

ATOMIC ENERGY

Application of Safeguards

**Agreement Between the
UNITED STATES OF AMERICA
and the INTERNATIONAL ATOMIC
ENERGY AGENCY
Amending Protocol to Agreement of
February 17, 1989**

Effected by Exchange of Letters at Vienna
December 12, 2016 and January 30, 2017



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“. . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

INTERNATIONAL ATOMIC ENERGY AGENCY

Atomic Energy: Application of Safeguards

*Agreement amending protocol to agreement of February 17, 1989;
Effectuated by exchange of letters at Vienna
December 12, 2016 and January 30, 2017;
Entered into force July 3, 2018.*



IAEA

Atoms for Peace

الوكالة الدولية للطاقة الذرية

国际原子能机构

International Atomic Energy Agency

Agence internationale de l'énergie atomique

Международное агентство по атомной энергии

Organismo Internacional de Energía Atómica

Vienna International Centre, PO Box 100, 1400 Vienna, Austria

Phone: (+43 1) 2600 • Fax: (+43 1) 26007

Email: Official.Mail@iaea.org • Internet: <http://www.iaea.org>

In reply please refer to: **M205-USA**

Dial directly to extension: (+43 1) 2600-21257

HE Ms Laura S.H. Holgate

Ambassador
Resident Representative of the United States
of America to the IAEA
Boltzmannngasse 16
1090 VIENNA
AUSTRIA

2016-12-12

Excellency,

I have the honour to refer to the Agreement between the United States of America (United States) and the International Atomic Energy Agency (IAEA) for the Application of Safeguards in Connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America, and to the Protocol thereto (hereinafter referred to as "the Small Quantities Protocol"), which entered into force on 6 April 1989, as well as to the decisions of the IAEA Board of Governors of 20 September 2005 related to such protocols.

In his report entitled "Strengthening Safeguards Implementation in States with Small Quantities Protocols" (GOV/2005/33, dated 13 May 2005), the IAEA Director General, Dr. Mohamed ElBaradei, drew attention to the IAEA's need to receive initial reports on nuclear material, to obtain information on planned or existing nuclear facilities, and to be able to perform inspection activities in the field, if required, for all States with comprehensive safeguards agreements. He explained that the small quantities protocols currently had the effect of holding such authority in abeyance.

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

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

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

I. (1) Until such time as

- (a) United States Protocol I territories have, in peaceful nuclear activities, nuclear material in quantities exceeding the limits stated, for the type of material in question, in Article 35 of the Agreement between the United States and the Agency for the Application of Safeguards in Connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America (hereinafter referred to as "the Agreement"), or
- (b) the decision has been taken to construct or authorize construction of a facility, as defined in the Definitions, in United States Protocol I territories,

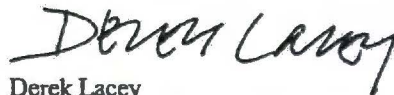
the implementation of the provisions in Part II of the Agreement shall be held in abeyance, with the exception of Articles 31-37, 39, 47, 48, 58, 60, 66, 67, 69, 71-75, 81, 83-89, 93 and 94.

- (2) The information to be reported pursuant to paragraphs (a) and (b) of Article 32 of the Agreement may be consolidated and submitted in an annual report; similarly, an annual report shall be submitted, if applicable, with respect to the import and export of nuclear material described in paragraph (c) of Article 32.
- (3) In order to enable the timely conclusion of the Subsidiary Arrangements provided for in Article 37 of the Agreement, the United States shall:
 - (a) notify the Agency sufficiently in advance of its having nuclear material in peaceful nuclear activities in United States Protocol I territories in quantities that exceed the limits, as referred to in section (1) hereof, or
 - (b) notify the Agency as soon as the decision to construct or to authorize construction of a facility in United States Protocol I territories has been taken,

whichever occurs first.

If this proposal is acceptable to your Government, this letter and your Government's affirmative reply shall constitute an agreement between the United States and the IAEA to amend the Small Quantities Protocol accordingly, which amendments shall enter into force on the date on which the IAEA receives from the United States written notification that the United States' internal legal requirements for entry into force have been met.

Accept, Excellency, the assurances of my highest consideration.



Derek Lacey
Special Assistant to the Director General for
Nuclear Safety, Security and Safeguards

for DIRECTOR GENERAL



UNITED STATES MISSION
TO INTERNATIONAL ORGANIZATIONS IN VIENNA

WAGRAMERSTRASSE 17-19
A-1220 VIENNA, AUSTRIA
TELEPHONE (0043-1) 313 39

January 30, 2017

Dear Mr. Director General:

I have the honor to refer to the December 12, 2016, letter signed on your behalf by Derek Lacey, Special Assistant to the Director General for Nuclear Safety, Security, and Safeguards, proposing to amend paragraph 1 of the Protocol to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America, signed at Vienna on February 17, 1989, and entered into force on April 6, 1989 (the "Small Quantities Protocol"), to read as follows:

I. (1) Until such time as

(a) United States Protocol I territories have, in peaceful nuclear activities, nuclear material in quantities exceeding the limits stated, for the type of material in question, in Article 35 of the Agreement between the United States and the Agency for the Application of Safeguards in Connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America (hereinafter referred to as "the Agreement"), or

(b) the decision has been taken to construct or authorize construction of a facility, as defined in the Definitions, in United States Protocol I territories, the implementation of the provisions in Part II of the Agreement shall be held in abeyance, with the exception of Articles 31-37, 39, 47, 48, 58, 60, 66, 67, 69, 71-75, 81, 83-89, 93 and 94.

(2) The information to be reported pursuant to paragraphs (a) and (b) of Article 32 of the Agreement may be consolidated and submitted in an annual report; similarly, an annual report shall be submitted, if applicable, with respect to the import and export of nuclear material described in paragraph (c) of Article 32.

(3) In order to enable the timely conclusion of the Subsidiary Arrangements provided for in Article 37 of the Agreement, the United States shall:

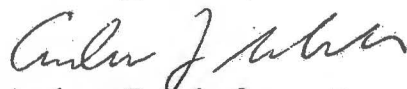
(a) notify the Agency sufficiently in advance of its having nuclear material in peaceful nuclear activities in United States Protocol I territories in quantities that exceed the limits, as referred to in section (1) hereof, or

(b) notify the Agency as soon as the decision to construct or to authorize construction of a facility in United States Protocol I territories has been taken, whichever occurs first.

I am pleased to inform you that this proposal is acceptable to the Government of the United States of America. Therefore, your letter and this reply shall constitute an agreement between the United States and the IAEA to amend the Small Quantities Protocol, which agreement shall enter into force on the date on which the IAEA receives from the United States written notification that the internal legal requirements of the United States for entry into force have been met.

Accept, Sir, the assurances of my highest consideration.

Sincerely,



Andrew J. Schofer
Chargé d'Affaires

His Excellency
Yukiya Amano,
Director General,
International Atomic Energy Agency,
Vienna.