



International Atomic Energy Agency

INFCIRC/63
23 July 1965

GENERAL Distr.

Original: ENGLISH

THE TEXT OF THE SAFEGUARDS TRANSFER AGREEMENT RELATING TO THE
BILATERAL AGREEMENT BETWEEN DENMARK AND THE UNITED KINGDOM

1. The text [1] of the Safeguards Transfer Agreement between the Agency, Denmark and the United Kingdom of Great Britain and Northern Ireland relating to the agreement between those Governments concerning co-operation in the promotion and development of the peaceful uses of atomic energy is reproduced in this document for the information of all Members.
2. This Safeguards Transfer Agreement was signed and entered into force on 23 June 1965.

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

AGREEMENT BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY,
THE GOVERNMENT OF THE KINGDOM OF DENMARK AND THE GOVERNMENT
OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
FOR THE APPLICATION OF SAFEGUARDS IN RESPECT OF THE
AGREEMENT BETWEEN THOSE GOVERNMENTS CONCERNING
CO-OPERATION IN THE PROMOTION AND DEVELOPMENT
OF THE PEACEFUL USES OF ATOMIC ENERGY

WHEREAS the Government of the Kingdom of Denmark and the Government of the United Kingdom of Great Britain and Northern Ireland have entered into an arrangement in the field of atomic energy which provides that the materials and facilities made available by the United Kingdom to Denmark pursuant to that arrangement are to be devoted solely to the promotion and development of the peaceful uses of atomic energy;

WHEREAS the Agency is prepared to assume the responsibility of administering safeguards in respect of any bilateral or multilateral arrangement in accordance with Article XII of its Statute and with its safeguards system set forth in relevant Agency documents; and

WHEREAS the two Governments have requested the Agency to administer safeguards in respect of the arrangement between them and the Board of Governors of the Agency has acceded to that request on 17 June 1965;

The International Atomic Energy Agency, the Government of the Kingdom of Denmark and the Government of the United Kingdom of Great Britain and Northern Ireland agree as follows:

PART I

Definitions

Section 1. For the purposes of this Agreement:

- (a) "Agency" means the International Atomic Energy Agency.
- (b) "Board" means the Board of Governors of the Agency.
- (c) "Co-operation Arrangement" means the arrangement between Denmark and the United Kingdom in the field of atomic energy set forth in the agreement concerning Co-operation in the Promotion and Development of the Peaceful Uses of Atomic Energy concluded by an Exchange of Notes on 20 May 1960 [2].
- (d) "Inspectors Document" means the Annex to Agency document GC(V)/INF/39, which was placed in effect by the Board on 29 June 1961.
- (e) "Inventory" means either of the lists of nuclear material and facilities established by the Agency pursuant to Section 14.

[2] Text reproduced in United Nations Treaty Series, Vol. 374, page 245.

- (f) "Nuclear material" means any source or special fissionable material as defined in Article XX of the Agency's Statute.
- (g) "Principal nuclear facility" means a reactor, a plant for processing nuclear material irradiated in a reactor, a plant for separating the isotopes of a nuclear material, a plant for processing or fabricating nuclear material (excepting a mine or ore-processing plant) or a facility or plant of such other type as may be agreed by the Parties from time to time, including associated storage facilities.
- (h) "Safeguards Document" means the Annex to the resolution set forth in Agency document GC(IX)/294, which Annex was provisionally approved by the Board on 25 February 1965.
- (i) "Source material" has the meaning stated in Article XX.3 of the Agency's Statute.
- (j) "Denmark" means the Government of the Kingdom of Denmark.
- (k) "United Kingdom" means the Government of the United Kingdom of Great Britain and Northern Ireland.

PART II

Undertakings by the Governments and the Agency

Section 2. Denmark undertakes not to use in such a way as to further any military purpose any nuclear material or facility within its jurisdiction with regard to which the Agency undertakes to apply safeguards, or which the Agency has exempted from safeguards, or with regard to which the Agency has suspended safeguards, pursuant to this Agreement.

Section 3. The United Kingdom undertakes not to use in such a way as to further any military purpose any nuclear material within its jurisdiction to which the Agency undertakes to apply safeguards, or which the Agency has exempted from safeguards, or with regard to which the Agency has suspended safeguards, pursuant to this Agreement.

Section 4. The Agency undertakes, subject to the provisions of this Agreement, to apply safeguards to nuclear material:

- (a) With regard to which the Agency has accepted a notification made pursuant to Section 8, 9 or 10 (b).
- (b) That is being or has been produced, processed or used during the term of this Agreement in a principal nuclear facility listed in the main part of the Inventory for Denmark.
- (c) That is being or has been produced during the term of this Agreement in or by the use of any nuclear material listed in the main part of the Inventory for Denmark or the United Kingdom.
- (d) That is, within the jurisdiction of Denmark or the United Kingdom, substituted, pursuant to paragraph 25 or 26 (d) of the Safeguards Document, for nuclear material with regard to which safeguards are thereby suspended or terminated.

The Agency shall also apply safeguards with regard to any facility containing or to contain nuclear material to which this Section applies, including any principal nuclear facility listed in the main part of the Inventory for Denmark.

Section 5. The two Governments undertake to facilitate the application of safeguards by the Agency and to co-operate with the Agency and each other to that end.

Section 6. The rights and obligations of Denmark and the United Kingdom arising from paragraphs (1) (d), (1) (e) and (2) (b) of the Co-operation Arrangement shall be suspended in respect of:

- (a) Nuclear material and facilities while they are listed in the Inventories.
- (b) Nuclear material which has been removed from the Inventories by reason of termination of safeguards pursuant to Section 17.

Such suspension shall not apply, in respect of any material or facility with regard to which the Board determines pursuant to Section 22 or otherwise that the Agency is unable to apply safeguards and which consequently is removed from the Inventory for the Government under whose jurisdiction it is located, from the time that the Board so determines until it determines that the Agency is again able to apply safeguards. In such case the Agency may, at the request of the other Government, provide it with information available to the Agency about such material or facility in order to enable that Government to exercise effectively any rights it may have with regard thereto.

Section 7. The two Governments shall promptly notify the Agency of any amendment to the Exchange of Notes referred to in Section 1 (c) and of any notice of termination given with regard thereto.

PART III

Notification by the Governments

Section 8. The two Governments shall jointly notify the Agency of any transfer of any nuclear material or principal nuclear facility from the jurisdiction of the United Kingdom to that of Denmark under the Co-operation Arrangement. Such notification is to be submitted:

- (a) Within 30 days of the entry into force of this Agreement, if the transfer took place previously, and shall include a statement 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 material; if such transferred, produced, processed or used material is still within the jurisdiction of Denmark.
- (b) Otherwise normally within two weeks of the transfer to the jurisdiction of Denmark of the material or facility, except that transfers of source material in quantities not exceeding one metric ton may be notified at quarterly intervals; in addition, the United Kingdom shall send advance information to the Agency, not later than seven days after the date of dispatch.

Section 9. The two Governments may jointly notify the Agency of any other nuclear material or principal nuclear facility within the jurisdiction of Denmark with regard to which they request the Agency to apply safeguards pursuant to this Agreement. Such notification may include any condition, consistent with the Safeguards Document and with this Agreement, concerning the circumstances in which the Agency is to apply safeguards.

Section 10. The two Governments shall jointly notify the Agency not less than two weeks before any transfer from the jurisdiction of Denmark to that of the United Kingdom of any:

- (a) Nuclear material or principal nuclear facility for which the Agency has accepted a notification made pursuant to Section 8 or 9.
- (b) Nuclear material described in sub-section 4(b) or (c) or material substituted therefor, including any such material admixed with nuclear material referred to in sub-section (a) of this Section.

Section 11. The notifications made pursuant to Sections 8, 9 or 10 shall specify the nuclear and chemical composition and physical form of the nuclear material or the type and capacity of the principal nuclear facility, as well as any other relevant information, particularly as to transport and custody. In addition, the Governments shall, whenever possible, give the Agency advance notice concerning large quantities of material or major facilities with regard to which notification is to be made pursuant to those Sections.

Section 12. A joint notification made pursuant to Sections 8, 9 or 10 (b) shall be deemed to have been accepted by the Agency on the thirtieth day after its receipt by the Agency and the Agency shall thereupon promptly inform both Governments of the date of such acceptance, unless before that day the Agency has declared to both Governments:

- (a) That it accepts the notification as of a specified date on or subsequent to the date of the declaration; or
- (b) That it is unable to apply safeguards with regard to any material or facility listed in the notification, in which case it may indicate at what time and under what conditions it will be able to apply safeguards.

Section 13. Each Government shall inform the Agency of its intention to transfer any nuclear material listed in the main part of its Inventory to a facility within its jurisdiction in connection with which the Agency is not applying safeguards, and shall provide to the Agency sufficient information to enable it to determine whether, and under what conditions, it can apply safeguards in connection with the facility. The material may only be transferred when all necessary arrangements with the Agency have been concluded for the application of safeguards in connection with the facility.

PART IV

Inventories

Section 14. The Agency shall establish Inventories of all nuclear material and facilities with regard to which it undertakes to apply safeguards pursuant to Section 4, or which it has exempted from safeguards pursuant to Section 16, or with regard to which it has suspended safeguards pursuant to Section 16. Such Inventories shall be maintained separately in respect of each Government on the basis of joint notifications made and accepted pursuant to Sections 8-12, of the reports received from either Government pursuant to the procedures provided for in Section 19 and of other decisions, determinations and arrangements made pursuant to this Agreement. Nuclear material referred to in sub-section 4 (b) or (c) shall be considered as being listed in the appropriate Inventory from the time that it is produced, processed or used within the meaning of those sub-sections. The Agency shall send copies of both Inventories to both Governments every twelve months and also at any other times specified by either Government in a request communicated to the Agency at least two weeks in advance.

Section 15. The Inventory in respect of each Government shall be divided into a main, a subsidiary and an inactive part. All nuclear material specified in sub-sections 4 (a) - (d) shall initially be listed in the main part of the Inventory; transfers to the inactive part shall be made in accordance with Section 16. All principal nuclear facilities with regard to which a joint notification is made and accepted pursuant to Sections 8, 9, 11 and 12 shall be listed in the main part of the Inventory for Denmark. Any other facility shall be listed in the subsidiary part of the appropriate Inventory while it contains any nuclear material listed in the main part of the same Inventory.

Section 16. The Agency shall exempt nuclear material from safeguards under the conditions specified in paragraph 21, 22 or 23 of the Safeguards Document and shall suspend safeguards with respect to nuclear material under the conditions specified in paragraph 24 or 25. Upon such exemption or suspension, the nuclear material affected shall be transferred from the main to the inactive part of the same Inventory.

Section 17. The Agency shall terminate safeguards with respect to nuclear material under the conditions specified in paragraph 26 of the Safeguards Document and may make arrangements with Denmark or the United Kingdom, as the case may be, to terminate safeguards pursuant to paragraph 27. Upon such termination the nuclear material affected shall be removed from the Inventory.

PART V

Safeguards Procedures

Section 18. In applying safeguards, the Agency shall observe the principles set forth in paragraphs 9-14 of the Safeguards Document.

Section 19. The procedures for the application of safeguards by the Agency under this Agreement shall be those set forth in Part III of the Safeguards Document. The Agency shall make arrangements with each Government concerning the detailed implementation of those procedures.

Section 20. In the case of a principal nuclear facility not yet in operation at the time when it first comes under Agency safeguards, the Agency may request the information referred to in paragraph 41 of the Safeguards Document as to when particular stages in the construction of the facility have been or are to be reached. The Agency may also make an initial inspection or inspections in accordance with paragraphs 51 and 52 of the Document of any principal nuclear facility to which its safeguards procedures extend.

Section 21. Nuclear material listed in either Inventory may only be transferred beyond the jurisdiction of the Government concerned in accordance with the provisions of paragraph 28 of the Safeguards Document, provided that in the case of a transfer pursuant to paragraph 28(d) both Governments concur. Principal nuclear facilities so listed may only be so transferred in accordance with such provisions, mutatis mutandis. Any such material or facility that is transferred in accordance with this Section shall thereupon be removed from the Inventory.

Section 22. If the Board determines 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 deems appropriate. If the Government fails to take fully corrective action within a reasonable time:

(a) The Agency shall be relieved of its undertaking to apply safeguards under Section 4 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 measures provided for in Article XII.C of the Statute.

The Agency shall promptly notify both Governments in the event of any determination by the Board pursuant to this Section.

PART VI

Agency Inspectors

Section 23. The provisions of paragraphs 1-10 and 12-14 of the Inspectors Document shall apply to Agency inspectors performing functions pursuant to this Agreement. However, paragraph 4 of the Inspectors Document shall not apply with regard to any facility or to nuclear material to which the Agency has access at all times; the actual procedures for implementing paragraph 50 of the Safeguards Document shall be agreed with the Government concerned in an agreement supplementing this Agreement, before such facility or material is listed in the Inventory.

Section 24. The relevant provisions of the Agreement on the Privileges and Immunities of the Agency [3] shall apply to the Agency, its inspectors and its property used by them in performing their functions pursuant to this Agreement.

PART VII

Financial Provisions

Section 25. Each Party shall bear any expense incurred in the implementation of its responsibilities under this Agreement. The Agency shall reimburse to each Government special expenses, including those referred to in paragraph 6 of the Inspectors Document, incurred by the Government or persons under its jurisdiction at the written request of the Agency, if the Government notified the Agency before the expense was incurred that reimbursement would be required. These provisions shall not prejudice the allocation of expenses which are reasonably attributable to a failure by a Party to comply with this Agreement.

Section 26. Each 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 the Government concerned.

PART VIII

Settlement of Disputes

Section 27. 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 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. The remuneration of the arbitrators shall be determined on the same basis as that of ad hoc judges of the International Court of Justice.

[3] Text reproduced in document INFCIRC/9/Rev.1.

Section 28. Decisions of the Board concerning the implementation of this Agreement, except such as relate only to Section 25 or 26, shall, if they so provide, be given effect immediately by the Parties, pending the final settlement of any dispute by consultation, negotiation, arbitration or otherwise.

PART IX

Interpretation and Amendment

Section 29. This Agreement shall be interpreted in the light of the Agency's safeguards system, as set forth in the Safeguards and Inspectors Documents.

Section 30. The Parties shall, at the request of any one of them, consult about amending this Agreement. If the Board decides to make any change in the Safeguards Document, this Agreement shall be amended, at the request of the Governments, to take account of such change. If the Board decides to make any change in the Inspectors Document, this Agreement shall be amended, at the request of the Governments, to take account of such change with regard to inspections to be carried out within the jurisdiction of either Government.

PART X

Entry into Force and Duration

Section 31. This Agreement shall enter into force upon signature on behalf of the Agency, Denmark and the United Kingdom.

Section 32. This Agreement shall remain in force until the day on which the period expires for which the Co-operation Arrangement was concluded or extended. It may be prolonged for further periods as agreed by all Parties and may be terminated sooner by any Party upon six months' notice to the other Parties or as may otherwise be agreed. However, this Agreement shall in any case remain in force with regard to any nuclear material referred to in sub-section 4(b) or (c) or nuclear material substituted therefor, until the Agency has notified both Governments that it has terminated safeguards on such material in accordance with Section 17.

DONE in Vienna, this 23rd day of June 1965, in triplicate in the English language.

For the INTERNATIONAL ATOMIC ENERGY AGENCY:

(Signed) Sigvard Eklund

For the GOVERNMENT OF THE KINGDOM OF DENMARK:

(Signed) Sigvald Kristensen

For the GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND:

(Signed) R.C. Hope-Jones