduced in this document for the information of all Member States of the Agency.
2. The amendments agreed upon in the Exchange of Letters entered into force on 29 February 2008, the date on which the Agency received Malawi's affirmative reply.

¹ Referred to as the "Small Quantities Protocol".

² Reproduced in document INFCIRC/409.

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The Secretary for Foreign Affairs



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LILONGWE 3
MALAWI

MINISTER OF FOREIGN AFFAIRS

Ref. No. EA/12/18/01

6th November, 2007

The Director
Office of External Relations and
Policy Coordination
P.O. Box 100
A – 1400 Vienna
Austria

I have the honour to refer to the IAEA's letter of 12th December, 2005, which reads as follows:

I have the honour to refer to Agreement between your Government and the International Atomic Energy Agency (IAEA) for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, and to the Protocol thereto (hereinafter referred to as "the Small Quantities Protocol"), which entered into force on 3 August 1992, as well as to the decision of the IAEA Board of Governors of 20 September, 2005 related to such protocols.

In his report entitled "Strengthening safeguards implementation in States with Small Quantities Protocols", the IAEA Director General, Dr. Mohamed ElBaradei, drew attention to the Agency's need to receive initial reports on nuclear materials, to obtain information on planned or existing nuclear facilities; and to be able to perform inspection activities in the field, if required, for all States with comprehensive safeguards agreements. He explained that the Small Quantities Protocols currently had the effect of holding such authority in abeyance.

The board agreed with the Director General's assessment and, on the basis of the Director General's report, concluded that the Small Quantities Protocol in its present form was a weakness in the Agency's safeguard system. It decided that the Small Quantities Protocol should remain part of the Agency's safeguards system, subject to the modifications in the standardized text and the change in the criteria for a Small Quantities Protocol as proposed in the Director General's report. The Board also decided that, henceforth, it would approve only texts for such protocols based on a revised standardized text and subject to modified criteria.

The Board authorized the Director General to conclude with all States with Small Quantities Protocols exchanges of letters giving effect to the revised standardized text and the modified criteria, and called on the States concerned to conclude such exchanges of letters as soon as possible.

It is therefore proposed that paragraph I of the Small Quantities Protocol be amended to read as follows:

I. (1) Until such time as Malawi

- (a) Has, in peaceful nuclear activities within its territory or under its jurisdiction or control anywhere, nuclear material in quantities exceeding the limits stated, for the type of material in question, in Article 36 of the Agreement between Malawi and the Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons (hereinafter referred to as "the Agreement"), or*
- (b) Has taken the decision to construct or authorize construction of a facility, as defined in the Definitions,*

The implementation of the provisions in Part II of the Agreement shall be held in abeyance, with the exception of Articles 32-38, 40, 48, 49, 59, 61, 67, 68, 70, 72-76, 82, 84-90, 94 and 95.

- (2) The information to be reported pursuant to paragraphs (a) and (b) of Article 33 of the Agreement may be consolidated and submitted in an annual report; similarly, an annual report shall be submitted,*

if applicable, with respect to the import and export of nuclear material described in paragraph (c) of Article 33.

(3) In order to enable the timely conclusion of the Subsidiary Arrangements provided for in Article 38 of the Agreement, Malawi shall

(a) Notify the Agency sufficiently in advance of its having nuclear materials in peaceful nuclear activities within its territory or under its jurisdiction or control anywhere in quantities that exceed the limits, as referred to in section 1 hereof, or –

(b) Notify the Agency as soon as the decision to contract or to authorize construction of a facility has been taken,

Whichever occurs first.

If this proposal is acceptable to your Government, this letter and your Government's affirmative reply shall constitute an agreement between Malawi and the IAEA to attend the Small Quantities Protocol accordingly, which amendments shall enter into force on the date that the Agency receives that reply.

In this regard, I am pleased to inform you that the Government of the Republic of Malawi accepts the aforementioned terms.



Joyce Banda, M.P.



IAEA

الوكالة الدولية للطاقة الذرية
國際原子能機構
International Atomic Energy Agency
Agence Internationale de l'énergie atomique
Международное агентство по атомной энергии
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His Excellency
Mr. Davis Katsonga
Minister for Foreign Affairs
Ministry of Foreign Affairs and International
Cooperation
P.O. Box 30315
Lilongwe 3, MALAWI

2005-12-12

Sir,

I have the honour to refer to the Agreement between your Government and the International Atomic Energy Agency (IAEA) for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, and to the Protocol thereto (hereinafter referred to as "the Small Quantities Protocol"), which entered into force on 3 August 1992, as well as to the decision of the IAEA Board of Governors of 20 September 2005 related to such protocols.

In his report entitled "Strengthening safeguards implementation in States with Small Quantities Protocols", the IAEA Director General, Dr Mohamed ElBaradei, drew attention to the Agency's need to receive initial reports on nuclear material, to obtain information on planned or existing nuclear facilities; and to be able to perform inspection activities in the field, if required, for all States with comprehensive safeguards agreements. He explained that the Small Quantities Protocols currently had the effect of holding such authority in abeyance.

The Board agreed with the Director General's assessment and, on the basis of the Director General's report, concluded that the Small Quantities Protocol in its present form was a weakness in the Agency's safeguards system. It decided that the Small Quantities Protocol should remain part of the Agency's safeguards system, subject to the modifications in the standardized text and the change in the criteria for a Small Quantities Protocol as proposed in the Director General's report. The Board also decided that, henceforth, it would approve only texts for such protocols based on a revised standardized text and subject to modified criteria.

The Board authorized the Director General to conclude with all States with Small Quantities Protocols exchanges of letters giving effect to the revised standardized text and the modified criteria, and called on the States concerned to conclude such exchanges of letters as soon as possible.

It is therefore proposed that paragraph I of the Small Quantities Protocol be amended to read as follows:

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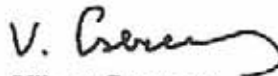
- (b) Has taken the decision to construct or authorize construction of a facility, as defined in the Definitions,

the implementation of the provisions in Part II of the Agreement shall be held in abeyance, with the exception of Articles 32-38, 40, 48, 49, 59, 61, 67, 68, 70, 72-76, 82, 84-90, 94 and 95.

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- (3) In order to enable the timely conclusion of the Subsidiary Arrangements provided for in Article 38 of the Agreement, Malawi shall
 - (a) Notify the Agency sufficiently in advance of its having nuclear material in peaceful nuclear activities within its territory or under its jurisdiction or control anywhere in quantities that exceed the limits, as referred to in section 1 hereof, or
 - (b) Notify the Agency as soon as the decision to construct or to authorize construction of a facility has been taken,whichever occurs first.

If this proposal is acceptable to your Government, this letter and your Government's affirmative reply shall constitute an agreement between Malawi and the IAEA to amend the Small Quantities Protocol accordingly, which amendments shall enter into force on the date that the Agency receives that reply.

Accept, Sir, the assurances of my highest consideration.



Vilmos Cserveny
Director
Office of External Relations and Policy
Coordination

for DIRECTOR GENERAL

Cc: Mr. Warrew Bamus Gunda, Dep. Director of Political Affairs, Ministry of Foreign Affairs and
Int. Cooperation