

No. 32026

**INTERNATIONAL ATOMIC
ENERGY AGENCY
and
UKRAINE**

**Agreement for the application of safeguards to all nuclear
material in all peaceful nuclear activities of Ukraine.
Signed at Vienna on 28 September 1994**

Authentic texts: English and Ukrainian.

Registered by the International Atomic Energy Agency on 3 July 1995.

**AGENCE INTERNATIONALE
DE L'ÉNERGIE ATOMIQUE
et
UKRAINE**

**Accord relatif à l'application de garanties à toutes les ma-
tières nucléaires dans toutes les activités nucléaires paci-
fiques de l'Ukraine. Signé à Vienne le 28 septembre 1994**

Textes authentiques : anglais et ukrainien.

*Enregistré par l'Agence internationale de l'énergie atomique le 3 juillet
1995.*

AGREEMENT¹ BETWEEN UKRAINE AND THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR THE APPLICATION OF SAFEGUARDS TO ALL NUCLEAR MATERIAL IN ALL PEACEFUL NUCLEAR ACTIVITIES OF UKRAINE

WHEREAS Ukraine wishes to conclude a safeguards agreement with the International Atomic Energy Agency (hereinafter referred to as the "Agency") for the application by the Agency of safeguards to all nuclear material in all peaceful nuclear activities of Ukraine;

WHEREAS the Agency is authorized, pursuant to Article III of its Statute,² to conclude such agreements;

NOW THEREFORE Ukraine and the Agency have agreed as follows:

P A R T I

BASIC UNDERTAKING

A r t i c l e 1

Ukraine undertakes to use the nuclear material and facilities under its jurisdiction or control exclusively for peaceful purposes and to accept safeguards, in accordance with the terms of this Agreement, on all nuclear material in all peaceful nuclear activities within its territory, under its jurisdiction or carried out under its control anywhere, for the exclusive purpose of verifying that such material is not diverted to nuclear weapons or other nuclear explosive devices.

APPLICATION OF SAFEGUARDS

A r t i c l e 2

The Agency shall have the right and the obligation to ensure that safeguards will be applied, in accordance with the terms of this Agreement, on all nuclear material in all peaceful nuclear activities within the territory of Ukraine, under its jurisdiction or carried out under its control anywhere, for the exclusive purpose of verifying that such material is not diverted to nuclear weapons or other nuclear explosive devices.

¹ Came into force on 13 January 1995, the date on which the Agency received written notification from Ukraine that its statutory and constitutional requirements had been met, in accordance with article 24.

² United Nations, *Treaty Series*, vol. 276, p. 3. For the texts amending the Statute, see vol. 471, p. 334 and vol. 1082, p. 290.

CO-OPERATION BETWEEN UKRAINE AND THE AGENCY

Article 3

Ukraine and the Agency shall co-operate to facilitate the implementation of the safeguards provided for in this Agreement.

IMPLEMENTATION OF SAFEGUARDS

Article 4

The safeguards provided for in this Agreement shall be implemented in a manner designed:

- (a) to avoid hampering the economic and technological development of Ukraine or international co-operation in the field of peaceful nuclear activities, including international exchange of nuclear material;
- (b) to avoid undue interference in Ukraine's peaceful nuclear activities, and in particular in the operation of facilities; and
- (c) to be consistent with prudent management practices required for the economic and safe conduct of nuclear activities.

Article 5

- (a) The Agency shall take every precaution to protect commercial and industrial secrets and other confidential information coming to its knowledge in the implementation of this Agreement.
- (b)
 - (i) The Agency shall not publish or communicate to any State, organization or person any information obtained by it in connection with the implementation of this Agreement, except that specific information relating to the implementation thereof may be given to the Board of Governors of the Agency (hereinafter referred to as "the Board") and to such Agency staff members as require such knowledge by reason of their official duties in connection with safeguards, but only to the extent necessary for the Agency to fulfil its responsibilities in implementing this Agreement.
 - (ii) Summarized information on nuclear material subject to safeguards under this Agreement may be published upon decision of the Board if the States directly concerned agree thereto.

Article 6

- (a) The Agency shall, in implementing safeguards pursuant to this Agreement, take full account of technological developments in the field of safeguards, and shall make every effort to ensure optimum cost-effectiveness and the application of the principle of safeguarding effectively the flow of nuclear material subject to safeguards under this Agreement by use of instruments and other techniques at certain strategic points to the extent that present or future technology permits.

- (b) In order to ensure optimum cost-effectiveness, use shall be made, for example, of such means as:
 - (i) containment as a means of defining material balance areas for accounting purposes;
 - (ii) statistical techniques and random sampling in evaluating the flow of nuclear material; and
 - (iii) concentration of verification procedures on those stages in the nuclear fuel cycle involving the production, processing, use or storage of nuclear material from which nuclear weapons or other nuclear explosive devices could readily be made, and minimization of verification procedures in respect of other nuclear material, on condition that this does not hamper the Agency in applying safeguards under this Agreement.

NATIONAL SYSTEM OF MATERIALS CONTROL

Article 7

- (a) Ukraine shall establish and maintain a system of accounting for and control of all nuclear material subject to safeguards under this Agreement.
- (b) The Agency shall apply safeguards in such a manner as to enable it to verify, in ascertaining that there has been no diversion of nuclear material from peaceful uses to nuclear weapons or other nuclear explosive devices, findings of Ukraine's system. The Agency's verification shall include, inter alia, independent measurements and observations conducted by the Agency in accordance with the procedures specified in Part II of this Agreement. The Agency, in its verification, shall take due account of the technical effectiveness of Ukraine's system.

PROVISION OF INFORMATION TO THE AGENCY

Article 8

- (a) In order to ensure the effective implementation of safeguards under this Agreement, Ukraine shall, in accordance with the provisions set out in Part II of this Agreement, provide the Agency with information concerning nuclear material subject to safeguards under this Agreement and the features of facilities relevant to safeguarding such material.
- (b)
 - (i) The Agency shall require only the minimum amount of information and data consistent with carrying out its responsibilities under this Agreement.
 - (ii) Information pertaining to facilities shall be the minimum necessary for safeguarding nuclear material subject to safeguards under this Agreement.
- (c) If Ukraine so requests, the Agency shall be prepared to examine on premises of Ukraine design information which Ukraine regards as being of particular sensitivity. Such information need not be physically transmitted to the Agency provided that it remains readily available for further examination by the Agency on premises of Ukraine.

AGENCY INSPECTORS

Article 9

- (a) (i) The Agency shall secure the consent of Ukraine to the designation of Agency inspectors to Ukraine.
- (ii) If Ukraine, either upon proposal of a designation or at any other time after a designation has been made, objects to the designation, the Agency shall propose to Ukraine an alternative designation or designations.
- (iii) If, as a result of the repeated refusal of Ukraine to accept the designation of Agency inspectors, inspections to be conducted under this Agreement would be impeded, such refusal shall be considered by the Board, upon referral by the Director General of the Agency (hereinafter referred to as "the Director General"), with a view to its taking appropriate action.
- (b) Ukraine shall take the necessary steps to ensure that Agency inspectors can effectively discharge their functions under this Agreement.
- (c) The visits and activities of Agency inspectors shall be so arranged as:
 - (i) to reduce to a minimum the possible inconvenience and disturbance to Ukraine and to the peaceful nuclear activities inspected; and
 - (ii) to ensure protection of industrial secrets or any other confidential information coming to the inspectors' knowledge.

PRIVILEGES AND IMMUNITIES

Article 10

Ukraine shall apply to the Agency (including its property, funds and assets) and to its inspectors and other officials, performing functions under this Agreement, the relevant provisions of the Agreement on the Privileges and Immunities of the International Atomic Energy Agency.¹

TERMINATION OF SAFEGUARDS

Article 11

Consumption or dilution of nuclear material

Safeguards shall terminate on nuclear material upon determination by the Agency that the material has been consumed, or has been diluted in such a way that it is no longer usable for any nuclear activity relevant from the point of view of safeguards, or has become practicably irrecoverable.

¹ United Nations, *Treaty Series*, vol. 374, p. 147.