

COMMISSION OF THE EUROPEAN COMMUNITIES

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Agreements between the European Atomic Energy Community and Supplier Countries

Euratom Supply Agency □ December 1982

COMMISSION OF THE EUROPEAN COMMUNITIES

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U.S.A./EURATOM

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In addition to the original Agreement for Co-operation between the Government of the United States of America and Euratom concerning the peaceful use of atomic energy as amended in 1962 (O.J. N° 17 of March 1959 and N° 72 of August 1962) an additional Agreement for Co-operation was concluded in June 1960 and subsequently amended in May 1962, August 1963 and September 1972 (O.J. N° L 139 of 22.3.1974).

THE ADDITIONAL AGREEMENT FOR COOPERATION
BETWEEN
THE UNITED STATES OF AMERICA
AND
THE EUROPEAN ATOMIC ENERGY COMMUNITY (EURATOM)
CONCERNING PEACEFUL USES OF ATOMIC ENERGY
(SIGNED ON JUNE 11, 1960 AND
AMENDED MAY 21 AND 22, 1962 AND AUGUST 22 AND 27, 1963)
AS AMENDED BY AN AGREEMENT
SIGNED ON 20th OF SEPTEMBER 1972
WITH
INTERPRETATIVE COMMENTS
BY
EXCHANGE OF LETTERS DATED AUGUST 9, 1972

-PREAMBLES-

Text of the preamble of the Additional Agreement signed June 11, 1960 :

WHEREAS the Government of the United States of America and the European Atomic Energy Community (Euratom), signed an Agreement for Cooperation on November 8, 1958, concerning peaceful uses of atomic energy as a basis for cooperation in programs for the advancement of peaceful applications of atomic energy; and

WHEREAS such Agreement contemplates that from time to time the Parties may enter into further Agreements for Cooperation in the peaceful aspects of atomic energy;

WHEREAS current programs within the Community require additional quantities of special nuclear material that are not provided for by existing Agreements for Cooperation;

WHEREAS the Government of the United States of America has indicated its readiness to supply these supplementary requirements for special nuclear materials;

The Parties have agreed as follows :]

Text of the preamble of the Amendment signed May 21 and 22, 1962 :

WHEREAS the European Atomic Energy Community (Euratom) and the Government of the United States of America signed an Agreement for Cooperation on November 8, 1958, concerning peaceful uses of atomic energy, as a basis for cooperation in programs for the advancement of peaceful applications of atomic energy;

WHEREAS such Agreement contemplates that from time to time the Parties may enter into further agreements for cooperation in the peaceful aspects of atomic energy;

WHEREAS said Parties signed an Additional agreement (hereinafter referred to as the "Additional Agreement") on June 11, 1960, to provide for further cooperation;

WHEREAS additional programs within the Community require quantities of special nuclear material that are not provided for by existing Agreements for Cooperation;

WHEREAS the Government of the United States of America has indicated its readiness to supply these supplementary requirements for special nuclear materials;

the Parties agree to amend the Additional Agreement as follows :/

/Text of the preamble of the Amendment signed August 22 and 27, 1963 :

WHEREAS, the Government of the United States of America and the European Atomic Energy Community (EURATOM) signed an Agreement for Cooperation on November 8, 1958, concerning Peaceful Uses of Atomic Energy, as a basis for cooperation in programs for the advancement of peaceful applications of atomic energy;

WHEREAS, such Agreement contemplates that from time to time the Parties may enter into further Agreements for Cooperation in the peaceful aspects of atomic energy;

WHEREAS, said Parties signed an additional agreement, hereinafter referred to as the Additional Agreement, on June 11, 1960, to provide for further cooperation, which was amended by the Agreement signed on May 21 and 22, 1962, to provide supplementary requirements for special nuclear materials; and

WHEREAS, programs within the Community require additional quantities of uranium 235 that are not provided for by existing Agreements for Cooperation;

WHEREAS, the Government of the United States of America has indicated its readiness to supply supplementary quantities of uranium 235;

The Parties agree to amend the Additional Agreement as follows :/

Text of the preamble of the Amendment signed on 20th of september 1972 :

WHEREAS the Government of the United States of America and the European Atomic Energy Community (EURATOM) signed an Agreement for Cooperation on November 8, 1958, (hereinafter referred to as the "Joint Program Agreement") which was amended by the Agreement signed on May 21 and 22, 1962;

WHEREAS the Parties signed an Additional Agreement on June 11, 1960 (hereinafter referred to as the "Additional Agreement"), to provide for further cooperation, which was amended by the Agreements signed on May 21 and 22, 1962, and August 22 and 27, 1963; to provide supplementary requirements for special nuclear material;

WHEREAS the Parties wish to bring up to date the provisions of the Additional Agreement concerning transfers of special nuclear material, as well as the performance of services with respect to special nuclear material;

The Parties agree to amend the Additional Agreement as follows :

ARTICLE I. (as amended)

A. Subject to the availability of capacity in United States Commission facilities for uranium enrichment and within such quantities as may be authorized for transfer, contracts with Euratom, or with authorized persons within the Community, may be entered into by the United States Commission as herein set forth for the production or enrichment of uranium enriched in the isotope U-235 for use as fuel in power applications undertaken within the Community. It is understood by the Parties that, at such times as EURATOM, or such authorized persons, have requirements for such services and are prepared to execute firm contracts under the United States Commission's standard terms which set forth the agreed delivery schedules and other conditions for supply of such services, EURATOM, or such authorized persons, will have access on an equitable basis with other purchasers of such services to uranium enrichment capacity then available to the United States Commission and not already allocated, or to other means of supply in accordance with existing United States Commission policy. Contracts for supply of such services will be negotiated and executed on a timely basis.

B. Additionally, upon request by EURATOM or authorized persons within the Community, the United States Commission may, at its option and under such terms and conditions as may be agreed, sell uranium enriched in the isotope U-235 in such amounts as are within quantities authorized for transfer for use as fuel in power applications undertaken within the Community.

C. Under such terms and conditions as may be agreed and within such quantities as may be authorized for transfer, the United States Commission may transfer (including inter alia supply through enrichment services contracts) to EURATOM or authorized persons within the Community uranium enriched in the isotope U-235 for use in research applications, including inter alia fuel for research, materials testing, and experimental reactors and reactor experiments. The principle of equitable treatment among its foreign customers will govern the United States Commission in its decisions on the situations under which such uranium will be supplied and on the type of transfer to be employed.

D. Special nuclear material may also be transferred (including inter alia supply through enrichment services contracts) to either Party, or to persons authorized by it to receive such material, under such terms and conditions as may be agreed and within such quantities as may be authorized for transfer, for the performance within the territory of the receiving Party of conversion or fabrication services, or both, and for subsequent return to the territory of the Party from which it was transferred, or for subsequent transfer to any other nation or group of nations pursuant, in case of the performance of the conversion or fabrication services within the Community, to Article XI of the Joint Program Agreement.

E. Irradiated special nuclear material of United States origin may be transferred to EURATOM, or to authorized persons within the Community, under such terms and conditions as the Parties may agree and within such quantities as may be authorized for transfer, for chemical reprocessing and subsequent retention within the Community for applications within the scope of this Agreement, or subsequent transfer to a nation outside the Community or another group of nations pursuant to Article XI of the Joint Program Agreement.

F. Special nuclear material other than uranium enriched in the isotope U-235 may be transferred to EURATOM or to authorized persons within the Community, for use as fuel in reactors and reactor experiments and for other peaceful applications, provided that the net amount of material so transferred by the United States Commission shall not exceed such quantities as may be authorized for transfer, and that the terms and conditions of each such transfer shall be agreed upon in advance.

ARTICLE I BIS (as amended)

A. The enriched uranium supplied under this Agreement may contain up to twenty percent (20 %) in the isotope U-235. A portion of the uranium enriched in the isotope U-235 so supplied may be made available as material containing more than twenty percent (20 %) in the isotope U-235 when the use of such material is technically or economically justified.

B. Subject to the provisions of Article II bis, the quantity of uranium enriched in the isotope U-235 transferred under Article I or Article II to the Community or to authorized persons within the Community for purposes authorized in this Agreement may include such amounts as are mutually agreed are necessary for the accomplishment of such purposes, including the fueling of reactors or reactor experiments within the Community and their efficient and continuous operation.

C. Special nuclear material produced as a result of irradiation processes in any part of the fuel that may be leased by the United States Commission under this Agreement shall be for the account of the lessee and, after reprocessing, title to such produced material shall be in the lessee unless the United States Commission and the lessee otherwise agree.

D. Special nuclear material produced through the use of material transferred to the Community or to authorized persons within the Community pursuant to this Agreement may be transferred to any nation outside the Community or any other group of nations, provided that such nation or group of nations has an appropriate agreement for cooperation with the Government of the United States of America or guarantees the use of such material for peaceful purposes under safeguards acceptable to the Parties.

E (1). Special nuclear material of non-United States origin which is exported from the Community to the United States of America shall not, if reexported from the United States of America to the Community, be charged against the quantity authorized for transfer to the Community, and, if not improved while in the United States of America, shall be exempt from the safeguards required pursuant to this Agreement.

E (2). The material shall be deemed to be improved and therefore subject to the safeguards required pursuant to this agreement when (a) the concentration of fissionable isotopes in it has been increased, (b) the amount of chemically separable fissionable isotopes in it has been increased, or (c) its chemical or physical form has been changed so as to facilitate further use or processing.

F. Some atomic energy materials which may be provided in accordance with this Agreement are harmful to persons and property unless handled and used carefully. After delivery of such materials, the Community shall bear all responsibility, insofar as the Government of the United States of America is concerned, for the safe handling and use of such materials. With respect to any special nuclear material which the United States Commission may, pursuant to this Agreement, lease to the Community, or to authorized persons within the Community, the Community shall indemnify and save harmless the Government of the United States of America against any and all liability (including third party liability) for any cause whatsoever arising out of the production, fabrication, ownership, lease, possession and use of such special nuclear material after delivery by the United States Commission.

ARTICLE II (as amended)

A. With respect to the application of atomic energy to peaceful uses, it is understood that arrangements may be made between either Party or authorized persons under its jurisdiction and authorized persons under the jurisdiction of the other Party for the transfer of special nuclear material and for the performance of services with respect thereto for the uses specified in Article I and subject to the relevant provisions of Article I bis and to the provisions of Article II bis.

B. The Parties agree that the activities referred to in paragraph A of this Article shall be subject to the limitations in Article III and, on a non-discriminatory basis, to the export policies of the Government of the United States of America and the Community with regard to transactions involving the authorized persons referred to in paragraph A of this Article.

ARTICLE II BIS (as amended)

A. The total quantity of U-235 in enriched uranium transferred by the Government of the United States of America or persons authorized by it under Articles I and II of this Agreement shall not exceed the quantity authorized for transfer by the United States Commission pursuant to United States law.

B. The net amounts of special nuclear material other than U-235 in enriched uranium which may be transferred by the United States Commission under Article I, paragraph F of this Agreement shall not exceed the quantities authorized for transfer by United States law. The net amounts of such material shall be the gross quantity of each such special nuclear material transferred less the quantity thereof which has been returned to the United States of America or transferred to any other nation or group of nations pursuant to Article XI of the Joint Program Agreement.

ARTICLE III

A. Subject to the provisions of this Agreement, the availability of personnel and material, and the applicable laws, regulations and license requirements in force in the United States and in the Member States of the Community, the Parties shall assist each other in the achievement of the use of atomic energy for peaceful purposes.

B. Unclassified information will be exchanged between the Parties with respect to the application of atomic energy to peaceful uses.

C. Restricted Data shall not be communicated under this Agreement, and no materials or equipment and devices shall be transferred, and no services shall be furnished, under this Agreement, if the transfer of any such material or equipment and devices or the furnishing of any such service involves the communication of Restricted Data.

D. The communication of information received from any third party under terms preventing such communication shall be excluded from the scope of this Agreement.

ARTICLE IV

The Government of the United States of America and the Community reaffirm their common interest in fostering the peaceful applications of atomic energy through the International Atomic Energy Agency and intend that the results of the cooperation envisaged by this Agreement will benefit the Agency and the nations participating in it.

ARTICLE V

The provisions of Article IV, V, VI D, XI, XII, XV and Annex B of the Agreement for Cooperation (X) between the Government of the United States of America and the European Atomic Energy Community signed at Brussels on November 8, 1958 (as amended by the Amendment of 1962) also shall apply to this Agreement and are hereby incorporated in this Agreement by reference with the same force and effect as if set forth herein verbatim.

∟(X) Articles IV, V, VI D, XI, XII, XV and Annex B of the Agreement for Cooperation read as follows :

ARTICLE IV

The United States Commission will assist the Euratom Commission in obtaining reactor materials other than special nuclear material from private organizations located in the United States if the Euratom Commission desires such assistance. If no commercial sources are available, specific arrangements may be made by the Parties, from time to time, under terms and conditions to be agreed, for the transfer of such materials.

ARTICLE V

Persons under the jurisdiction of the Government of the United States of America or within the Community will be permitted to make arrangements to transfer and export material, including equipment and devices, to, and perform services for, the other Party and such persons under the jurisdiction of the Government of the United States of America or within the Community (as the case may be) as are authorized by the appropriate Party to receive and possess such material and utilize such services, subject to applicable laws, directives, regulations and license requirements of the Government of the United States of America, the Community and the Member States of the Community.

ARTICLE VI D

Except as otherwise agreed, the application or use of any information (including designs, drawings and specifications) and any material, equipment, and devices, exchanged or transferred between the Parties under this Agreement, shall be the responsibility of the Party receiving it, and the other Party does not warrant the accuracy or completeness of such information, nor the suitability of such information, materials, equipment, and devices for any particular use or application.

ARTICLE XI

The Community guarantees that :

1. No material, including equipment and devices, transferred pursuant to this Agreement to the Community or to persons within the Community, will be used for atomic weapons, or for research on or development of atomic weapons, or for any other military purpose;
2. No such material will be transferred to unauthorized persons or beyond the control of the Community, except as the Government of the United States of America may agree to such transfer and then only if the transfer of the material is within the scope of an Agreement for Cooperation between the Government of the United States of America and another nation or group of nations;
3. No source or special nuclear material utilized in, recovered from, or produced as a result of the use of materials, equipment or devices transferred pursuant to this Agreement to the Community or to persons within the Community will be used for atomic weapons, or for research on or development of atomic weapons, or for any other military purpose;
4. The Community will establish and maintain a mutually satisfactory system of safeguards and control as provided in Article XII, to be applied to materials, equipment and devices subject to the guarantees set forth in paragraph 1 through 3 of this Article.

ARTICLE XII

A. The Community undertakes the responsibility for establishing and implementing a safeguards and control system designed to give maximum assurance that any material, equipment or devices made available pursuant to this Agreement and any source or special nuclear material derived from the use of such material, equipment and devices, shall be utilized solely for peaceful purposes. In establishing and implementing its safeguards and control system, the Community is prepared to consult with and exchange experiences with the International Atomic Energy Agency with the objective of establishing a system reasonably compatible with that of the International Atomic Energy Agency. The Government of the United States of America and the Community agree that the principles which will govern the establishment and operation by the Community of a mutually satisfactory safeguards and control system under this Agreement are those which are set forth in Annex "B" to this Agreement. The Community shall be responsible for establishing and maintaining a mutually satisfactory and effective safeguards and control system which is in accord with the principles set forth in Annex "B" to this Agreement.

B. As has been requested by the Community, the Government of the United States of America will provide assistance in establishing the Community's safeguards and control system, and will provide continuing assistance in the operation of the system.

C. The Parties agree that there will be frequent consultations and exchanges of visits between the Parties to give assurance to both Parties that the Community 's safeguards and control system effectively meets the responsibility and principles stated in paragraph A of this Article and that the standards of the materials accountability systems of the Government of the United States of America and the Community are kept reasonably comparable.

D. In recognition of the importance of the International Atomic Energy Agency, the Government of the United States of America and the Community will consult with each other from time to time to determine whether there are any areas of responsibility with regard to safeguards and control and matters relating to health and safety in which the Agency might be asked to assist.

E. It is understood by the Parties that a continuation of the cooperative program between the Government of the United States of America and the Community will be contingent upon the Community's establishing and maintaining a mutually satisfactory and effective safeguards and control system which is in accord with the principles set forth in Annex "B" to this Agreement.

ARTICLE XV

For the purposes of this Agreement :

- a) "Person" means any individual, enterprise, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency, or government corporation, but does not include the Parties to this Agreement.
- b) "Special nuclear material" means (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which either party determines to be special nuclear material; or (2) any material artificially enriched by any of the foregoing.
- c) "Source material" means (1) uranium, thorium, or any other material which is determined by either Party to be source material; or (2) ores containing one or more of the foregoing materials, in such concentration as either Party may determine from time to time.
- d) "Parties" means the Government of the United States of America, including the United States Atomic Energy Commission on behalf of the Government of the United States of America, and the European Atomic Energy Community (Euratom), acting through its Commission. "Party" means one of the Parties.
- e) "Euratom Supply Agency" means the Agency established pursuant to Chapter VI of the Treaty establishing the European Atomic Energy Community. (1)

(1) This section was added by the Amendment of 1962.

ANNEX "B"

Principles for establishing the safeguards
and control system under this agreement

The principles which will govern the establishment and operation of the safeguards and control system are as follows :

The Euratom Commission will :

1. Examine the design of equipment devices and facilities, including nuclear reactors, and approve it for the purpose of assuring that it will not further any military purpose and that it will permit the effective application of safeguards, if such equipment, devices and facilities:
 - a) are made available pursuant to this Agreement; or
 - b) use, process or fabricate any of the following materials received from the United States : source or special nuclear material, moderator material or any other material relevant to the effective application of safeguards; or
 - c) use any special nuclear material produced as the result of the use of equipment or material referred to in subparagraphs a) and b).
2. Require the maintenance and production of operating records to assure accountability for source or special nuclear material made available, or source or special nuclear material used, recovered or produced as a result of the use of source or special nuclear material, moderator material or any other material relevant to the effective application of safeguards, or as a result of equipment, devices and facilities made available pursuant to this Agreement.
3. Require that progress reports be prepared and delivered to the Euratom Commission with respect to projects utilizing material, equipment, devices and facilities referred to in paragraph 2 of this Annex.
4. Establish and require the deposit and storage, under continuing safeguards, in Euratom facilities of any special nuclear material referred to in paragraph 2 of this Annex which is not currently being utilized for peaceful purposes in the Community or otherwise transferred as provided in the Agreement for Cooperation between the Government of the United States of America and the Community.
5. Establish an inspection organization which will have access at all times :
 - a) to all places and data, and
 - b) to any person who by reason of his occupation deals with materials, equipment devices or facilities safeguarded under this Agreement, necessary to assure accounting for source or special nuclear material subject to paragraph 2 of this Annex and to determine whether there is compliance with the guarantees of the Community. The inspection organization will also be in a position to make and will make such independent measurements as are necessary to assure compliance with the provisions of this Annex and the Agreement for Cooperation.

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It is understanding of the Parties that the above principles applicable to the establishment of the Community's inspection and control system are compatible with and are based on Article XII of the Statute of the International Atomic Energy Agency, Chapter VII of Title Two of the Treaty establishing the European Atomic Energy Community, and those adopted by the Government of the United States of America in its comprehensive Agreements for Cooperation.

By amendment : The definition of "person" in paragraph (a) of Article XV of the Joint Program Agreement, incorporated by reference in Article V of the Additional Agreement, is changed to read as follows :

"Person" means any individual, enterprise, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency, government corporation, or national, regional or local government, but does not include the Parties to this Agreement"

ARTICLE VI (1)

A. This agreement shall enter into force (2) on the first day on which each Party shall have received from the other Party written notification that it has complied with all statutory and constitutional requirements for the entry into force of such Agreement and shall remain in force until December 31, 1995. (3)

B. (as amended) The Parties agree that their undertakings under this Agreement are subject to appropriate statutory steps, including authorization by competent bodies of the Government of the United States of America and the Community, and the provisions of applicable laws, treaties, regulations and license requirements in effect in the United States, in the Community and within the Member States.

(1) As amended by the Amendment of 1962

(2) The Additional Agreement was signed on June 11, 1960 and entered into force on July 25, 1960; its first amendment was signed on May 21 and 22, 1962 and entered into force on July 9, 1962; its second amendment was signed on August 22 and 27, 1963 and entered into force on October 15, 1963.

(3) Date as amended in 1963.

ARTICLE VII (of the Amendment)

This Amendment shall enter into force (1) on the date on which each Party shall have received from the other Party written notification that it has complied with all statutory and constitutional requirements for the entry into force of such Amendment and shall remain in force for the period of the Additional Agreement, as amended/

IN WITNESS WHEREOF,.....

(1) The Amendment was signed on September 20, 1972 and entered into force on February 28, 1973.

INTERPRETATIVE COMMENTS BY EXCHANGE OF LETTERS.

ANNEX I

UNITED STATES ATOMIC
ENERGY COMMISSION

Washington D.C. 20545

Aug. 9, 1972.

Mr. Fernand SPAAK
Director General for Energy
and Safeguards
Commission of the European Communities
200, rue de la Loi
1040 Brussels

Dear Mr. Spaak,

We are all quite pleased that the negotiations for the proposed amendment to the Additional Agreement for Cooperation have proceeded in so mutually satisfactory a manner. This is in keeping with the close relationship and the common understanding that have steadily characterized relations between the United States Atomic Energy Commission and Euratom. We have long regarded our relations with Euratom as a model of international cooperation.

A number of issues arose during the negotiations which I would like to clarify.

During these discussions, the U.S. negotiators made it clear that the U.S. does not intend to discriminate among its foreign customers on charges for enrichment services and prices for enriched uranium nor with respect to advance notice required for delivery of materials. Accordingly, the Community will receive such material and services at prices as favorable as those offered to other customers abroad and the advance notice expected from the Community will not be greater than that required from such other customers.

Article II of the amendment, specifically paragraph A of the New Article I bis, was discussed in light of the implications involved in the provision of large quantities of highly enriched uranium for power reactor fueling, and it was recognized that the USAEC has in the past contracted to provide such material to the Community for use in the Federal Republic of Germany's THTR program. You may be confident that the Commission will continue to give sympathetic consideration to requests for supply of highly enriched fuel to the Community.

In our discussions of the quantity of enriched uranium which could be held within the Community for purposes authorized in the agreement (paragraph B of the new Article I bis), we noted that it was our interpretation that, assuming purchasers do not wish to acquire material to hold for speculative gain, Community users or processors may obtain and hold such amounts of material as are related to activities which they undertake within the terms of the agreement, including the fabrication of fuel for export.

Reexports from the Community of material of U.S. origin are governed by Article XI of the Joint Program Agreement of 1958. In considering proposed exports under this provision, the USAEC's concern is that the material go to countries or groups of countries which have an agreement for cooperation with the U.S. within the scope of which the transferred material would fall, and that the material be covered by appropriate safeguards. Specific circumstances may arise, however, which would necessitate consideration of other factors than the foregoing and we shall be glad to consult with Euratom regarding the acceptability of reexports in such circumstances.

The language of paragraph D of Article I of the amendment regarding transfers of special nuclear material for fabrication services is permissive in nature. As was discussed during the negotiations, it is the intent of both Parties that opportunities will be available on a reciprocal basis for fabricators under the jurisdiction of each Party to supply services for customers under the jurisdiction of the other Party. This consideration was a significant factor in the mutual acceptability of the provision, and it was emphasized on our part that U.S. approval of transfers of special nuclear material under this provision would depend upon the existence of opportunities on a realistic basis for U.S. suppliers of fabrication services to provide such services to consumers in the Community.

We wish also to reiterate that, for reasons which were explained during the negotiations, the United States is not now in a position to agree to the transfer to the Community for reprocessing of special nuclear material irradiated in the United States. Any change in this position would be reflected in an appropriate amendment to our agreement for cooperation providing for the transfer for reprocessing and return to the U.S. of special nuclear material irradiated in the United States.

We believe that these clarifications of USAEC policy will enable us to proceed with the proposed amendment on the basis of that common understanding which has so strongly marked relationships between Euratom and the USAEC in the past and which we wish to see continued in the future.

Sincerely,

A.S. FRIEDMAN, Director
Division of International Programs

ANNEX II

Commission des
Communautés Européennes

Bruxelles, August 9, 1972.

D.G. de l'Energie

Dear Mr. FRIEDMAN,

I am referring to your letter of today's date commenting on some provisions of the proposed amendment to the Additional Agreement between the European Atomic Energy Community (EURATOM) and the Government of the United States of America, as have been negotiated.

As regards the area of non-discriminatory treatment of European users, we take note that the USAEC has no intention of discriminating among its foreign customers and that the Community will receive enriched uranium and enrichment services at prices as favorable as those offered to other customers abroad, and that the advance notice required for delivery of material will not be greater.

We also take note of your comments concerning :

- i) the supply of highly enriched uranium,
- ii) the acquisition of enriched uranium for stockpiling purposes, and
- iii) the transfer of enriched uranium of US origin outside the Community.

With respect to transfer of special nuclear material for fabrication services, we have already pointed out during the negotiations that the Community and its Member States do not place any restriction on opportunities for United States industry to enter the Community's fuel cycle market, as many examples in the past and at present can demonstrate. United States suppliers of fabrication, conversion or reprocessing services are indeed afforded the same possibilities as are the European industries.

Mr. A.S. FRIEDMAN
Director
Division of International Programs
USAEC
WASHINGTON D.C.

ANNEX II

Consequently, we expect that the United States Government would not refuse its approval to transfers of special nuclear material to the Community for performance of services in the event of US fabricators failing for normal commercial reasons, to obtain business in the Community.

Finally, we take note of your statement that U.S. policy does not at present allow the transfer of special nuclear material irradiated in the United States for reprocessing abroad, and that any change in this position would be reflected in an appropriate amendment of the Agreement, although in our opinion the language of Article I, paragraph E, as amended, would permit such a change without any need for further amendment.

In conclusion, we agree with you that the proposed amendment to the Additional Agreement together with your letter of today's date and this reply, are indeed another proof of the common understanding and of the spirit of cooperation which have so strongly marked the relationship between Euratom and the United States in the past and which we trust will be continued in the future.

Sincerely Yours,

F. SPAAK.

ANNEX III

Commission des
Communautés Européennes

Brussels, August 9, 1972

D.G. de l'Energie

Dear Mr. FRIEDMAN,

Pursuant to the negotiations of the Amendment to the Additional Agreement between the European Atomic Energy Community (EURATOM) and the Government of the United States, it is our understanding that the term "authorized persons" now inserted in several provisions of the Agreement covers - as regards the Community - any person established in the Community - corresponding to the definition of Article XV of the Joint Program Agreement, incorporated by reference in Article V of the Additional Agreement, as amended - which, in conformity with applicable laws, treaties and regulations, is authorized to acquire, to hold or to transfer special nuclear material and to conclude contracts for the supply of such material or for the performance of services with respect thereto.

Sincerely Yours,

F. SPAAK.

Mr. A.S. FRIEDMAN
Director
Division of International Programs
USAEC
WASHINGTON D.C.

CANADA/EURATOM

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The Agreement between the Government of Canada and Euratom for Co-operation in the Peaceful Uses of Atomic Energy was amended by an exchange of letters in 1978. This exchange of letters included inter alia a specific provision with regard to enrichment beyond 20 % and reprocessing. An interim arrangement was later replaced by a further exchange of letters in 1981.

COMMUNAUTÉ EUROPÉENNE DE L'ÉNERGIE ATOMIQUE

LA COMMISSION

**ACCORD DE COOPÉRATION ENTRE
LA COMMUNAUTÉ EUROPÉENNE
DE L'ÉNERGIE ATOMIQUE (EURATOM)
ET
LE GOUVERNEMENT DU CANADA
CONCERNANT
LES UTILISATIONS PACIFIQUES
DE L'ÉNERGIE ATOMIQUE**

**AGREEMENT BETWEEN
THE GOVERNMENT OF CANADA
AND
THE EUROPEAN ATOMIC ENERGY
COMMUNITY (EURATOM)
FOR CO-OPERATION
IN THE PEACEFUL USES
OF ATOMIC ENERGY**

PRÉAMBULE

La Communauté européenne de l'énergie atomique (Euratom) agissant par l'intermédiaire de sa Commission (ci-après dénommée «la Commission») et le gouvernement du Canada,

CONSIDÉRANT que, par le traité signé à Rome le 25 mars 1957, le royaume de Belgique, la république fédérale d'Allemagne, la République française, la République italienne, le grand-duché de Luxembourg et le royaume des Pays-Bas ont institué la Communauté en vue de contribuer, par l'établissement des conditions nécessaires à la formation et à la croissance rapides des industries nucléaires, à l'élévation du niveau de vie dans les États membres et au développement des échanges avec les autres pays;

CONSIDÉRANT que la Communauté et le gouvernement du Canada ont exprimé leur commun désir de voir s'établir une coopération étroite dans le domaine des utilisations pacifiques de l'énergie atomique;

PREAMBLE

The Government of Canada and the European Atomic Energy Community (Euratom), acting through its Commission (hereinafter referred to as "the Commission");

CONSIDERING that the Community has been established by the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands in the Treaty signed at Rome on March 25, 1957, with the aim of contributing to the raising of the standard of living in the Member States and to the development of exchanges with other countries by the creation of conditions necessary for the speedy establishment and growth of nuclear industries;

CONSIDERING that the Government of Canada and the Community have expressed their mutual desire for the development of close co-operation in the peaceful uses of atomic energy;

DÉSIRANT collaborer entre eux en vue de promouvoir et d'accroître la contribution que le développement des utilisations pacifiques de l'énergie atomique peut apporter au bien-être et à la prospérité dans la Communauté et au Canada;

RECONNAISSANT en particulier qu'il serait de leur intérêt de coopérer en établissant un programme commun de recherches et de développement;

CONSIDÉRANT qu'un accord instituant une coopération dans le domaine des utilisations pacifiques de l'énergie atomique amorcerait de fructueux échanges d'expérience, fournirait des occasions d'activités mutuellement profitables et renforcerait la solidarité en Europe et par delà l'Atlantique;

SONT CONVENUS de ce qui suit:

Article premier

1. La coopération envisagée dans le présent accord concerne les utilisations pacifiques de l'énergie atomique et s'étend aux domaines ci-après:

- (a) La communication de connaissances, notamment sur:
 - (i) la recherche et le développement,
 - (ii) les questions d'hygiène et de sécurité,
 - (iii) l'équipement, les installations et les dispositifs matériels (y compris la fourniture de plans, dessins et spécifications) et
 - (iv) l'utilisation d'équipement, d'installations, de dispositifs matériels et de matières;
- (b) La fourniture de matières;
- (c) L'obtention d'équipement et de dispositifs matériels;
- (d) L'utilisation des droits de brevet;
- (e) L'accès aux équipements et installations et la faculté de les utiliser.

DESIRING to collaborate with each other in order to promote and enlarge the contribution which the development of the peaceful uses of atomic energy can make to welfare and prosperity in Canada and within the Community;

RECOGNIZING in particular that it would be to their mutual benefit to co-operate by establishing a joint programme of research and development;

CONSIDERING that an arrangement providing for co-operation in the peaceful uses of atomic energy would initiate a fruitful exchange of experience, provide opportunities for mutually beneficial action and reinforce solidarity within Europe and across the Atlantic;

HAVE AGREED as follows:

Article I

1. The co-operation intended by this Agreement relates to the peaceful uses of atomic energy and includes

- (a) the supply of information, including that relating to:
 - (i) research and development,
 - (ii) problems of health and safety,
 - (iii) equipment, facilities and devices (including the supply of designs, drawings, and specifications), and
 - (iv) uses of equipment, facilities, devices and material;
- (b) the supply of material;
- (c) the procurement of equipment and devices;
- (d) the use of patent rights;
- (e) access to and use of equipment and facilities.

2. La coopération prévue par le présent accord sera mise en œuvre à des conditions à convenir et conformément aux lois et règlements, ainsi qu'aux prescriptions applicables en matière de licence, en vigueur dans la Communauté et au Canada.

3. Chacune des parties contractantes s'engage vis-à-vis de l'autre à veiller à ce que les dispositions du présent accord soient acceptées et respectées, en ce qui concerne la Communauté conformément aux dispositions du traité précité, par toutes les personnes établies dans la Communauté dûment autorisées en vertu du présent accord et, en ce qui concerne le Canada, par toutes les entreprises gouvernementales et par toutes les personnes relevant de sa juridiction.

Article II

Sans limiter la portée générale de l'article premier, la coopération envisagée dans le présent accord comportera un programme commun de recherches et de développement concernant le type de réacteur nucléaire à uranium naturel modéré à l'eau lourde.

Article III

1. (a) Les parties contractantes pourront mettre à la disposition l'une de l'autre ainsi que de personnes relevant de la juridiction du gouvernement du Canada, ou établies dans la Communauté, les connaissances dont elles disposent sur les questions relevant du domaine d'application du présent accord.

(b) La communication de connaissances reçues de tiers à des conditions interdisant une telle communication est exclue de l'application du présent accord.

(c) Les connaissances considérées par la partie contractante qui les fournit comme présentant une valeur commerciale ne seront communiquées qu'à des conditions fixées par ladite partie contractante.

2. (a) Les parties contractantes encourageront et faciliteront les échanges de connaissances entre personnes établies dans la Communauté, d'une part, et personnes relevant de la juridic-

2. The co-operation provided for in this Agreement shall be effected on terms and conditions to be agreed and in accordance with the applicable laws, regulations and other licensing requirements in force in Canada and within the Community.

3. Each Contracting Party shall be responsible toward the other for ensuring that the provisions of this Agreement are accepted and complied with as to Canada by all of its governmental enterprises and by all persons under its jurisdiction, and as to the Community, in accordance with the provisions of the above-mentioned Treaty, by all persons within the Community to whom authorization has been granted pursuant to this Agreement.

Article II

Without limiting the generality of Article I, the co-operation envisaged in this Agreement will include a joint programme of research and development connected with the natural uranium fuelled heavy water moderated type of nuclear reactor.

Article III

1. (a) The Contracting Parties may make available to each other and to persons within the Community or under the jurisdiction of the Government of Canada, information at their disposal on matters within the scope of this Agreement.

(b) The supply of information received from any third party under terms preventing such supply shall be excluded from the scope of this Agreement.

(c) Information regarded by the supplying Contracting Party as being of commercial value shall be supplied only under terms and conditions specified by the said Contracting Party.

2. (a) The Contracting Parties shall encourage and facilitate the exchange of information between persons under the jurisdiction of the Government of Canada on the one hand and

tion du gouvernement du Canada, d'autre part, sur les questions relevant du domaine d'application du présent accord.

(b) Les connaissances détenues en toute propriété par de telles personnes ne seront communiquées qu'avec l'assentiment de ces personnes et aux conditions fixées par elles.

Article IV

1. (a) Chacune des parties contractantes concédera ou fera concéder à l'autre ou à des personnes relevant de la juridiction du gouvernement du Canada ou établies dans la Communauté, à des conditions à convenir, des licences ou des sous-licences de brevets qui sont la propriété de l'une ou de l'autre partie contractante ou sur lesquels l'une ou l'autre a le droit de concéder des licences ou sous-licences, pour les questions relevant du domaine d'application du présent accord.

(b) La concession des licences ou sous-licences sur des brevets ou licences reçus de tiers, à des conditions interdisant une telle concession, est exclue de l'application du présent accord.

2. (a) Les parties contractantes encourageront et faciliteront la concession, aux personnes relevant de la juridiction du gouvernement du Canada ou établies dans la Communauté, de licences sur des brevets qui sont la propriété de personnes établies dans la Communauté ou relevant de la juridiction du gouvernement du Canada, respectivement, pour les questions relevant du domaine d'application du présent accord.

(b) Les licences ou sous-licences sur des brevets ou licences détenus par de telles personnes ne seront concédées qu'avec l'assentiment de ces personnes et aux conditions fixées par elles.

Article V

1. Dans la mesure du possible, les parties contractantes se fourniront mutuellement ou fourniront à des personnes relevant de la juridiction du gouvernement du Canada ou établies dans la Communauté, des conseils techniques, soit par mise à disposition d'experts, soit de toute autre manière dont il aura été convenu.

persons within the Community on the other hand on matters within the scope of this Agreement.

(b) Information owned by such persons shall be supplied only with the consent of and under terms and conditions to be specified by those persons.

Article IV

1. (a) The Contracting Parties shall grant or cause to be granted, to each other or to persons within the Community or under the jurisdiction of the Government of Canada, on terms and conditions to be agreed, licences or sublicences under patents owned by either Contracting Party, or as to which either has the right to grant licences or sublicences on matters within the scope of this Agreement.

(b) The granting of licences or sublicences under patents or licences received from any third party under terms preventing such grants shall be excluded from the scope of this Agreement.

2. (a) The Contracting Parties shall encourage and facilitate the granting, to persons within the Community or under the jurisdiction of the Government of Canada, of licences under patents, on matters within the scope of this Agreement, owned by persons under the jurisdiction of the Government of Canada or within the Community, respectively.

(b) Licences or sublicences under patents or licences owned by such persons shall be granted only with the consent of, and under terms and conditions to be specified by, those persons.

Article V

1. The Contracting Parties shall to such extent as is practicable provide technical advice to each other or to persons within the Community or under the jurisdiction of the Government of Canada by the secondment of experts or in such other ways as may be agreed.

2. Chacune des parties contractantes assurera, dans la mesure du possible, dans ses propres écoles ou établissements, et aidera à faire assurer ailleurs dans la Communauté ou au Canada, aux étudiants et stagiaires recommandés par l'autre partie, une formation dans les domaines intéressant les utilisations pacifiques de l'énergie atomique.

Article VI

Les parties contractantes conviennent que, moyennant l'autorisation générale ou spéciale de la Commission, dans les cas requis par le traité instituant la Communauté européenne de l'énergie atomique (Euratom), ou du gouvernement du Canada, des matières brutes et des matières nucléaires spéciales pourront être fournies ou reçues dans le cadre du présent accord, à des conditions commerciales ou selon toute autre modalité à convenir, par l'Agence d'approvisionnement de la Communauté, par les entreprises gouvernementales du Canada ou par des personnes établies dans la Communauté ou relevant de la juridiction du gouvernement du Canada.

Article VII

Les parties contractantes aideront, dans la mesure du possible, les personnes relevant de la juridiction du gouvernement du Canada ou établies dans la Communauté à se procurer des réacteurs de recherche et de puissance et à s'assurer des concours pour la conception, la construction et l'exploitation de tels réacteurs.

Article VIII

Les parties contractantes se prêteront mutuellement assistance, dans la mesure du possible, pour l'acquisition par l'une ou l'autre des parties contractantes ou par des personnes relevant de la juridiction du gouvernement du Canada ou établies dans la Communauté, de matières, équipement et autres éléments nécessaires aux travaux de recherches, de développement et de production concernant l'énergie atomique au Canada ou dans la Communauté.

Article IX

1. La Communauté et le gouvernement du Canada prennent chacun l'engagement que les matières ou équipement obtenus en vertu du

2. Each Contracting Party shall, wherever possible, provide in its own schools or facilities, and assist in obtaining elsewhere in Canada or within the Community, training in subjects relevant to the peaceful uses of atomic energy for students and trainees recommended by the other.

Article VI

The Contracting Parties agree that with the general or specific authorization of the Government of Canada or, when required by the Treaty establishing the European Atomic Energy Community (Euratom), of the Commission, source material and special nuclear material may be supplied or received under this Agreement on commercial terms or as otherwise agreed, by the Governmental enterprises of Canada, by the Supply Agency of the Community, or by persons under the jurisdiction of the Government of Canada or within the Community.

Article VII

The Contracting Parties shall, to such extent as is practicable, assist persons within the Community or under the jurisdiction of the Government of Canada in obtaining research and power reactors and in obtaining assistance in the design, construction and operation of such reactors.

Article VIII

The Contracting Parties shall, to such extent as is practicable, assist each other in the procurement, by either Contracting Party or by persons within the Community or under the jurisdiction of the Government of Canada, of material, equipment and other requisites for atomic energy research, development and production within the Community or in Canada.

Article IX

1. The Government of Canada and the Community each undertakes that material or equipment obtained pursuant to the present Agreement,

présent accord ainsi que les matières brutes ou matières nucléaires spéciales provenant de l'utilisation de toute matière ou de tout équipement ainsi obtenus, seront utilisés à seule fin de promouvoir et de développer les utilisations pacifiques de l'énergie atomique et non à des fins militaires; et qu'à cet effet aucune matière ni aucun équipement obtenus en vertu du présent accord, non plus qu'aucune matière brute ni matière nucléaire spéciale provenant de l'utilisation de toute matière ou de tout équipement ainsi obtenus ne seront transférés à des personnes non autorisées ou en dehors de son contrôle, sauf autorisation écrite préalable du gouvernement du Canada ou de la Communauté, respectivement.

2. La poursuite de la coopération envisagée dans le présent accord dépendra de l'application, aux fins du paragraphe 1 du présent article et à la satisfaction des deux parties, du système de contrôle créé par la Communauté en vertu du traité instituant la Communauté européenne de l'énergie atomique (Euratom) ainsi que des mesures prises par le gouvernement du Canada en vue de rendre compte de l'utilisation des matières ou équipement.

3. Des consultations et des visites mutuelles auront lieu entre les parties contractantes pour donner à l'une et à l'autre l'assurance que le système de contrôle de la Communauté et les mesures prises par le gouvernement du Canada en vue de rendre compte de l'utilisation des matières et équipement sont satisfaisants et efficaces aux fins du présent accord. Pour la mise en œuvre de ces systèmes, les parties contractantes sont disposées à procéder à des consultations et à des échanges d'expérience avec l'Agence internationale de l'énergie atomique en vue d'établir un système qui soit raisonnablement compatible avec celui de l'Agence internationale de l'énergie atomique.

4. Reconnaissant l'importance de l'Agence internationale de l'énergie atomique, la Communauté et le gouvernement du Canada se consulteront de temps à autre en vue de déterminer s'il existe, en matière de contrôle, des domaines dans lesquels il pourrait être demandé à cette Agence d'apporter une assistance technique.

Article X

1. Sauf dispositions contraires, l'application ou l'utilisation de toute information (y compris

and source material or special nuclear material derived from the use of any material or equipment so obtained, shall be employed solely for the promotion and development of the peaceful uses of atomic energy and not for any military purpose; and that to this end no material or equipment obtained pursuant to the present Agreement, or source or special nuclear material derived from the use of any material or equipment so obtained, shall be transferred to unauthorized persons or beyond its control except with the prior consent in writing of the Community or the Government of Canada, respectively.

2. The continuation of the co-operation envisaged in the present Agreement shall be contingent upon the mutually satisfactory application, for the purposes of Paragraph 1 of this Article, of the system for safeguards and control established by the Community in accordance with the Treaty establishing the European Atomic Energy Community (Euratom) and of the measures for accounting for the use of material or equipment established by the Government of Canada.

3. Consultation and exchange of visits between the Contracting Parties shall take place to give an assurance to both of them that the Community's safeguards and control system and the measures for accounting for the use of material or equipment established by the Government of Canada are satisfactory and effective for the purposes of the present Agreement. In implementing these systems, the Contracting Parties are prepared to consult with and exchange experiences with the International Atomic Energy Agency with the objective of establishing a system reasonably compatible with that of the International Atomic Energy Agency.

4. In recognition of the importance of the International Atomic Energy Agency, the Government of Canada and the Community shall consult from time to time to determine whether there are any areas of responsibility with regard to safeguards and control in which this Agency might be asked to assist.

Article X

1. Except as otherwise agreed, the application or use of any information (including designs,

les plans, dessins et spécifications), ainsi que de toutes matières, tout équipement et tous dispositifs matériels échangés ou transférés entre les parties contractantes en vertu du présent accord, se fera sous la responsabilité de la partie contractante bénéficiaire, l'autre partie contractante n'étant nullement garante de l'exactitude ou de l'intégralité de ces informations, ni de la mesure dans laquelle ces informations, matières, équipement ou dispositifs matériels conviennent à telle ou telle utilisation ou application particulière.

2. Les parties contractantes reconnaissent que la réalisation des objectifs du présent accord appelle des mesures appropriées en matière de responsabilité civile. Les parties contractantes coopéreront afin d'élaborer et de faire adopter aussitôt que possible des dispositions générales mutuellement satisfaisantes en matière de responsabilité civile. En cas de retard dans l'adoption de telles dispositions générales, les parties contractantes se consulteront en vue de prendre des dispositions «ad hoc» mutuellement satisfaisantes permettant la poursuite de transactions particulières.

Article XI

1. L'article 106 du traité instituant la Communauté européenne de l'énergie atomique (Euratom), signé à Rome le 25 mars 1957, prévoit que les États membres qui, avant l'entrée en vigueur de ce traité, auront conclu avec des États tiers des accords visant la coopération dans le domaine de l'énergie nucléaire, seront tenus d'entreprendre, conjointement avec la Commission, les négociations nécessaires avec ces États tiers en vue de faire assumer autant que possible la reprise par la Communauté des droits et obligations découlant de ces accords

2. Le gouvernement du Canada est disposé à entreprendre de telles négociations en ce qui concerne tout accord auquel il est partie.

Article XII

Les parties contractantes réaffirment leur intérêt commun à promouvoir les utilisations pacifiques de l'énergie atomique par l'inter-

drawings and specifications) and any material, equipment, and devices, exchanged or transferred between the Contracting Parties under this Agreement, shall be the responsibility of the Contracting Party receiving it, and the other Contracting Party does not warrant the accuracy or completeness of such information, nor the suitability of such information, material, equipment, and devices for any particular use or application.

2. The Contracting Parties recognize that adequate measures in respect of third party liability are necessary for the carrying out of the objects of this Agreement. The Contracting Parties will co-operate in developing and securing the adoption of mutually satisfactory general arrangements in respect of third party liability by the earliest possible date. If there is a delay in concluding such general arrangements, the Contracting Parties shall consult with a view to making mutually satisfactory ad hoc arrangements for the furtherance of specific transactions.

Article XI

1. Article 106 of the Treaty signed at Rome on March 25, 1957, establishing the European Atomic Energy Community (Euratom) provides that Member States which before the date of entry into force of that Treaty have concluded Agreements with third countries for co-operation in the field of nuclear energy shall jointly with the Commission enter into the necessary negotiations with such third countries in order as far as possible to cause the rights and obligations arising out of such Agreements to be assumed by the Community.

2. The Government of Canada is prepared to enter into such negotiations with reference to any Agreement to which it is a party.

Article XII

The Contracting Parties reaffirm their common interest in fostering the peaceful uses of atomic energy through the International Atomic

médiaire de l'Agence internationale de l'énergie atomique et sont d'avis que cette Agence et ses membres devraient bénéficier des résultats de leur coopération.

Article XIII

1. A la demande de l'une ou l'autre des parties contractantes, leurs représentants se réuniront de temps à autre afin de se consulter sur les problèmes soulevés par l'application du présent accord, de surveiller son fonctionnement et d'examiner d'autres mesures de coopération venant s'ajouter à celles prévues au présent accord.

2. Les parties contractantes pourront, d'un commun accord, inviter d'autres pays à participer au programme commun mentionné à l'article II.

Article XIV

Aux fins du présent accord, et à moins qu'ils n'y soient différemment précisés:

- (a) Le terme «parties contractantes» désigne la Communauté européenne de l'énergie atomique (Euratom), d'une part, et le gouvernement du Canada et les entreprises gouvernementales du Canada définies au paragraphe (b) du présent article, d'autre part;
- (b) Le terme «entreprises gouvernementales du Canada» désigne l'«Atomic Energy of Canada Limited» et l'«Eldorado Mining and Refining Limited» et toutes autres entreprises relevant de la juridiction du gouvernement du Canada dont pourront être convenues les parties contractantes;
- (c) Le terme «personne» désigne toute personne physique, société (firme, compagnie, «partnership»), association, institution ou entreprise publique et toute autre personne morale, publique ou privée, mais ne s'applique pas aux parties contractantes définies au paragraphe (a) du présent article;
- (d) Le terme «équipement» désigne les parties principales ou éléments constitutifs essentiels de machines ou d'installations, particulièrement appropriés à l'utilisation dans des projets concernant l'énergie atomique;

Energy Agency and intend that the results of their co-operation shall benefit this Agency and its Members.

Article XIII

1. At the request of either Contracting Party, representatives of the Contracting Parties shall meet from time to time to consult with each other on matters arising out of the application of the present Agreement, to supervise its operation and to discuss arrangements for co-operation additional to those provided in the present Agreement.

2. The Contracting Parties may by mutual consent invite other countries to take part in the joint programme mentioned in Article II.

Article XIV

For the purpose of this Agreement, except as otherwise specified therein,

- (a) "Contracting Parties" means the Government of Canada and the Governmental enterprises of Canada as defined in Paragraph (b) of this Article on the one hand and the European Atomic Energy Community (Euratom) on the other hand;
- (b) "Governmental enterprises of Canada" means Atomic Energy of Canada Limited and Eldorado Mining and Refining Limited, and such other enterprises under the jurisdiction of the Government of Canada as may be agreed between the Contracting Parties;
- (c) "persons" means individuals, firms, corporations, companies, partnerships, associations, Government agencies or Government corporations and other entities, private or governmental; but the term "persons" shall not include the Contracting Parties as defined in Paragraph (a) of this Article;
- (d) "equipment" means items of machinery or plant, or major components thereof, specially suitable for use in atomic energy projects.

- (e) Le terme «matière» désigne toute matière brute, toute matière nucléaire spéciale, l'eau lourde, le graphite de qualité nucléaire ainsi que toute autre substance qui, en raison de sa nature ou de sa pureté, est particulièrement appropriée à l'utilisation dans des réacteurs nucléaires;
- (f) Le terme «matière brute» désigne l'uranium contenant le mélange d'isotopes se rencontrant dans la nature; l'uranium appauvri en isotope 235, le thorium; l'une quelconque des matières précitées sous forme de métal, d'alliage, de composé chimique ou de concentré; toute autre matière contenant une ou plusieurs des matières précitées à un degré de concentration dont seront convenues les parties contractantes et toute autre matière désignée comme telle par les parties contractantes;
- (g) Le terme «matière nucléaire spéciale» désigne le plutonium; l'uranium-233; l'uranium-235; l'uranium enrichi en isotopes 233 ou 235; toute substance contenant une ou plusieurs des matières précitées et toute autre substance désignée comme telle par les parties contractantes; toutefois, le terme «matière nucléaire spéciale» ne s'applique pas aux «matières brutes»;
- (h) Le terme «provenant» signifie provenant d'une ou de plusieurs opérations, successives ou non;
- (i) Le terme «dans la Communauté» signifie sur les territoires auxquels le traité instituant la Communauté européenne de l'énergie atomique (Euratom) s'applique ou s'appliquera.
- (e) "material" means source material, special nuclear material, heavy water, graphite of nuclear quality, and any other substance which by reason of its nature or purity is specially suitable for use in nuclear reactors;
- (f) "source material" means uranium containing the mixture of isotopes occurring in nature; uranium depleted in the isotope 235; thorium; any of the foregoing in the form of metal, alloy, chemical compound, or concentrate; any other material containing one or more of the foregoing in such concentration as may be agreed between the Contracting Parties; and such other material as may be agreed between the Contracting Parties;
- (g) "special nuclear material" means plutonium; uranium 233; uranium 235; uranium enriched in the isotopes 233 or 235; any substance containing one or more of the foregoing; and such other substance as may be agreed between the Contracting Parties; but the term "special nuclear material" shall not include "source material";
- (h) "derived" means derived by one or more processes, whether successive or not;
- (i) "within the Community" means within the territories to which the Treaty establishing the European Atomic Energy Community (Euratom) applies or shall apply.

Article XV

1. Le présent accord entrera en vigueur par voie d'un échange de notes à cet effet entre la Communauté et le gouvernement du Canada ⁽¹⁾.

2. Il restera en vigueur pendant une période de dix ans, et ultérieurement jusqu'à expiration d'un préavis de six mois signifié à cet effet par la Communauté ou par le gouvernement du Canada, à moins qu'un tel préavis n'ait été signifié six mois avant l'expiration de ladite période de dix ans.

⁽¹⁾ Entré en vigueur le 18 novembre 1959.

Article XV

1 The present Agreement shall be brought into force through an exchange of notes between the Government of Canada and the Community to that effect ⁽¹⁾.

2. It shall remain in force for a period of ten years, and thereafter until six months after notice of termination has been given by either the Government of Canada or the Community, unless such notice has been given six months prior to the expiry of the said period of ten years.

⁽¹⁾ Entered into force on November 18, 1959.

EN FOI DE QUOI les soussignés, dûment autorisés à cet effet respectivement par la Commission et le gouvernement du Canada ont signé le présent accord et y ont apposé leur sceau.

Fait à Bruxelles le 6 octobre 1959, en langues allemande, anglaise, française, italienne et néerlandaise, les cinq textes faisant également foi.

Pour la Communauté européenne de l'énergie atomique (Euratom)

E. HIRSCH
E. MEDI
P. DE GROOTE
H. KREKELER
E. M. J. A. SASSEN

Pour le gouvernement du Canada

S. D. PIERCE

IN WITNESS WHEREOF the undersigned, duly authorized for this purpose by the Government of Canada and the Commission respectively, have signed the present Agreement and have affixed thereto their seals.

Done at Brussels, this 6th day of October, 1959, in the English, French, German, Italian and Netherlands languages, all five texts being equally authentic.

For the European Atomic Energy Community (Euratom)

E. HIRSCH
E. MEDI
P. DE GROOTE
H. KREKELER
E. M. J. A. SASSEN

For the Government of Canada

S. D. PIERCE

*ÉCHANGE DE LETTRES
ENTRE LE GOUVERNEMENT DU CANADA ET LA
COMMUNAUTÉ EUROPÉENNE DE L'ÉNERGIE
ATOMIQUE (EURATOM)*

N° 1

M. S. D. Pierce à M. E. Hirsch

Bruxelles, le 6 octobre 1959

Monsieur le Président,

J'ai l'honneur de me référer à l'accord de coopération signé ce jour entre le gouvernement du Canada et la Communauté européenne de l'énergie atomique (Euratom) concernant les utilisations pacifiques de l'énergie atomique, et plus particulièrement à l'article IX, paragraphe 1, relatif aux réexportations.

Il est entendu que l'autorisation écrite prévue dans cet article dépend de l'assujettissement de telles réexportations à un système de contrôle satisfaisant pour l'une et l'autre partie.

Nous espérons qu'une fois instaurés, les systèmes de contrôle de l'Agence internationale de l'énergie atomique et de l'Agence européenne pour l'énergie nucléaire s'avéreront satisfaisants à cet égard.

Je vous prie d'agrèer, etc.

S. D. PIERCE
Ambassadeur

*EXCHANGE OF LETTERS
BETWEEN THE GOVERNMENT OF CANADA
AND THE EUROPEAN ATOMIC ENERGY COM-
MUNITY (EURATOM)*

No. 1

Mr. S. D. Pierce to Mr. E. Hirsch

Brussels, 6 October 1959

Mr. President,

I have the honour to refer to the Agreement of today's date between the Government of Canada and the European Atomic Energy Community (Euratom) for cooperation in the peaceful uses of atomic energy, and in particular to Article IX, Paragraph 1, dealing with reexports.

It is our understanding that the consent in writing mentioned therein is contingent upon such reexports being subject to a mutually satisfactory system of safeguards.

It is our expectation that the control systems of the International Atomic Energy Agency and the European Nuclear Energy Agency, when established, will prove to be satisfactory in this respect.

Accept, etc.

S. D. PIERCE
Ambassador

N° 2

No. 2

M. E. Hirsch à M. S. D. Pierce

Mr. E. Hirsch to Mr. S. D. Pierce

Bruxelles, le 6 octobre 1959

Brussels, 6 October 1959

Monsieur l'Ambassadeur,

Your Excellency,

J'ai l'honneur d'accuser réception de la note de Votre Excellence en date d'aujourd'hui dont la teneur est la suivante:

I have the honour to acknowledge receipt of Your Excellency's note of today's date which reads as follows:

«Monsieur le Président,

"Mr. President,

J'ai l'honneur de me référer à l'accord de coopération signé ce jour entre le gouvernement du Canada et la Communauté européenne de l'énergie atomique (Euratom) concernant les utilisations pacifiques de l'énergie atomique, et plus particulièrement à l'article IX, paragraphe 1, relatif aux réexportations.

I have the honour to refer to the Agreement of today's date between the Government of Canada and the European Atomic Energy Community (Euratom) for cooperation in the peaceful uses of atomic energy, and in particular to Article IX, Paragraph 1, dealing with reexports.

Il est entendu que l'autorisation écrite prévue dans cet article dépend de l'assujettissement de telles réexportations à un système de contrôle satisfaisant pour l'une et l'autre partie.

It is our understanding that the consent in writing mentioned therein is contingent upon such reexports being subject to a mutually satisfactory system of safeguards.

Nous espérons qu'une fois instaurés, les systèmes de contrôle de l'Agence internationale de l'énergie atomique et de l'Agence européenne pour l'énergie nucléaire s'avéreront satisfaisants à cet égard.

It is our expectation that the control systems of the International Atomic Energy Agency and European Nuclear Energy Agency, when established, will prove to be satisfactory in this respect.

Je vous prie d'agréer, etc.»

Accept, etc."

J'ai l'honneur de vous confirmer que telle est bien également la façon de voir de la Commission de l'Euratom.

I have the honour to confirm that the above is also the understanding of the Euratom Commission.

Je vous prie d'agréer, etc.

Accept, etc.

E. HIRSCH
President
Commission d'Euratom

E. HIRSCH
President
Euratom Commission

**ACCORD TECHNIQUE ENTRE
LA COMMUNAUTÉ EUROPÉENNE
DE L'ÉNERGIE ATOMIQUE (EURATOM)
ET
L'«ATOMIC ENERGY OF CANADA LIMITED»
CONCERNANT
LES UTILISATIONS PACIFIQUES
DE L'ÉNERGIE ATOMIQUE**

La Communauté européenne de l'énergie atomique (Euratom) agissant par l'intermédiaire de sa Commission (ci-après dénommée «la Commission») et l'«Atomic Energy of Canada Limited» (ci-après dénommée «l'A.E.C.L.»),

CONSIDÉRANT que la Communauté européenne de l'énergie atomique (Euratom) et le gouvernement du Canada ont, en date du 6 octobre 1959, signé un accord constituant un cadre général de coopération concernant les utilisations pacifiques de l'énergie atomique;

CONSIDÉRANT que l'A.E.C.L. a fait porter ses efforts dans le domaine de l'énergie atomique sur la mise au point du type de réacteur à uranium naturel modéré à l'eau lourde et qu'elle a conduit ce type de réacteur au stade de la construction à l'échelle industrielle, que diverses organisations publiques et privées établies dans la Communauté ont entrepris des études sur ce type de réacteur et que, dans le cadre du programme de recherches de la Communauté, la Commission a décidé de promouvoir le développement de ce type de réacteur;

CONSIDÉRANT qu'il serait de leur intérêt de coopérer en établissant un programme commun de recherches et de développement centré sur les réacteurs de ce type;

SONT CONVENUES de ce qui suit:

Article premier

Les parties contractantes entreprendront un programme commun de recherches et de développement centré sur le type de réacteur modéré à l'eau lourde et devant être mis en œuvre dans la Communauté et au Canada. Ledit programme comprendra des études et des travaux de mise au point sur le type de réacteur modéré à l'eau lourde et refroidi au moyen d'un liquide organique et sur le type de réacteur modéré et refroidi à l'eau lourde, et l'équipement connexe.

**TECHNICAL AGREEMENT BETWEEN
ATOMIC ENERGY OF CANADA LIMITED
AND
THE EUROPEAN ATOMIC ENERGY
COMMUNITY (EURATOM)
CONCERNING PEACEFUL USES
OF ATOMIC ENERGY**

Atomic Energy of Canada Limited (hereinafter sometimes referred to as "AECL") and the European Atomic Energy Community (Euratom) acting through its Commission (hereinafter sometimes referred to as "the Commission");

CONSIDERING that the Government of Canada and the European Atomic Energy Community (Euratom) on October 6, 1959 signed an agreement which provides a general framework for co-operation in the peaceful uses of atomic energy;

CONSIDERING that AECL has devoted its efforts in the field of atomic energy to the development of the natural uranium fuelled heavy water moderated type of reactor and brought this type of reactor to the point of industrial scale construction, that several public and private organizations within the Community have undertaken studies on the said type of reactor and that in the framework of the research program of the Community the Commission has decided to promote the development of this type of reactor;

CONSIDERING that it would be to their mutual benefit to co-operate by establishing a joint research and development program centered on reactors of this type;

HAVE AGREED as follows:

Article I

The Contracting Parties shall undertake a joint research and development program centered on the heavy water moderated type of reactor to be carried out both in Canada and within the Community. In the said program will be included study and development work on the heavy water moderated organic-cooled type of reactor, and on the heavy water moderated and cooled type of reactor and associated equipment.

Article II

Chaque partie contractante mettra à la disposition de l'autre des informations du genre de celles que l'on trouve normalement dans les rapports scientifiques et techniques, notamment sur les systèmes de réacteurs de recherche et de puissance modérés à l'eau lourde et sur l'expérience acquise concernant leur fonctionnement. Les parties contractantes échangeront les plans fondamentaux de réacteurs de puissance ainsi que des informations et plans concernant par exemple les matières, dispositifs de chargement et déchargement, échangeurs de chaleur, pompes, vannes, gainages et embouts. Les parties contractantes échangeront des informations concernant la mise en œuvre des plans ainsi communiqués. Les modalités d'application du programme ainsi que toute autre méthode de coopération dont il sera convenu de temps à autre feront l'objet d'échanges de lettres ou de mémorandums entre les parties contractantes.

Article III

Les parties contractantes contribueront à parts égales au programme commun, jusqu'à concurrence chacune d'un montant équivalent à 5 millions d'unités de compte A.M.E., pour une période de cinq ans. La contribution de l'A.E.C.L. sera représentée par une affectation au programme commun de fonds prélevés sur son budget ordinaire et destinés à être dépensés au Canada, et la contribution de la Commission par des dépenses effectuées au sein de la Communauté, à moins qu'il n'en soit convenu autrement.

Article IV

1. Le terme «pays», tel qu'il est utilisé en ce qui concerne la Communauté européenne de l'énergie atomique (Euratom), sera considéré comme se référant aux territoires auxquels s'applique ou s'appliquera le traité instituant la Communauté européenne de l'énergie atomique (Euratom).

2. En ce qui concerne toute invention ou découverte utilisant des informations communiquées aux termes du présent accord et faite ou conçue pendant la durée de l'accord et sur laquelle l'une ou l'autre partie a des droits, chaque partie:

- (a) Consent, dans la mesure où elle en dispose, à transférer et à céder à l'autre partie tous droits, titre et intérêts af-

Article II

Each Contracting Party will make available to the other information of the type normally contained in scientific and technical reports, including heavy water moderated research and power reactor systems and operating experience. The Contracting Parties will exchange basic designs of power reactors as well as information and designs relating to such things as materials, fuelling machines, heat exchangers, pumps, valves, cladding and end fittings. The Contracting Parties will exchange information concerning development of designs so communicated. Details of the program and further methods of co-operation as agreed upon from time to time will be set out in exchanges of letters or memoranda between the Contracting Parties.

Article III

The Contracting Parties shall make equal contributions to the joint program up to the equivalent of 5 million European Monetary Agreement accounting units each, over a period of five years, the contribution of AECL being represented by allocation to the joint program of funds of its normal budget, to be spent in Canada, and the contribution of the Commission being represented by expenditures within the Community, unless otherwise agreed.

Article IV

1. The word "country" as used herein in relation to the European Atomic Energy Community (Euratom) shall be deemed to refer to the territories to which the Treaty establishing the European Atomic Energy Community (Euratom) applies or shall apply.

2. With respect to any invention or discovery employing information which has been communicated under this agreement and made or conceived thereafter during the period of the agreement and in which invention or discovery rights are owned by either party, each party:

- (a) agrees to transfer and assign to the other all right, title and interest in and to any such invention, discovery, patent appli-

férents à l'invention, la découverte, la demande de brevet ou le brevet en cause dans le pays de cette autre partie et sous réserve d'une licence gratuite, non exclusive et irrévocable pour son propre usage;

- (b) Conservera tous droits, titre et intérêts afférents à l'invention, la découverte, la demande de brevet ou le brevet en cause dans son propre pays ou dans les pays tiers; toutefois, à la demande de l'autre partie, elle accordera à celle-ci une licence gratuite, non exclusive et irrévocable pour son propre usage dans les pays en question, couvrant entre autres l'exploitation, à des fins de production dans lesdits pays, de matières destinées à être vendues à l'autre partie par un fournisseur de cette dernière. En cas d'invention faite conjointement par du personnel des deux parties, les demandes de brevets déposées dans des pays tiers et les brevets délivrés sur la base de ces demandes seront propriété commune des deux parties. Sous réserve de ce qui précède, chaque partie fera usage à son gré de ses droits afférents à l'invention, la découverte, la demande de brevet ou le brevet en cause dans son pays et dans tous pays autres que celui de l'autre partie, mais en aucun cas n'exercera de discrimination à l'égard des personnes physiques ou morales ayant la nationalité de l'autre pays en ce qui concerne la concession de toute licence sur les brevets dont elle est propriétaire dans son pays ou dans tout autre pays;

- (c) Renonce à toute espèce de revendication à l'égard de l'autre partie en vue d'obtenir des indemnisations, redevances ou primes concernant l'invention, la découverte, la demande de brevet ou le brevet en cause, ainsi qu'à toute action contre l'autre partie en ce qui concerne toute revendication de cette nature.

3. Si l'exploitation d'informations communiquées au titre du présent accord implique l'utilisation d'une invention brevetée, la partie ayant reçu ces informations sera, dans la mesure du

cation or patent in the country of the other, to the extent owned, subject to a royalty-free, non exclusive, irrevocable licence for its own purposes.

- (b) shall retain all right, title and interest in and to any such invention, discovery, patent application or patent in its own or third countries but will, upon request of the other party, grant to the other party a royalty-free, non exclusive, irrevocable licence for its own purposes in such countries including use in the production of materials in such countries for sale to the other party by a contractor of such other party. In the case of an invention made jointly by personnel of both parties, patent applications and patents made or granted in respect thereof in third countries shall be the joint property of the two parties. Subject as aforesaid, each party may deal with its interest in any such invention, discovery, patent application or patent in its own country and all countries other than that of the other party as it may desire, but in no event shall either party discriminate against citizens of the other country in respect of granting any licence under the patents owned by it in its own or any other country.

- (c) waives any and all claims against the other party for compensation, royalty or award as respect any such invention or discovery, patent application or patent, and releases the other party with respect to any such claim.

3. The use of any patented invention involved in the application of information communicated under this agreement, will, so far as practicable, and on terms and conditions to be agreed, be

possible et à des conditions à convenir, autorisée à utiliser l'invention en cause.

Article V

Il sera institué un comité mixte chargé de conseiller la Commission et l'A.E.C.L. sur l'exécution du présent accord. Il sera composé en nombre égal de représentants de la Commission et de l'A.E.C.L. bénéficiant du droit de vote, et de tels autres membres et conseillers qui pourront être désignés de temps à autre d'un commun accord. Les parties contractantes pourront, d'un commun accord, inviter des représentants de tierces parties à se joindre au comité.

Article VI

Les lettres et mémorandums échangés au titre du présent accord conformément à l'article II seront signés au nom de la Commission par un membre de la Commission et au nom de l'A.E.C.L. par son président, ou par toute autre personne (ou personnes) pouvant de temps à autre être autorisée à cet effet par la Commission ou par l'A.E.C.L., respectivement.

Article VII

Le présent accord entre en vigueur le jour de sa signature et reste en vigueur pendant une période de cinq ans, sauf prolongation décidée d'un commun accord.

EN FOI DE QUOI les représentants soussignés, dûment autorisés à cet effet, ont signé le présent accord.

Fait à Bruxelles, le 6 octobre 1959, en double exemplaire, en langues allemande, anglaise, française, italienne et néerlandaise, les cinq textes faisant également foi.

Pour la Communauté européenne de l'énergie atomique (Euratom):

E. HIRSCH
E. MEDI
P. DE GROOTE
H. KREKELER
E. M. J. A. SASSEN

Pour l'«Atomic Energy of Canada Limited»

J. L. GRAY

made available to the party receiving such communication.

Article V

A joint board shall be established to advise AECL and the Commission on the carrying out of the present agreement. It will consist of voting representatives of AECL and the Commission in equal numbers, and such other members and advisers as may from time to time be agreed. By mutual consent the Contracting Parties may invite representatives of third parties to join the board.

Article VI

Letters and memoranda exchanged hereunder as contemplated by Article I will be signed on behalf of AECL by the President and on behalf of the Commission by a member of the Commission or by such other person or persons as may from time to time be authorized by AECL or the Commission respectively for such purpose.

Article VII

This agreement shall enter into force on the day of signature and subject to renewal by mutual consent shall remain in force for five years from its date.

IN WITNESS WHEREOF the undersigned representatives duly authorized thereto have signed this agreement.

Done at Brussels, this 6th day of October, 1959, in duplicate in the English, French, German, Italian, and Netherlands languages, each language being equally authentic.

For the European Atomic Energy Community (Euratom)

E. HIRSCH
E. MEDI
P. DE GROOTE
H. KREKELER
E. M. J. A. SASSEN

For Atomic Energy of Canada Limited

J. L. GRAY

II

(Acts whose publication is not obligatory)

COMMISSION

Amendment to the Agreement of 6 October 1959⁽¹⁾, in the form of an exchange of letters, between the European Atomic Energy Community (Euratom) and the Government of Canada for cooperation in the peaceful uses of atomic energy

(78/217/Euratom)

COMMISSION
OF THE
EUROPEAN COMMUNITIES

Brussels, 16 January 1978

Mr Chargé d'Affaires,

I have the honour to acknowledge receipt of your letter dated 16 January 1978, stating the following :

'Mr Commissioner,

As the Commission has been informed, the Canadian Government has decided to require more stringent safeguards in respect of sales abroad of Canadian material, equipment and information.

This decision implies an updating of the existing Agreement between the Government of Canada and the European Atomic Energy Community (Euratom) for cooperation in the Peaceful Uses of Atomic Energy of 6 October 1959 (hereinafter referred to as the Canada/Euratom Agreement of 1959) particularly in so far as it relates to safeguards.

The Canadian Government considers it necessary to come to an interim agreement through the present exchange of letters until the entire Canada/Euratom Agreement of 1959 has been updated, to provide for the requirement of the new Canadian safeguards policy by amending the relevant provisions of the Canada/Euratom Agreement of 1959.

Accordingly, I propose that the Canada/Euratom Agreement of 1959 be amended to include the following provisions relating to safeguards :

- (a) For the purposes of the Canada/Euratom Agreement of 1959, the phrase "machinery and plant" in paragraph (d) of Article XIV of the Canada/Euratom Agreement of 1959 shall be deemed to include all items listed in Annex A to this letter.
- (b) Equipment which a Member State has designed to the Commission as equipment designed, constructed or operated on the basis of or by the use of information obtained from Canada and which is within the jurisdiction of that Member State at the time of designation, shall be considered as equipment subject to the Canada/Euratom Agreement of 1959, as amended.

Equipment which Canada has designated, as equipment designed, constructed or operated on the basis of or by the use of information obtained from that Member State shall be considered as equipment subject to the Canada/Euratom Agreement of 1959, as amended.

- (c) Material which is subject to the terms of the Canada/Euratom Agreement of 1959 shall not be used for the manufacture of any nuclear weapon or for other military uses of nuclear energy or for the manufacture of any other nuclear explosive device. The foregoing undertaking shall be verified within Canada by the IAEA pursuant to an agreement between Canada and the IAEA and within the Community by the Community and by the IAEA pursuant to the Treaty establishing the European Atomic Energy Community and the agreements concluded between the Community, its Member States and the IAEA or if at any time such verification procedures are not in effect, there shall be agreement between the Contracting Parties for the application of a safeguards system which conforms with IAEA safeguards principles and procedures.

Mr P. D. Lee
Chargé d'Affaires a.i.
Mission of Canada
to the European Communities
Rue de Loosum, 6 (fifth floor)
1000 Brussels

- (d) Equipment or material transferred between Canada and the Community after the coming into force of this Agreement, shall be subject to the Canada/Euratom Agreement of 1959 only if the supplying Contracting Party has so informed the other Contracting Party in writing prior to the transfer. In the case of transfer of equipment from the Community to Canada, notifications may also be given by a Member State
- (e) Material referred to in paragraph (c) shall be enriched beyond 20 % or reprocessed and plutonium or uranium enriched beyond 20 % shall be stored only according to conditions agreed upon in writing between the parties. (See Annex C — Interim Arrangement concerning enrichment, reprocessing and subsequent storage of nuclear material within the Community and Canada.)
- (f) In no event shall a Contracting Party use the provisions of the present Agreement for the purpose of securing commercial advantages or for the purpose of interfering with the commercial relations of the other Contracting Party.
- (g) The Community shall inform Member States of the levels of physical protection set out in Annex B to this letter which should be applied as minima to the material referred to in paragraph (c) above. Canada will apply such levels of physical protection as minima to material referred to in paragraph (c).
- (h) Any dispute arising out of the interpretation or application of the present Agreement which is not settled by negotiation or as may otherwise be agreed by the Contracting Parties concerned shall, on the request of either Contracting Party, be submitted to an arbitral tribunal which shall be composed of three arbitrators. Each Contracting Party shall designate one arbitrator and the two arbitrators so designated shall elect a third, who shall be the chairman. If within 30 days of the request for arbitration either Contracting Party has not designated an arbitrator, either Contracting Party to the dispute may request the Secretary General of the OECD to appoint an arbitrator. The same procedure shall apply if, within 30 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 of all members of the arbitral tribunal. 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 Contracting Parties shall be binding on both Contracting 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 for *ad hoc* judges of the International Court of Justice.
- (i) The provisions of paragraphs (a) to (h) above, inclusive, as well as Articles III, IX and XIV of the Canada/Euratom Agreement of 1959 (as those Articles are amended by the proposals in this letter) shall in all circumstances remain in force so long as any equipment or material referred to in this letter or in the Canada/Euratom Agreement of 1959 remains in existence or it is otherwise agreed.

If the foregoing is acceptable to the European Atomic Energy Community I have the honour to propose that this letter which is authentic in both English and French, together with Your Excellency's reply to that effect shall constitute an amendment to the Canada/Euratom Agreement of 1959 which shall enter into force on the date of Your Excellency's reply and which shall continue in force so long as any equipment, material or facilities referred to in this letter or in the Canada/Euratom Agreement of 1959 remain in existence or it is otherwise agreed.

Please accept, Mr Commissioner, the assurance of my highest consideration

ANNEX A

1. *Nuclear reactors* capable of operation so as to maintain a controlled self-sustaining fission chain reaction, excluding zero energy reactors, the latter being defined as reactors with a designed maximum rate of production of plutonium not exceeding 100 grams per year.

A nuclear reactor basically includes the items within or attached directly to the reactor vessel, the equipment which controls the level of power in the core, and the components which normally contain or come in direct contact with or control the primary coolant of the reactor core.

It is not intended to exclude reactors which could reasonably be capable of modification to produce significantly more than 100 grams of plutonium per year. Reactors designed for sustained operation at significant power levels, regardless of their capacity for plutonium production, are not considered as 'zero energy reactors'.

2. *Reactor pressure vessels*: metal vessels, as complete units or as major shop-fabricated parts therefor, which are especially designed or prepared to contain the core of a nuclear reactor as defined in paragraph 1 above and are capable of withstanding the operating pressure of the primary coolant.

A top plate for a reactor pressure vessel is a major shop-fabricated part of a pressure vessel.

3. *Reactor internals*: (e.g. support columns and plates for the core and other vessel internals, control rod guide tubes, thermal shields, baffles, core grid plates, diffuser plates, etc.).

4. *Reactor fuel charging and discharging machines*: manipulative equipment especially designed or prepared for inserting or removing fuel in nuclear reactors as defined in paragraph 1 above capable of on-load operation or employing technically sophisticated positioning or alignment features to allow complex off-load fuelling operations such as those in which direct viewing of or access to the fuel is not normally available.

5. *Reactor control rods*: rods especially designed or prepared for the control of the reaction rate in a nuclear reactor as defined in paragraph 1 above.

This item includes, in addition to the neutron absorbing part, the support or suspension structures therefor if supplied separately.

6. *Reactor pressure tubes*: tubes which are especially designed or prepared to contain fuel elements and the primary coolant in a reactor as defined in paragraph 1 above at an operating pressure in excess of 50 atmospheres.

7. *Zirconium tubes*: Zirconium metal and alloys in the form of tubes or assemblies of tubes, and in quantities exceeding 500 kg per year especially designed or prepared for use in a reactor as defined in paragraph 1 above, and in which the relationship of hafnium to zirconium is less than 1 : 500 parts by weight.

8. *Plants for the reprocessing of irradiated fuel elements*, and equipment especially designed or prepared therefor.

A plant for the reprocessing of irradiated fuel elements includes the equipment and components which normally come in direct contact with and directly control the irradiated fuel and the major nuclear material in fission product processing streams. In the present state of technology only two items of equipment are considered to fall within the meaning of the phrase 'and equipment especially designed or prepared therefor'. These items are :

- (a) irradiated fuel element chopping machines : remotely operated equipment especially designed or prepared to use in a reprocessing plant as identified above and intended to cut, chop or shear irradiated nuclear fuel assemblies, bundles or rods ; and
- (b) critically safe tanks (e.g. small diameter, annular or slab tanks) especially designed or prepared to use in a reprocessing plant as identified above, intended for dissolution of irradiated nuclear fuel and which are capable of withstanding hot, highly corrosive liquid, and which can be remotely loaded and maintained.

9. *Plants for the fabrication of fuel elements :*

A plant for the fabrication of fuel elements includes the equipment :

- (a) which normally comes in direct contact with or directly processes or controls, the production flow of nuclear material ; or
- (b) which seals the nuclear material within the cladding.

The whole set of items for the foregoing operations, as well as individual items intended for any of the foregoing operations, and for other fuel fabrication operations, such as checking the integrity of the cladding or the seal, and the finish treatment to the sealed fuel.

10. *Equipment, other than analytical instruments, especially designed or prepared for the separation of isotopes of uranium :*

Equipment, other than analytical instruments, especially designed or prepared for the separation of isotopes of uranium includes each of the major items of equipment especially designed or prepared for the separation process. Such items include :

- gaseous diffusion barrier,
- gaseous diffusion housings,
- gas centrifuge assemblies, corrosion resistant to UF_6 ,
- large UF_6 corrosion resistant axial or centrifugal compressors,
- special compressor seals for such compressors.

11. *Plants for the production of heavy water :*

A plant for the production of heavy water includes the plant and equipment specially designed for enrichment of deuterium or its compounds, as well as any significant fraction of the items essential to the operation of the plant.

*ANNEX B***LEVELS OF PHYSICAL PROTECTION**

The levels of physical protection to be ensured by the appropriate governmental authorities in the use, storage and transportation of the materials of the attached table shall as a minimum include protection characteristics as follows :

Category III

Use and storage within an area to which access is controlled.

Transportation under special precautions including prior arrangements between sender, recipient and carrier, and prior agreement between States in cases of international transport specifying time, place and procedures for transferring transport responsibility.

Category II

Use and storage within a protected area to which access is controlled, i.e. an area under constant surveillance by guards or electronic devices, surrounded by a physical barrier with a limited number of points of entry under appropriate control, or any area with an equivalent level of physical protection.

Transportation under special precautions including prior arrangement between sender, recipient and carrier, and prior agreement between States in cases of international transport specifying time, place and procedures for transferring transport responsibility.

Category I

Materials in this category shall be protected with highly reliable systems against unauthorized use as follows :

Use and storage within a highly protected area, i.e. a protected area as defined for Category II above, to which, in addition, access is restricted to persons whose trustworthiness has been determined and under surveillance by guards who are in close communication with appropriate response forces. Specific measures taken in this context should have as their objective the detection and prevention of any assault, unauthorized access or unauthorized removal of material.

Transportation under special precautions as identified above for transportation of Category II and III materials and, in addition, under constant surveillance of escorts and under conditions which assure close communication with appropriate response forces.

Categorization of nuclear material

Material	Form	Category		
		I	II	III
1. Plutonium (a)	Unirradiated (b)	2 kg or more	Less than 2 kg but more than 500 g	500 g or less (c)
2. Uranium-235	Unirradiated (b)	5 kg or more — —	Less than 5 kg but more than 1 kg 10 kg or more	1 kg or less
	— uranium enriched to 20 % U-235 or more			Less than 10 kg (c)
	— uranium enriched to 10 % U-235 but less than 20 %			10 kg or more
	— uranium enriched above natural, but less than 10 % U-235 (d)			10 kg or more
3. Uranium-233	Unirradiated (b)	2 kg or more	Less than 2 kg but more than 500 g	500 g or less
4. Irradiated fuel			Depleted or natural uranium, thorium or low enriched fuel (less than 10 % fissile content) (e) (f)	

(a) As identified in the Statute of the IAEA.

(b) Material not irradiated in a reactor or material irradiated in a reactor but with a radiation level equal to or less than 100 rad/hour at one metre unshielded.

(c) Less than a radiologically significant quantity should be exempted.

(d) Natural uranium, depleted uranium and thorium and quantities of uranium enriched to less than 10 % not falling in Category III should be

protected in accordance with prudent management practice.

(e) Although this level of protection is recommended, it would be open to States upon evaluation of the specific circumstances, to assign a different degree of physical protection

(f) Other fuel which by virtue of its original fissile material content is classified as Category I or II before irradiation may be reduced one category level while the radiation level from the fuel exceeds 100 rad/hour at one metre unshielded.

ANNEX C

INTERIM ARRANGEMENT CONCERNING ENRICHMENT, REPROCESSING AND SUBSEQUENT STORAGE OF NUCLEAR MATERIAL WITHIN THE COMMUNITY AND CANADA

1. Both parties recognize that while increasing reliance is placed on nuclear energy for peaceful purposes to satisfy world energy requirements, its use requires that every precaution should be taken with respect to the generation and dissemination of material that can be used for nuclear weapons. The parties agree to cooperate both bilaterally and internationally to identify arrangements which will advance this objective.

Both parties agree that their objective is to meet their energy needs while avoiding the danger of the spread of such material and respecting the choices and decisions of each party in the peaceful nuclear field.

The parties note with satisfaction that the organizing Conference on International Fuel Cycle Evaluation (INFCE), in which Canada, the Commission of the European Communities and Member States of Euratom took part, agreed to carry out a study which is expected to extend over the next two years. INFCE will explore the best means of advancing the objectives of making nuclear energy for peaceful purposes widely available to meet the world's energy requirements while at the same time minimizing the danger of the proliferation of nuclear weapons.

The participants in the study are pledged to cooperate constructively in the study which will examine all aspects of the nuclear cycle.

Among the matters to be examined by working groups of INFCE are reprocessing and enrichment and storage of plutonium and uranium enriched beyond 20 %.

Against this background, the parties agree on the following interim arrangement which shall apply to reprocessing and to enrichment beyond 20 % U-235; and the storage of plutonium and uranium enriched beyond 20 %.

2. With respect to material which has been transferred between 20 December 1974 and the end of the interim period, Euratom will notify the Government of Canada in advance of its intention to undertake any such reprocessing, enrichment or storage. This notification will include the quantities of material to be enriched, reprocessed or stored, the facility in which such operations will take place, and the intended disposition and use of the special fissionable material. The purpose of such advance notification is to permit joint consultation to take place between the parties concerning the adequacy of safeguards for the operation contemplated and avoidance of the risks of nuclear proliferation. Consultations shall enable each party to appreciate to the fullest extent possible the nature and purposes of the operation involved.

These consultations shall be without prejudice to the commercial or industrial policy of either party. An early meeting will be held to work out appropriate modalities for notification and consultations.

3. It is understood between the parties that during the period of the interim arrangement supplies of Canadian uranium to be exported to Euratom would be broadly limited to the current needs of Euratom, the term 'current needs' to take account also of enrichment contract commitments entered into by the member countries of Euratom.

The contracting parties shall consult at the request of either concerning the application of this part of this interim arrangement, in accordance with Article XIII of the 1959 Agreement.

4. Subject to the foregoing it is agreed that Canadian-origin uranium transferred to Euratom subsequent to 20 December 1974 or any Canadian-origin uranium being exported to Euratom during the period of the interim arrangement may be reprocessed or enriched beyond 20 % U-235, if the need arises in plants now operating or foreseen to be operating in Euratom. The same applies to plutonium and uranium enriched beyond 20 % U-235 stored in Euratom. In respect of Canadian-origin uranium transferred to Euratom prior to 20 December 1974, it is open to either Party to request consultation as provided in Articles IX (3) and XIII, of the 1959 Agreement.

5. As soon as possible after 31 December 1979 or the termination of the INFCE study, whichever is earlier, the parties will commence negotiations with a view to replacing this arrangement by other arrangements which will take into account *inter alia* any results of the INFCE studies in relation to the operations in question. If no such arrangements have been agreed upon by the end of 1980, the parties may jointly agree to extend the present interim arrangement.

I have the honour to confirm that these proposals are acceptable to the European Atomic Energy Community

Please accept, Mr Chargé d'Affaires, the assurance of my highest consideration.

COMMISSION
OF THE
EUROPEAN COMMUNITIES

Brussels, 16 January 1978

Mr Chargé d'Affaires,

I refer to the exchange of letters between us of 16 January 1978 regarding nuclear safeguards, and have the honour to state further as follows, for the information of the Canadian authorities :

During the Council consideration of the abovementioned exchange, it was agreed that the following represented our understanding of the procedure provided for in (c).

1. Supply of Canadian material to persons in the territory of the seven non-nuclear weapon States parties to the Euratom/IAEA verification Agreement, and transfer of such material within these States :

This event would raise no problem, the verification agreement having entered into force on 21 February 1977.

2. Supply of Canadian material to the United Kingdom or transfer of Canadian material into the United Kingdom :

Although the trilateral UK/Euratom/IAEA Agreement has not yet entered into force, no interim agreements providing IAEA verification of such material in the United Kingdom will be required by Canada for a reasonable period of time, which should not exceed 18 months starting from 23 December 1976.

3. Supply of Canadian material to France or transfer of Canadian material into France :

Canadian material for end-use in France shall be submitted to IAEA verification as from the entry into force of the trilateral France/Euratom/IAEA Agreement currently under negotiation.

The Council took note of statement by the French representative that material subject to the Canada/Euratom Agreement of 1959, as amended, would not be employed for end use in France before the entry into force of this trilateral Agreement.

The Council also took note that the Canadian Government, given the application of Euratom safeguards and their verification under the trilateral France/Euratom/IAEA Agreement currently under negotiation, agrees that Canadian material may be directly supplied from Canada to France or be transferred into France in order to be enriched or reprocessed in France provided that it would leave France after the normal period required for those operations.

Please accept, Mr Chargé d'Affaires, the assurance of my highest consideration.

Mr P. D. Lee
Chargé d'Affaires a.i.
Mission of Canada
to the European Communities
Rue de Loosum, 6 (fifth floor)
1000 Brussels

MISSION OF CANADA
TO THE
EUROPEAN COMMUNITIES

Brussels, 16 January 1978

Mr Commissioner,

I wish to acknowledge receipt of your letter of 16 January 1978, which reads as follows and of which the contents have been noted by the Canadian authorities and upon which Canada shall reply when authorizing transfers to Euratom.

Mr Chargé d'Affaires,

I refer to the exchange of letters between us of 16 January 1978 regarding nuclear safeguards, and have the honour to state further as follows, for the information of the Canadian authorities

During the Council consideration of the abovementioned exchange, it was agreed that the following represented our understanding of the procedure provided for in (c):

1. Supply of Canadian material to persons in the territory of the seven non-nuclear weapon States parties to the Euratom/IAEA verification Agreement, and transfer of such material within these States.

This event would raise no problem, the verification agreement having entered into force on 21 February 1977.

2. Supply of Canadian material to the United Kingdom or transfer of Canadian material into the United Kingdom:

Although the trilateral UK/Euratom/IAEA Agreement has not yet entered into force, no interim agreements providing IAEA verification of such material in the United Kingdom will be required by Canada for a reasonable period of time, which should not exceed 18 months starting from 23 December 1976.

3. Supply of Canadian material to France or transfer of Canadian material into France.

Canadian material for end-use in France shall be submitted to IAEA verification as from the entry into force of the trilateral France/Euratom/IAEA Agreement currently under negotiation.

The Council took note of statement by the French representative that material subject to the Canada/Euratom Agreement of 1959, as amended, would not be employed for end use in France before the entry into force of this trilateral Agreement.

The Council also took note that the Canadian Government, given the application of Euratom safeguards and their verification under the trilateral France/Euratom/IAEA Agreement currently under negotiation, agrees that Canadian material may be directly from Canada to France or be transferred into France in order to be enriched or reprocessed in France provided that it would leave France after the normal period required for those operations.

Mr Guido Brunner
Commissioner
Commission of the European Communities
Rue de la Loi, 200
1049 Brussels

Please accept, Mr Chargé d'Affaires, the assurance of my highest consideration.'

I have been instructed to confirm the understanding reached during the negotiations that any transfer within the Community of material subject to the Agreement which does not take place in accordance with paragraph (c) of the exchange of letters will constitute a breach of the Agreement on the Euratom side. Under such circumstances, the Canadian authorities would of course be required to review their obligations under the Agreement.

Please accept, Mr Commissioner, the assurance of my highest consideration.

P. D. LEE
Chargé d'Affaires a.i.

COMMISSION
OF THE
EUROPEAN COMMUNITIES

Brussels, 16 January 1978

Mr Chargé d'Affaires,

I refer to the exchange of letters between us of 16 January 1978 regarding nuclear safeguards, and have the honour to state further as follows, for the information of the Canadian authorities :

During the Council consideration of the abovementioned exchange of letters, the Council took note of the 'Declaration on transfer of technology' made by the nine Member States and the Community and approved it in so far as it concerns the Community. The text of this declaration is annexed to the present letter (Annex I).

The Council further agreed to the following declarations :

- 'Both sides agreed to ask the Joint Technical Working Group to look into the question of information on reprocessing of Canadian material transferred to Euratom prior to 20 December 1974.'
- 'Neither party will invoke any rights under an agreement entered into with a third State to impair any rights or obligations under this agreement as amended.'

The technical note on the *pro rata* principle and the interpretation with respect to double labelling, agreed upon during the negotiations, was also approved by the Council and inserted in the minutes of the meeting. The text of this technical note is annexed to the present letter (Annex II).

Lastly, the Council took note of the 'Note on physical protection' to be sent by the Member States to the Canadian Ambassadors. The text of this note is annexed to this letter (Annex III).

Please accept, Mr Chargé d'Affaires, the assurance of my highest consideration.

Mr P. D. Lee
Chargé d'Affaires a.i.
Mission of Canada
to the European Communities
Rue de Loosum, 6 (fifth floor)
1000 Brussels

*ANNEX I***DECLARATION ON TRANSFER OF TECHNOLOGY**

The Member States and the Community are prepared to confirm to the Canadian Government that they recognize the legitimacy of transferring sensitive technology within the meaning of the London Guidelines on the conditions laid down therein. They note that Canada also intends to make transfers of CANDU technology (heavy water moderated pressure tube reactor technology and fuel element fabrication technology, D₂O technology) and other technology specific to its fuel cycle to any Member State subject to certain conditions.

They consider that it is or will be for the Member States wishing to import such technology to conclude agreements with Canada comprising the commitments required by the Canadian Government in connection with these transfers

However, these States must be entitled to transfer this technology to another Member State on condition that the second recipient Member State has provided the Canadian Government with the same commitments as those provided by the first Member State.

Accordingly, the Community and the Member States confirm that there is no obstacle to the conclusion of such agreements between Canada and any Member State of the Community wishing to conclude them, provided that these agreements are entirely consistent with the Treaty establishing the European Atomic Energy Community.

*ANNEX II***TECHNICAL NOTE****1. 'Pro rata' principle**

Where Canadian material is produced, processed or used together with material of other origin, materials produced as well as losses during the operation will be attributed to materials subject to the Canada/Euratom Agreement in proportion to the percentage of materials subject to that agreement initially included in the mixture. The words 'produced, processed or used' cover conversion, fabrication, enrichment, reprocessing and irradiation.

2. Interpretation with respect to double labelling

In many cases, material which originates in one of the Contracting Parties to the 1959 Agreement between the Government of Canada and the European Atomic Energy Community (Euratom) for Cooperation in the Peaceful Uses of Atomic Energy, as amended, is sent to a third State for processing, including conversion, enrichment and fabrication, before delivery to the receiving Contracting Party. Such processed material is obtained by the receiving Contracting Party pursuant to the 1959 Agreement and is therefore subject to the provisions of that Agreement, as amended.

It is recognized that there is legitimate concern regarding the accumulation of safeguard provisions over nuclear material and the resulting administrative problems. These difficulties are being considered in international fora and suppliers and recipients should continue to seek mutually satisfactory solutions, both bilaterally and multilaterally.

*ANNEX III***NOTE ON PHYSICAL PROTECTION**

From Euratom Member State Foreign Minister to Canadian Ambassadors

Your Excellency,

I have the honour to refer to the Agreement between the Government of Canada and the European Atomic Energy Community (Euratom) for Cooperation in the Peaceful Uses of Atomic Energy of 6 October 1959, as amended (hereinafter referring to as the Agreement)

In addition to the obligations to Canada entered into under the Agreement, I have the honour to inform you that my Government confirms that the items referred to in the Agreement which are within the territory, jurisdiction or control of my Government shall be subject to the levels of physical protection described in the Agreement.

Please accept, Your Excellency, the assurance of my highest consideration.

COMMISSION
OF THE
EUROPEAN COMMUNITIES

Brussels, 16 January 1978

Mr Chargé d'Affaires,

I refer to the Agreement between us of 16 January 1978 and have the honour to state that during the Council consideration of that Agreement the following interpretation was given by the Council concerning the effect of the Agreement in relation to the period after the interim period:

'In approving the exchange of letters between Canada and Euratom, the Council recognizes that the conditions under which:

- material covered by the Canada/Euratom Agreement shall be enriched beyond 20 % or reprocessed,
- and those under which uranium enriched beyond 20 % and plutonium shall be stored,

have been covered by an Agreement for an interim period.

For materials supplied after the end of the interim period, an agreement on the regime governing these sensitive operations remains to be concluded. The Council, therefore, recognizes that, for these materials, the parties have not accepted any obligation, either as to the supply of the materials or as to the fact that the regime to be negotiated, and which would govern the sensitive operations, would include any conditions, nor *a fortiori* as to the nature of any such conditions.'

I would be obliged if you would confirm that this interpretation is shared by the Canadian authorities.

Please accept, Mr Chargé d'Affaires, the assurance of my highest consideration.

Mr P. D. Lee
Chargé d'Affaires a.i.
Mission of Canada
to the European Communities
Rue de Loosum, 6 (fifth floor)
1000 Brussels

MISSION OF CANADA
TO THE
EUROPEAN COMMUNITIES

Brussels, 16 January 1978

Mr Commissioner,

I have the honour to acknowledge receipt of your letter dated 16 January 1978, stating the following :

'Mr Chargé d'Affaires,

I refer to the Agreement between us of 16 January 1978 and have the honour to state that during the Council consideration of that Agreement the following interpretation was given by the Council concerning the effect of the Agreement in relation to the period after the interim period :

"In approving the exchange of letters between Canada and Euratom, the Council recognizes that the conditions under which :

— material covered by the Canada/Euratom Agreement shall be enriched beyond 20 % or reprocessed,

— and those under which uranium enriched beyond 20 % and plutonium shall be stored,

have been covered by an Agreement for an interim period.

For materials supplied after the end of the interim period, an agreement on the regime governing these sensitive operations remains to be concluded. The Council, therefore, recognizes that, for these materials, the parties have not accepted any obligation, either as to the supply of the materials or as to the fact that the regime to be negotiated, and which would govern the sensitive operations, would include any conditions, nor *a fortiori* as to the nature of any such conditions."

I would be obliged if you would confirm that this interpretation is shared by the Canadian authorities.

Please accept, Mr Chargé d'Affaires, the assurance of my highest consideration.'

I have the honour to confirm that this interpretation is shared by the Canadian authorities.

Please accept, Mr Commissioner, the assurance of my highest consideration.

P. D. LEE
Chargé d'Affaires a.i.

COMMISSION

AGREEMENT

in the form of an exchange of letters between the European Atomic Energy Community (Euratom) and the Government of Canada intended to replace the 'Interim Arrangement concerning enrichment, reprocessing and subsequent storage of nuclear material within the Community and Canada' constituting Annex C of the Agreement in the form of an exchange of letters of 16 January 1978 between Euratom and the Government of Canada

(82/52/Euratom)

Brussels, 18 December 1981

A. Letter from the Government of Canada

Sir,

1. I have the honour to refer to the 16 January 1978 exchange of letters between the Government of Canada and the European Atomic Energy Community (Euratom) (hereinafter referred to as the exchange of letters) amending the Agreement between the Government of Canada and the European Atomic Energy Community for cooperation in the peaceful uses of atomic energy of 6 October 1959, (hereinafter referred to as the Agreement) particularly in so far as it relates to safeguards (followed by an additional exchange of letters). I specifically refer to paragraph (e) of the exchange of letters which states that :

'Material referred to in paragraph (c) shall be enriched beyond 20 % or reprocessed and plutonium or uranium enriched beyond 20 % shall be stored only according to conditions agreed upon in writing between the parties (see Annex C: Interim Arrangement concerning enrichment, reprocessing and subsequent storage of nuclear material within the Community and Canada).'

Paragraph 5 of Annex C states that the parties would commence negotiations as soon as possible after 31 December 1979, or the termination of the INFCE study, whichever was earlier, with a view to replacing the Interim Arrangement by other arrangements that would take into account *inter alia* any results of the INFCE studies in relation to the operations in question.

Wilhelm Haferkamp,
Vice President of the
Commission of the European Communities,
200 rue de la Loi,
B-1049 Brussels

2. These negotiations have now been completed and I have the honour to propose that the guidelines set forth below should cover reprocessing and plutonium storage and use :
- (a) an effective commitment to non-proliferation should have been made and should continue to be maintained by the party envisaging reprocessing and plutonium storage and use ;
 - (b) all nuclear material subject to a peaceful uses commitment in facilities involved in reprocessing and the storage and use of plutonium should be subject to IAEA safeguards ;
 - (c) all nuclear material subject to a peaceful uses commitment in facilities involved in reprocessing and the subsequent storage and use activities, including related transport, should be subject to adequate physical protection measures ;
 - (d) mutually satisfactory notification and material reporting procedures should be in place between the parties ;
 - (e) a description of the current and planned nuclear energy programme including in particular a detailed description of the policy, legal and regulatory elements relevant to reprocessing and plutonium storage and use should be provided by the party envisaging such activities ;
 - (f) the parties should agree to periodic and timely consultations at which *inter alia* the information provided under guideline (e) should be updated and significant changes in the nuclear energy programme would receive the fullest possible consideration ;
 - (g) the reprocessing and plutonium storage should only take place when the information provided on the nuclear energy programme of the party in question has been received, when the undertakings, arrangements and other information called for by the guidelines are in place or have been received and when the parties have agreed that the reprocessing and plutonium storage are an integral part of the described nuclear energy programme ; where it is proposed to carry out reprocessing or storage of plutonium when these conditions are not met, the operation should take place only when the parties have so agreed after consultation, which should take place promptly to consider any such proposal ;
 - (h) the reprocessing and plutonium storage envisaged should only take place so long as the commitment of the party in question to non-proliferation does not change and so long as the commitment to periodic and timely consultations referred to in guideline (f) is honoured.
3. I note that Canada and the Community have agreed that the objectives of the above guidelines have been met.

In particular I note that Canada and the Community and its Member States, to the extent of their respective competences, have made an effective commitment to non-proliferation and have submitted all relevant material to IAEA safeguards, and to adequate physical protection measures, in paragraphs (c) and (g) of the exchange of letters completed by the letters from Member States' foreign ministers to Canadian ambassadors on physical protection. I also note that the Community has provided Canada with the description of the current and planned nuclear energy programmes of the Community and of its Member States and that the notification and material reporting procedures have been settled.

4. Finally I note that these arrangements take into account *inter alia* the results of INFCE's studies in relation to the operations in question, as envisaged in paragraph 5 of Annex C to the exchange of letters. I note that the parties, in particular, acknowledge that the separation, storage, transportation and use of plutonium require particular measures to reduce the risk of nuclear proliferation; are determined to continue to support the development of international safeguards and other non-proliferation measures relevant to reprocessing and plutonium, including an effective and generally accepted international plutonium storage scheme; recognize the role of reprocessing in connection with the maximum use of available resources and the management of materials contained in spent fuel or other peaceful non-explosive uses, including research, in particular in the context of significant nuclear energy programmes; and desire the predictable and practical implementation of paragraph (e) of the exchange of letters taking into account both their determination to ensure the furtherance of the objective of non-proliferation and the long-term needs of the nuclear energy programmes of the parties.
5. I have the honour to inform the Commission that pursuant to the above, in accordance with paragraph (e) of the exchange of letters, the Government of Canada agrees that material subject to the Agreement may be reprocessed and plutonium stored within the framework of the current and planned nuclear energy programmes as described and up-dated from time to time by the Community and its Member States.
6. I have the honour to inform the Commission that the Agreement given by the Government of Canada in paragraph 5 will remain in force as long as the following conditions are met:
 - (i) that the Community maintain its commitment to non-proliferation with respect to guideline (a) which is set out in paragraph (c) of the exchange of letters, and
 - (ii) that the Community continue to consult with the Government of Canada, as provided for by the Agreement with a view to up-dating the described nuclear energy programmes and informing the Government of Canada of any significant changes.
7. Paragraph (e) of the exchange of letters provides that material subject to the Agreement shall be enriched beyond 20 % and that uranium enriched beyond 20 % shall be stored only according to conditions agreed upon in writing between the parties. I have the honour to propose that the parties agree to consult within 40 days of the receipt of a request from either party to consider proposals for conditions to be agreed upon in writing according to which material subject to the Agreement may be enriched beyond 20 % or uranium enriched beyond 20 % may be stored.
8. I have the honour to confirm that the documents containing the descriptions of current and planned nuclear energy programmes of the Community and its Member States shall remain confidential to the Contracting Parties.
9. If the foregoing is acceptable to the European Atomic Energy Community, I have the honour to propose that this letter, which is authentic in both English and French, together with Your Excellency's reply to that effect shall constitute the Agreement required by paragraph (e) of the exchange of letters, and replace both Annex C thereto and the 23 December 1980 exchange of letters. This Agreement shall take effect as of the date of Your Excellency's reply to this letter.

Please accept, Sir, the assurance of my highest consideration.

Brussels, 18 December 1981

B. Letter from the Community

Your Excellency,

I have the honour to acknowledge receipt of your letter of today's date which reads as follows :

1. I have the honour to refer to the 16 January 1978 exchange of letters between the Government of Canada and the European Atomic Energy Community (Euratom) (hereinafter referred to as the exchange of letters) amending the Agreement between the Government of Canada and the European Atomic Energy Community for cooperation in the peaceful uses of atomic energy of 6 October 1959 (hereinafter referred to as the Agreement) particularly in so far as it relates to safeguards (followed by an additional exchange of letters). I specifically refer to paragraph (e) of the exchange of letters which states that :

"Material referred to in paragraph (c) shall be enriched beyond 20 % or reprocessed and plutonium or uranium enriched beyond 20 % shall be stored only according to conditions agreed upon in writing between the parties (see Annex C : Interim Arrangement concerning enrichment, reprocessing and subsequent storage of nuclear material within the Community and Canada)."

Paragraph 5 of Annex C states that the parties would commence negotiations as soon as possible after 31 December 1979, or the termination of the INFCE study, whichever was earlier, with a view to replacing the Interim Arrangement by other arrangements that would take into account *inter alia* any results of the INFCE studies in relation to the operations in question.

2. These negotiations have now been completed and I have the honour to propose that the guidelines set forth below should cover reprocessing and plutonium storage and use :
 - (a) an effective commitment to non-proliferation should have been made and should continue to be maintained by the party envisaging reprocessing and plutonium storage and use ;
 - (b) all nuclear material subject to a peaceful uses commitment in facilities involved in reprocessing and the storage and use of plutonium should be subject to IAEA safeguards ;
 - (c) all nuclear material subject to a peaceful uses commitment in facilities involved in reprocessing and the subsequent storage and use activities, including related transport, should be subject to adequate physical protection measures ;
 - (d) mutually satisfactory notification and material reporting procedures should be in place between the parties ;

Mr Richard Tait,
Ambassador Extraordinary and Plenipotentiary,
Head of the Canadian Mission to the European Communities

- (e) a description of the current and planned nuclear energy programme including in particular a detailed description of the policy, legal and regulatory elements relevant to reprocessing and plutonium storage and use should be provided by the party envisaging such activities ;
 - (f) the parties should agree to periodic and timely consultations at which *inter alia* the information provided under guideline (e) above would be updated and significant changes in the nuclear energy programme would receive the fullest possible consideration ;
 - (g) the reprocessing and plutonium storage should only take place when the information provided on the nuclear energy programme of the party in question has been received, when the undertakings, arrangements and other information called for by the guidelines are in place or have been received and when the parties have agreed that reprocessing and plutonium storage are an integral part of the described nuclear energy programme ; where it is proposed to carry out reprocessing or storage of plutonium when these conditions are not met, the operation should take place only when the parties have so agreed after consultation, which should take place promptly to consider any such proposal ;
 - (h) the reprocessing and plutonium storage envisaged should only take place so long as the commitment of the party in question to non-proliferation does not change and so long as the commitment to periodic and timely consultations referred to in guideline (f) is honoured.
3. I note that Canada and the Community have agreed that the objectives of the above guidelines have been met.

In particular I note that Canada and the Community and its Member States, to the extent of their respective competences, have made an effective commitment to non-proliferation and have submitted all relevant material to IAEA safeguards, and to adequate physical protection measures in paragraphs (c) and (g) of the exchange of letters completed by the letters from Member States' foreign ministers to Canadian ambassadors on physical protection. I also note that the Community has provided Canada with the description of the current and planned nuclear energy programmes of the Community and of its Member States and that the notification and material reporting procedures have been settled.

4. Finally I note that these arrangements take into account *inter alia* the results of INFCE's studies in relation to the operations in question as, envisaged in paragraph 5 of Annex C to the exchange of letters. I note that the parties, in particular acknowledge that the separation, storage transportation and use of plutonium require particular measures to reduce the risk of nuclear proliferation ; are determined to continue to support the development of international safeguards and other non-proliferation measures relevant to reprocessing and plutonium including an effective and generally accepted international plutonium storage scheme ; recognize the role of reprocessing in connection with the maximum use of available resources and the management of materials contained in spent fuel or other peaceful non-explosive uses, including research, in particular in the context of significant nuclear energy programmes ; and desire the predictable and practical implementation of paragraph (e) of the exchange of letters taking into account both their determination to ensure the furtherance of the objective of non-proliferation and the long-term needs of the nuclear energy programmes of the parties.

5. I have the honour to inform the Commission that pursuant to the above, in accordance with paragraph (e) of the exchange of letters, the Government of Canada agrees that material subject to the Agreement may be reprocessed and plutonium stored within the framework of the current and planned nuclear energy programmes as described and up-dated from time-to-time by the Community and its Member States.
6. I have the honour to inform the Commission that the agreement given by the Government of Canada in paragraph 5 will remain in force as long as the following conditions are met:
 - (i) that the Community maintain its commitment to non-proliferation with respect to guideline (a) which is set out in paragraph (c) of the exchange of letters, and
 - (ii) that the Community continue to consult with the Government of Canada, as provided for by the Agreement, with a view to up-dating the described nuclear energy programmes and informing the Government of Canada of any significant changes.
7. Paragraph (e) of the exchange of letters provides that material subject to the Agreement shall be enriched beyond 20 % and that uranium enriched beyond 20 % shall be stored only according to conditions agreed upon in writing between the parties. I have the honour to propose that the parties agree to consult within 40 days of the receipt of a request from either party to consider proposals for conditions to be agreed upon in writing according to which material subject to the Agreement may be enriched beyond 20 % or uranium enriched beyond 20 % may be stored.
8. I have the honour to confirm that the documents containing the descriptions of current and planned nuclear energy programmes of the Community and its Member States shall remain confidential to the Contracting Parties.
9. If the foregoing is acceptable to the European Atomic Energy Community, I have the honour to propose that this letter, which is authentic in both English and French, together with Your Excellency's reply to that effect shall constitute the agreement required by paragraph (e) of the exchange of letters and replace both Annex C thereto and the 23 December 1980 exchange of letters. This Agreement shall take effect as of the date of Your Excellency's reply to this letter.'

I have further the honour to inform Your Excellency that the European Atomic Energy Community takes note of the guidelines set forth by the Canadian Government in Your Excellency's letter and accepts that they should cover the reprocessing of material subject to the Agreement and the storage of plutonium so obtained and agrees that Your Excellency's letter and this reply shall constitute the agreement required by paragraph (e) of the exchange of letters and replace both Annex C thereto and the 23 December 1980 exchange of letters.

Please accept, Your Excellency, the assurance of my highest consideration.

AUSTRALIA/EURATOM

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II

(Acts whose publication is not obligatory)

COMMISSION

AGREEMENT

between the Government of Australia and the European Atomic Energy Community concerning transfers of nuclear material from Australia to the European Atomic Energy Community

(82/672/Euratom)

THE GOVERNMENT OF AUSTRALIA

AND THE EUROPEAN ATOMIC ENERGY COMMUNITY,

DETERMINED to ensure that the international development and use of nuclear energy for peaceful purposes are carried out under arrangements which will further the objective of the non-proliferation of nuclear weapons;

MINDFUL that Australia and the following Member States of the Community, Belgium, Denmark, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands and the United Kingdom of Great Britain and Northern Ireland are Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, done at London, Moscow and Washington on 1 July 1968 (hereinafter referred to as 'the Treaty');

MINDFUL also that Member States of the Community have concluded with Australia bilateral nuclear cooperation agreements and that the provisions of this Agreement shall, when in force, be regarded as complementary to the provisions of any such bilateral agreements in force and shall, where appropriate, supersede the provisions of those agreements;

RECOGNIZING that Australia, as a non-nuclear weapon State, has, under the Treaty, undertaken not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices and that it has concluded an agreement with the International Atomic Energy Agency (hereinafter referred to as 'the Agency') for the application of safeguards in connection with the Treaty;

RECOGNIZING that the Community, pursuant to Article 2 (e) of the Euratom Treaty, must ensure by appropriate supervision that nuclear materials are not diverted to purposes other than those for which they are intended and that, to this end, safeguards will be applied in accordance with Chapter VII of the Euratom Treaty;

RECOGNIZING further that the Community and the Member States of the Community have entered into agreements with the Agency for the application of safeguards within the Community;

DESIRING to establish conditions consistent with their determination to ensure the furtherance of the objective of non-proliferation under which nuclear material can be transferred from Australia to the Community for peaceful purposes,

HAVE AGREED AS FOLLOWS:

Article I

For the purpose of this Agreement:

- (a) 'appropriate authority' means, in the case of Australia, the Australian Safeguards Office, and, in the case of the Community, the Commission of the European Communities, or such other authority as the Party concerned may from time to time notify the other Party;
- (b) 'military purpose' means direct military applications of nuclear energy such as nuclear weapons, military nuclear propulsion, military nuclear rocket engines or military nuclear reactors but does not include indirect uses such as power for a military base drawn from a civil power network, or production of radioisotopes to be used for diagnosis in a military hospital;
- (c) 'nuclear material' means any 'source material' or 'special fissionable material' as those terms are defined in Article XX of the Statute of the Agency. Any determination by the Board of Governors of the Agency under Article XX of the Agency's Statute which amends the list of materials considered to be 'source material' or 'special fissionable material' shall only have effect under this Agreement when both Parties to this Agreement have informed each other in writing that they accept such amendment;
- (d) 'Parties' means Australia and the Community;
- (e) 'Community' means both:
 - (i) the legal person created by the Treaty establishing the European Atomic Energy Community (Euratom), Party to this Agreement;
 - (ii) the territories to which the Euratom Treaty applies;
- (f) 'within the Community' means within the territories to which the Euratom Treaty applies;
- (g) 'beyond the Community' has the corresponding meaning;
- (h) 'peaceful purposes' means all uses other than use for a military purpose.

Article II

1. This Agreement shall apply to:

- (a) nuclear material transferred from Australia to the Community for peaceful purposes whether directly or through a third country, provided that Australia has so informed the Community in writing prior to, or at the time of, the transfer of such nuclear material. Notwithstanding the abovementioned requirement for notification, all the provisions of this Article shall apply to nuclear material which has been transferred between Australia and Member States of the Community pursuant to bilateral agreements and which is notified to the Community at the time this Agreement comes into force;
- (b) all forms of nuclear material prepared by chemical or physical processes or isotopic separation provided that the quantity of nuclear material so prepared shall only be regarded as falling within the scope of this Agreement in the same proportion as the quantity of nuclear material used in its preparation, and which is subject to this Agreement, bears to the total quantity of nuclear material so used;
- (c) all generations of nuclear material produced by neutron irradiation provided that the quantity of nuclear material so produced shall only be regarded as falling within the scope of the Agreement in the same proportion as the quantity of nuclear material which is subject to this Agreement and which, used in its production, contributes to this production;
- (d) if so provided for in a bilateral agreement between Australia and a Member State, nuclear material produced, processed or used in equipment which that Member State or Australia in consultation with that Member State has designated to the Community as equipment of Australian origin or as equipment derived from equipment or technology of Australian origin, and which is within the jurisdiction of that Member State at the time of designation and use.

2. The items referred to in paragraph 1 of this Article shall be transferred pursuant to this Agreement only to

a natural or legal person duly authorized to receive those items.

Article III

1. Nuclear material referred to in Article II of this Agreement shall remain subject to the provisions of this Agreement until it is determined that it is no longer usable, or that it is practicably irrecoverable for processing into a form in which it is usable for any nuclear activity relevant from the point of view of safeguards or until it has been transferred beyond the Community in accordance with the provisions of Article IX of this Agreement.

2. For the purpose of determining when nuclear material subject to this Agreement is no longer usable or is no longer practicably recoverable for processing into a form in which it is usable for any nuclear activity relevant from the point of view of safeguards, both Parties shall accept a determination made by the Agency in accordance with the provisions for the termination of safeguards of the relevant safeguards agreement to which the Agency is a party and which is referred to in Articles V and VI of this Agreement.

Article IV

Nuclear material subject to this Agreement shall not be used for, or diverted to, the manufacture of nuclear weapons or other nuclear explosive devices, research on or development of nuclear weapons or other nuclear explosive devices, or be used for any military purpose.

Article V

1. Compliance with Article IV of this Agreement shall be ensured by a system of safeguards applied by the Community and the Agency pursuant to the Euratom Treaty and to the following safeguards agreements:

- (a) the agreement concluded in accordance with Article III of the Treaty on 5 April 1973 between Belgium, Denmark, the Federal Republic of Germany, Ireland, Italy, Luxembourg, the Netherlands, the Community and the Agency;
- (b) the agreement concluded in connection with the Treaty on 6 September 1976 between the United Kingdom, the Community and the Agency;
- (c) the agreement concluded on 27 July 1978 between France, the Community and the Agency.

2. Without prejudice to Articles VI and VII of this Agreement, nuclear material subject to this Agreement shall be subject at all times to an agreement referred to in subparagraphs (a), (b) or (c) of paragraph 1 of this Article or to another agreement concluded in accordance with Article III of the Treaty.

Article VI

If, notwithstanding the provisions of Article V of this Agreement, nuclear material subject to this Agreement is present within the Community or any part thereof and the Agency has ceased to administer safeguards within the Community or such part thereof under the relevant safeguards agreement referred to in Article V of this Agreement, safeguards shall be applied under an agreement to which the Community and the Agency are parties and which provides safeguards equivalent in scope and effect to those provided by the relevant safeguards agreement referred to in Article V of this Agreement.

Article VII

If, notwithstanding the provisions of Articles V and VI of this Agreement, nuclear material subject to this Agreement is present within the Community or any part thereof and the Agency has ceased to administer safeguards within the Community or such part thereof pursuant to a safeguards agreement or agreements referred to in Articles V and VI of this Agreement, Australia and the Community shall forthwith enter into an agreement for the application of a safeguards system in the Community or the relevant part thereof which conforms with the safeguards principles and procedures of the Agency and which provides for safeguards equivalent in scope and effect to the Agency safeguards it replaces. The Parties shall consult and assist each other in the application of such a safeguards system.

Article VIII

1. Nuclear material subject to this Agreement shall be subject at all times to adequate levels of physical protection which shall satisfy as a minimum the criteria set out in Annex B to Agency document INFCIRC/254.

2. Measures of physical protection shall be applied by the Member States. The Member States, in applying physical protection measures, will be guided by recommendations of international expert groups and especially by Agency document INFCIRC/225 Rev. 1.

3. To take into account generally accepted developments in the field of physical protection, the provisions of Article XVIII shall apply.

Article IX

Nuclear material subject to this Agreement transferred to the Community shall not be transferred beyond the Community to any other country without the prior written consent of Australia.

Article X

Nuclear material subject to this Agreement shall only be enriched beyond 20 % in the isotope uranium 235 according to conditions agreed upon in writing between the Parties, as set out in Annex B.

Article XI

Nuclear material subject to this Agreement shall only be reprocessed according to conditions agreed upon in writing between the Parties, as set out in Annex C.

Article XII

1. In applying Articles IX, X and XI of this Agreement, Australia will take into account non-proliferation considerations and nuclear energy requirements of the Community. Australia shall not withhold its consent or agreement for the purpose of securing commercial advantage. Australia shall not unduly delay the making of any decision and shall also without undue delay inform the Community of any such decision.

2. If Australia considers that it is unable to grant consent to a matter referred to in Article IX of this Agreement, it shall provide the Community with an immediate opportunity for full consultation on that issue.

Article XIII

1. The appropriate authorities of both Parties shall consult at any time at the request of either Party to ensure the effective implementation of this Agreement. The Parties may jointly invite the Agency to participate in such consultations.

2. If nuclear material subject to this Agreement is present within the Community or any part thereof, the Community shall, upon the request of Australia, provide Australia in writing with the overall conclusions which the Agency has drawn from its verification activities, under the relevant safeguards agreement, in so far as they relate to nuclear material subject to this Agreement.

3. The appropriate authorities of both Parties shall establish an administrative arrangement to ensure the effective fulfilment of the obligations of this Agreement. An administrative arrangement established pursuant to this paragraph may be changed with the agreement of the appropriate authorities of both Parties.

Article XIV

The Parties shall take all appropriate precautions to preserve the confidentiality of commercial and industrial secrets and other confidential information received as a result of the operation of this Agreement.

Article XV

In the event of non-compliance by the Community or by any of its Member States with any of the provisions of Articles IV to XI inclusive, or of Articles XIII or XVI of this Agreement, or of non-compliance with, or repudiation of, Agency safeguards agreements by the Community or by any of its Member States, Australia shall have the right, subject to prior notification, to suspend or cancel further transfers of nuclear material and to require the Community and the relevant Member State or States to take corrective steps. If, following consultation between the Parties, such corrective steps are not taken within a reasonable time, Australia shall thereupon have the right to require the return of nuclear material subject to this Agreement. In the event of detonation of a nuclear explosive device by a non-nuclear-weapon State member of the Community, the aforementioned provisions would apply.

Article XVI

Any dispute arising out of the interpretation or application of this Agreement which is not settled by negotiation shall, at the request of either Party, be submitted to an arbitral tribunal which shall be composed of three arbitrators appointed in accordance with the provisions of this Article. Each Party shall designate one arbitrator who may be in the case of

Australia its national and in the case of the Community a national of one of its Member States, and the two arbitrators so designated shall elect a third, who shall not be a national of Australia or of a Member State of the Community and who shall be the chairman. If, within 30 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 or the Secretary-General of the United Nations to appoint an arbitrator. In case of conflicting requests by the Parties to the dispute, the request to the Secretary-General of the United Nations shall have priority. The same procedure shall apply if, within 30 days of the designation or appointment of the second arbitrator, the third arbitrator has not been elected. A majority of the members of the tribunal shall constitute a quorum. All decisions shall be made by majority vote of all the members of the arbitral tribunal. 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 and shall be implemented by them.

Article XVII

The provisions of this Agreement shall be regarded as complementary to the provisions of any bilateral nuclear cooperation agreements in force between Australia and Member States of the Community and shall, where appropriate, supersede the provisions of those agreements.

Article XVIII

1. The Parties may consult, at the request of either Party, on possible amendments to this Agreement,

particularly to take account of international developments in the field of nuclear safeguards.

2. This Agreement may be amended or revised if the Parties so agree.

3. Any amendment shall enter into force on the date the Parties, by exchange of diplomatic notes, specify for its entry into force.

Article XIX

The Annexes form an integral part of this Agreement, and unless expressly provided otherwise, a reference to this Agreement includes its Annexes.

Article XX

1. This Agreement shall enter into force on the date the Parties, by an exchange of diplomatic notes, specify for its entry into force and shall remain in force for an initial period of 30 years. This term may be extended for such additional periods as may be agreed between the Parties.

2. Notwithstanding the suspension, termination or expiration of this Agreement or any cooperation hereunder for any reason, the obligations in Articles III, IV, V, VI, VII, VIII, IX, X, XI, XII, XIII and XIV shall continue in effect so long as any nuclear material subject to these Articles remains in the Community or under its jurisdiction or control anywhere or until it is determined in accordance with the provisions of Article III that such nuclear material is no longer usable, or is practicably irrecoverable for processing into a form in which it is usable, for any nuclear activity relevant from the point of view of safeguards.

In witness whereof the undersigned, being duly authorized thereto by the Government of Australia and the European Atomic Energy Community respectively, have signed this Agreement.

Done in duplicate at Brussels this twenty-first day of September in the year one thousand nine hundred and eighty-one, in the Danish, Dutch, English, French, German, Greek and Italian languages, each text being equally authentic.

*For the European
Atomic Energy Community*

W. HAFERKAMP

*For the Government
of Australia*

R. FERNANDEZ

ANNEX A**Assurances from the Community**

1. During the course of the negotiations between Australia and the European Atomic Energy Community, the Community side advised that it would be able to enter into an agreement with Australia concerning transfers of nuclear material from Australia to the Community. The Australian side acknowledged that an agreement of this scope between Australia and the European Atomic Energy Community would cover a significant area of the nuclear transfers likely to take place between Australia and the Community over the period of the duration of the Agreement.
2. Both sides recognized that there remained other areas of likely nuclear transfers between Australia and Member States and that in such circumstances supplementary arrangements would be required between Australia and the relevant Member State or States. In this connection both sides noted that two bilateral agreements between Australia and the United Kingdom and Australia and France have been concluded.
3. Both sides noted that the Member States, being prepared to confirm their willingness to enter into discussions if and when appropriate, about such arrangements, have submitted declarations to this effect.
4. The Community confirms there is no obstacle to the conclusion of such arrangements between Australia and any Member State of the Community wishing to conclude them, provided that any agreements or contracts are consistent with the Treaty establishing the European Atomic Energy Community.

ANNEX B**Procedure for consultations on conditions for high enrichment**

Whereas Article X of the Agreement provides that nuclear material subject to the Agreement shall only be enriched beyond 20% in the isotope uranium 235 according to conditions agreed upon in writing between the Parties.

The Parties to the Agreement,

declare that they shall not at present enrich nuclear material subject to the Agreement beyond 20 % in the isotope uranium 235; and

agree to consult within 40 days of the receipt of a request from either Party to consider proposals for conditions to be agreed upon in writing according to which nuclear material subject to the Agreement may be enriched beyond 20 % in the isotope uranium 235.

ANNEX C**Reprocessing**

Whereas Article XI of the Agreement provides that nuclear material subject to the Agreement (hereinafter referred to as NMSA) shall be reprocessed only according to conditions agreed upon in writing between the Parties.

The Parties to the Agreement,

acknowledging that the separation, storage, transportation and use of plutonium require particular measures to reduce the risk of nuclear proliferation;

recognizing the role of reprocessing in connection with efficient energy use, management of materials contained in spent fuel or other peaceful non-explosive uses including research;

desiring predictable and practical implementation of the agreed conditions set out in this Annex, taking into account both their determination to ensure the furtherance of the objective of non-proliferation and the long-term needs of the nuclear fuel cycle programmes of the recipient Party;

determined to continue to support the development of international safeguards and other measures relevant to reprocessing and plutonium, including an effective and generally accepted international plutonium storage scheme,

Have agreed as follows:

Article 1

NMSA may be reprocessed subject to the following conditions:

- (a) reprocessing shall take place under Agency safeguards for the purpose of energy use or management of materials contained in spent fuel, in accordance with the nuclear fuel cycle programme as delineated and recorded in the Implementing Arrangement;
- (b) the separated plutonium shall be stored and used under Agency safeguards in accordance with the nuclear fuel cycle programme as delineated and recorded in the Implementing Arrangement;
- (c) reprocessing and use of the separated plutonium for other peaceful non-explosive purposes including research shall take place only under conditions agreed upon in writing between the Parties following consultations under Article 2 of this Annex.

Article 2

Consultations shall be held within 40 days of the receipt of a request from either Party:

- (a) to review the operation of the provisions of this Annex;
- (b) to consider amendments to the Implementing Arrangement as provided therein;
- (c) to consider improvements in international safeguards and other control techniques including the establishment of new and generally accepted international mechanisms relevant to reprocessing and plutonium;
- (d) to consider amendments to this Annex proposed by either Party in particular to take account of the improvements referred to in paragraph (c) of this Article;
- (e) to consider proposals for reprocessing and use of the separated plutonium for other peaceful non-explosive purposes including research.

Article 3

The provisions of Article XIV of the Agreement shall apply to the information included in the Implementing Arrangement referred to in Article 1 above.

Article 4

This Annex may be amended in accordance with Article XVIII of the Agreement.

Letters sent to Australia from Euratom Member States which do not have bilateral agreements with Australia ⁽¹⁾

I have the honour to refer to the Agreement between the Government of Australia and the European Atomic Energy Community concerning transfers of nuclear material from Australia to the European Atomic Energy Community.

In the light of this Agreement and in particular Annex A thereto, my Government confirms that it would be prepared, if and when appropriate, to enter into discussions about arrangements concerning the transfer of non-nuclear material, equipment and technology between Australia and ⁽²⁾, and of nuclear material from ⁽²⁾ to Australia, consistent with non-proliferation and nuclear energy requirements of Australia and my Government.

Letters on physical protection sent to Australia from Euratom States which do not have bilateral agreements with Australia ⁽¹⁾

I have the honour to refer to the Agreement between the Government of Australia and the European Atomic Energy Community concerning transfers of nuclear material from Australia to the European Atomic Energy Community.

In addition to the obligations to Australia entered into under the Agreement, I have the honour to inform you that my Government confirms that nuclear material subject to the Agreement which is within the territory, jurisdiction or control of my Government shall be subject to the levels of physical protection referred to in Article VIII of the Agreement and to the measures applied by my Government to meet these levels.

My Government also confirms its willingness to consult as necessary on matters concerning levels of physical protection and general matters relating to physical protection.

⁽¹⁾ This letter was forwarded on 21 September 1981 by the Permanent Representatives to the European Communities of all the Member States, except for France and the United Kingdom, to the Australian Ambassador to the European Communities.

⁽²⁾ Name of the country.

Side letter No 1

A. Letter from Australia to the Community

Brussels, 21 September 1981

Sir,

I have the honour to refer to the Agreement between the Government of Australia and the European Atomic Energy Community concerning transfers of nuclear material from Australia to the European Atomic Energy Community signed today at Brussels.

1. The Australian Government considers this Agreement to be an important element in the establishment of a network of bilateral agreements between Australia and potential customer countries for Australian uranium, in accordance with the Australian Government's nuclear safeguards policy as announced by the Prime Minister on 24 May 1977. One of the requirements of that policy is that Australian origin nuclear material cannot be transferred to a non-nuclear weapon State that is not a party to the Treaty on the Non-Proliferation of Nuclear Weapons. Australia is seeking to conclude further agreements with other countries on the basis of the Government's nuclear safeguards policy.
2. In the application of Article XV of the Agreement, Australia will have due regard to the nature of the non-compliance or repudiation involved so as to avoid any disproportionate interference with supply.
3. In relation to Article XVIII of the Agreement, no amendment or revision of the Agreement shall be applicable to nuclear material subject to the Agreement supplied or to be supplied pursuant to contracts entered into before such amendment or revision, unless the Parties so agree.

I should be obliged if you would acknowledge receipt of this letter.

Please accept, Sir, the assurance of my highest consideration.

For the Government of Australia

R. FERNANDEZ

B. Letter in reply from the Community to Australia

Brussels, 21 September 1981

Your Excellency,

I have the honour to acknowledge receipt of your letter of today's date which reads as follows:

'I have the honour to refer to the Agreement between the Government of Australia and the European Atomic Energy Community concerning transfers of nuclear material from Australia to the European Atomic Energy Community signed today at Brussels.

1. The Australian Government considers this Agreement to be an important element in the establishment of a network of bilateral agreements between Australia and potential customer countries for Australian uranium, in accordance with the Australian Government's nuclear safeguards policy as announced by the Prime Minister on 24 May 1977. One of the requirements of that policy is that Australian origin nuclear material cannot be transferred to a non-nuclear weapon State that is not a party to the Treaty on the Non-Proliferation of Nuclear Weapons. Australia is seeking to conclude further agreements with other countries on the basis of the Government's nuclear safeguards policy.
2. In the application of Article XV of the Agreement, Australia will have due regard to the nature of the non-compliance or repudiation involved so as to avoid any disproportionate interference with supply.
3. In relation to Article XVIII of the Agreement, no amendment or revision of the Agreement shall be applicable to nuclear material subject to the Agreement supplied or to be supplied pursuant to contracts entered into before such amendment or revision, unless the Parties so agree.

I should be obliged if you would acknowledge receipt of this letter.'

I have the honour to inform you that the European Atomic Energy Community has taken note of the contents of your letter.

Please accept, Your Excellency, the assurance of my highest consideration.

*For the European Atomic
Energy Community*

W. HAFERKAMP

Side Letter No 2

A. Letter from Australia to the Community

Brussels, 21 September 1981

Sir,

I have the honour to refer to the Agreement between the Government of Australia and the European Atomic Energy Community concerning transfers of nuclear material from Australia to the European Atomic Energy Community signed today at Brussels.

1. In the negotiations between Australia and the European Atomic Energy Community on an agreement concerning transfers of nuclear material from Australia to the Community for peaceful purposes, both Parties discussed the arrangements that would apply, in accordance with the Agreement, to transfers to third countries for conversion, enrichment up to 20 %, fuel fabrication, reprocessing and storage of nuclear material subject to the Agreement (hereinafter referred to as 'NMSA').

2. The Community delegation described the different stages of the nuclear fuel cycles of Member States. In addition to using conversion, enrichment, fuel fabrication, reprocessing and storage facilities inside the Community, Member States also make use of such facilities outside the Community.
3. In the light of these discussions, the following conclusions were reached:
 - A.
 - (i) Transfers of NMSA between the Community and third countries, which have an agreement in force with Australia concerning nuclear transfers in relation to which agreement the Australian Government has not advised the Community that it has found it necessary to suspend, cancel or refrain from making nuclear transfers, can take place within the nuclear fuel cycle programme referred to in Annex C to the Agreement for conversion, enrichment up to 20 % in the isotope uranium 235, fuel fabrication, reprocessing or storage.
 - (ii) The Community shall promptly notify Australia, in accordance with the procedures set out in the Administrative Arrangement, of such transfers.
 - (i) Transfers of NMSA between the Community and third countries which do not have an agreement in force with Australia concerning nuclear transfers can take place within the nuclear fuel cycle programme referred to in Annex C to the Agreement for conversion, enrichment up to 20 % in the isotope uranium 235, and fuel fabrication.
 - (ii) In such cases it will be necessary to ensure the return to the Community, or to another country which has an agreement in force with Australia concerning nuclear transfers in relation to which agreement the Australian Government has not advised the Community that it has found it necessary to suspend, cancel or refrain from making nuclear transfers, of quantities of nuclear material equivalent to the supplied nuclear material.
 - (iii) The Community shall promptly notify Australia, in accordance with the procedures set out in the Administrative Arrangement, of such transfers.
 - C.
 - (i) Transfers of NMSA, other than those referred to in subparagraphs 3.A and B above, from the Community to third countries which have an agreement in force with Australia concerning nuclear transfers in relation to which agreement the Australian Government has not advised the Community that it has found it necessary to suspend, cancel or refrain from making nuclear transfers, can take place for conversion, enrichment up to 20 % in the isotope uranium 235, fuel fabrication, and reprocessing or for use, storage or final disposal.
 - (ii) The Community shall promptly notify Australia, in accordance with the procedures set out in the Administrative Arrangement, of such transfers.
 - (iii) Australia shall provide the Community with, and keep up to date, the list of countries to which transfers may be made in accordance with subparagraph 3.C (i) above.
 - D. Transfers of NMSA enriched beyond 20 % in the isotopes uranium 233 and uranium 235 and plutonium from the Community to third countries can take place only in accordance with conditions agreed upon in writing between the Parties.

I propose that, if the foregoing is acceptable to the European Atomic Energy Community, this letter with your reply shall constitute an Agreement between the Government of Australia and the European Atomic Energy Community which shall enter into force on the date that the Agreement between the Government of Australia and the European Atomic Energy Community concerning transfers of nuclear material from Australia to the European

Atomic Energy Community enters into force and shall remain in force for as long as that Agreement remains in force.

Please accept, Sir, the assurance of my highest consideration.

For the Government of Australia

R. FERNANDEZ

B. Letter in reply from the Community to Australia

Brussels, 21 September 1981

Your Excellency,

I have the honour to acknowledge receipt of your letter of today's date which reads as follows:

'I have the honour to refer to the Agreement between the Government of Australia and the European Atomic Energy Community concerning transfers of nuclear material from Australia to the European Atomic Energy Community signed today at Brussels.

1. In the negotiations between Australia and the European Atomic Energy Community on an agreement concerning transfers of nuclear material from Australia to the Community for peaceful purposes, both Parties discussed the arrangements that would apply, in accordance with the Agreement, to transfers to third countries for conversion, enrichment up to 20 %, fuel fabrication, reprocessing and storage of nuclear material subject to the Agreement (hereinafter referred to as 'NMSA').
2. The Community delegation described the different stages of the nuclear fuel cycles of Member States. In addition to using conversion, enrichment, fuel fabrication, reprocessing and storage facilities inside the Community, Member States also make use of such facilities outside the Community.
3. In the light of these discussions, the following conclusions were reached:
 - A. (i) Transfers of NMSA between the Community and third countries, which have an agreement in force with Australia concerning nuclear transfers in relation to which agreement the Australian Government has not advised the Community that it has found it necessary to suspend, cancel or refrain from making nuclear transfers, can take place within the nuclear fuel cycle programme referred to in Annex C to the Agreement for conversion, enrichment up to 20 % in the isotope uranium 235, fuel fabrication, reprocessing or storage.
 - (ii) The Community shall promptly notify Australia, in accordance with the procedures set out in the Administrative Arrangement, of such transfers.
- B. (i) Transfers of NMSA between the Community and third countries which do not have an agreement in force with Australia concerning nuclear transfers can take place within the nuclear fuel cycle programme referred to in Annex C to the Agreement for conversion, enrichment up to 20 % in the isotope uranium 235, and fuel fabrication.

- (ii) In such cases it will be necessary to ensure the return to the Community, or to another country which has an agreement in force with Australia concerning nuclear transfers in relation to which agreement the Australian Government has not advised the Community that it has found it necessary to suspend, cancel or refrain from making nuclear transfers, of quantities of nuclear material equivalent to the supplied nuclear material.
 - (iii) The Community shall promptly notify Australia, in accordance with the procedures set out in the Administrative Arrangement, of such transfers.
- C. (i) Transfers of NMSA, other than those referred to in subparagraphs 3.A and B above, from the Community to third countries which have an agreement in force with Australia concerning nuclear transfers in relation to which agreement the Australian Government has not advised the Community that it has found it necessary to suspend, cancel or refrain from making nuclear transfers, can take place for conversion, enrichment up to 20 % in the isotope uranium 235, fuel fabrication, and reprocessing or for use, storage or final disposal.
- (ii) The Community shall promptly notify Australia, in accordance with the procedures set out in the Administrative Arrangement, of such transfers.
 - (iii) Australia shall provide the Community with, and keep up to date, the list of countries to which transfers may be made in accordance with subparagraph 3.C (i) above.
- D. Transfers of NMSA enriched beyond 20 % in the isotopes uranium 233 and uranium 235 and plutonium from the Community to third countries can take place only in accordance with conditions agreed upon in writing between the Parties.

I propose that, if the foregoing is acceptable to the European Atomic Energy Community, this letter with your reply shall constitute an Agreement between the Government of Australia and the European Atomic Energy Community which shall enter into force on the date that the Agreement between the Government of Australia and the European Atomic Energy Community concerning transfers of nuclear material from Australia to the European Atomic Energy Community enters into force and shall remain in force for as long as that Agreement remains in force.'

I have the honour to confirm the conclusions recorded in your letter about the interpretation and application of the Agreement and to advise that the European Atomic Energy Community therefore agrees that your letter with the present reply shall constitute an Agreement between the Australian Government and the European Atomic Energy Community which shall enter into force on the date that the Agreement between the Government of Australia and the European Atomic Energy Community concerning transfers of nuclear material from Australia to the European Atomic Energy Community enters into force and shall remain in force for as long as that Agreement remains in force.

Please accept, Your Excellency, the assurance of my highest consideration.

*For the European Atomic
Energy Community*

W. HAFERKAMP
