

AGREEMENT AMONG THE GOVERNMENT OF THE UNITED STATES OF AMERICA, THE GOVERNMENT OF THE REPUBLIC OF POLAND AND THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR ASSISTANCE IN SECURING NUCLEAR FUEL FOR A RESEARCH REACTOR

WHEREAS the Government of the Republic of Poland (hereinafter called "Poland"), desiring to convert the high enriched uranium (HEU) fuel core of the Maria Research Reactor (hereinafter called "the reactor") to low-enriched uranium (LEU), has requested the assistance of the International Atomic Energy Agency (hereinafter called the "IAEA") in securing special fissionable material therefor (hereinafter called the "Project");

WHEREAS the Board of Governors of the IAEA (hereinafter called the "Board"), on 24 November 2005, approved project number POL/4/017 entitled "Full Conversion of Maria Research Reactor Core from Highly Enriched Uranium to Low Enriched Uranium", as part of the IAEA's Technical Cooperation Programme for 2006;

WHEREAS the funding of the IAEA's assistance requested by Poland will be secured through contributions by Poland and the United States of America (hereinafter called "the United States") to Footnote-a activities of Project POL/4/017;

WHEREAS the IAEA and Poland will select a manufacturer (hereinafter called the "Manufacturer") for the fabrication of the LEU into fuel elements for the reactor;

WHEREAS under the Agreement for Co-operation between the IAEA and the United States concluded on 11 May 1959, as amended (hereinafter called the "Co-operation Agreement"), the United States undertook to make available to the IAEA pursuant to the Statute of the IAEA certain quantities of special fissionable material, and also undertook, subject to various applicable provisions and licence requirements, to permit, upon request of the IAEA, persons under the jurisdiction of the United States to make arrangements to transfer and export materials, equipment or facilities for Members of the IAEA in connection with an IAEA-assisted project;

WHEREAS, pursuant to the terms of the Co-operation Agreement, the IAEA and the United States on 14 June 1974 signed a Master Agreement Governing sales of source, by-product and special nuclear materials for research purposes (hereinafter called the "Master Agreement"); and

WHEREAS Poland concluded with the IAEA an agreement for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons (hereinafter called the "Safeguards Agreement"), which entered into force on 11 October 1972;

NOW, THEREFORE, the IAEA, Poland and the United States (hereinafter called "the Parties") hereby agree as follows:

ARTICLE I

Definition of the Project

1. The Project, which is the subject of this Agreement, is the supply of nuclear fuel for the operation of the reactor, which is located at the Institute of Atomic Energy (IAE) in Swierk, Poland.
2. This Agreement shall apply, mutatis mutandis, to any additional assistance provided by the IAEA to Poland and for the Project.
3. Except as specified in this Agreement, neither the IAEA nor the United States assumes any obligations or responsibilities insofar as the Project is concerned.

ARTICLE II

Supply of Enriched Uranium

1. The IAEA, pursuant to Article IV of the Co-operation Agreement, shall request the United States to permit the transfer and export to Poland of approximately 91.2 kilograms of uranium enriched to less than 20 percent by weight in the isotope uranium-235 (hereinafter called the "supplied material") to be fabricated into fuel assemblies for the reactor by the Manufacturer.
2. The United States shall provide the supplied material to a Manufacturer to be selected in accordance with the relevant IAEA regulations and rules, with the concurrence of Poland and the United States.
3. The particular terms and conditions for the transfer of the supplied material, including charges for or connected with such material and a schedule of deliveries and shipping instructions shall be specified in a Supplemental Contract to the Master Agreement (hereinafter called the "Supplemental Contract"), to be concluded between the IAEA, Poland, and the United States Department of Energy, acting for the United States, in implementation of this Agreement. Prior to the export of any part of such material from the country of the Manufacturer to Poland, Poland shall notify the IAEA of the amount thereof and of the date, place and method of shipment.
4. The supplied material and any special fissionable material produced through the use of the supplied material, including subsequent generations of produced special fissionable material, shall be used exclusively for the reactor and shall remain at the IAE, unless the Parties otherwise agree.
5. The supplied material and any special fissionable material produced through its use including subsequent generations of produced special fissionable material, shall be stored or reprocessed or otherwise altered in form or content only under conditions and in facilities acceptable to the Parties hereto. Such materials shall not be further enriched unless the Parties amend this Agreement for that purpose.

ARTICLE III

Payment

1. Payment to the Manufacturer of all charges for or connected with the fabrication of the supplied material into fuel assemblies and delivery thereof to Poland shall be made by the IAEA and Poland in accordance with the arrangements to be made between the IAEA, Poland and the Manufacturer.
2. Except as provided in paragraph 1 of this Article, neither the IAEA nor the United States, in extending their assistance for the Project, assume any financial responsibility in connection with the transfer of the supplied material to Poland.

ARTICLE IV

Transport, Handling, Use and Storage

1. The United States and Poland shall take all appropriate measures to ensure the safe transport, handling and use of the supplied material. The IAEA does not warrant the suitability or fitness of the supplied material for any particular use or application and shall not at any time bear any responsibility towards Poland, or any person for any claims arising out of the transport, handling and use of the supplied material.
2. Poland shall take all measures necessary to ensure the safety and security of the fuel assemblies containing the supplied material at all times while subject to its jurisdiction or control, including during storage prior to their use in the reactor and upon their removal from the reactor core following irradiation.

ARTICLE V

Safeguards

1. Poland undertakes that the supplied material and any special fissionable material produced through the use of the supplied material, including subsequent generations of produced special fissionable material, shall not be used for the manufacture of any nuclear weapon or any nuclear explosive device, or for research on or the development of any nuclear weapon or any nuclear explosive device, or in such a way as to further any military purpose.
2. The safeguards rights and responsibilities of the IAEA provided for in Article XII. A of the Statute of the IAEA (hereinafter the "Statute") are relevant to the Project and shall be implemented and maintained with respect to the Project. Poland shall cooperate with the IAEA to facilitate the implementation of the safeguards required by this Agreement.
3. The IAEA safeguards referred to in paragraph 2 of this Article shall, for the duration of this Agreement, be implemented pursuant to the Safeguards Agreement.
4. Article XII.C of the Statute shall apply with respect to any non-compliance by Poland with the provisions of this Agreement.

ARTICLE VI

Safety Standards and Measures

The safety standards and measures specified in Annex A to this Agreement shall apply to the Project.

ARTICLE VII

IAEA Inspectors

The relevant provisions of the Safeguards Agreement shall apply to IAEA inspectors performing functions pursuant to this Agreement.

ARTICLE VIII

Scientific Information

In conformity with Article VIII.B of the Statute, Poland shall make available to the IAEA without charge all scientific information developed as a result of the assistance provided by the IAEA for the Project.

ARTICLE IX

Languages

All reports and other information required for the implementation of this Agreement shall be submitted to the IAEA in one of the working languages of the Board.

ARTICLE X

Physical Protection

1. Poland undertakes that adequate physical protection measures shall be maintained with respect to the supplied material and any special fissionable material produced through the use of the supplied material, including subsequent generations of produced special fissionable material.
2. The Parties agree to the levels for the application of physical protection set forth in Annex B to this Agreement, which levels may be modified by mutual consent of the Parties without amendment to this Agreement. Poland shall maintain adequate physical protection measures in accordance with such levels. These measures shall as a minimum provide protection comparable to that set forth in IAEA document "The Physical Protection of Nuclear Material and Nuclear Facilities" (INFCIRC/225/Rev.4), as it may be revised.

ARTICLE XI

Settlement of Disputes

1. Any decision of the Board concerning the implementation of Article V, VI or VII of this Agreement shall, if the decision so provides, be given effect immediately by the IAEA and Poland pending the final settlement of any dispute.
2. Any dispute arising out of the interpretation or implementation of this Agreement shall be settled by consultation or negotiation.

ARTICLE XII

Entry into Force and Duration

1. This Agreement shall enter into force upon signature by the Director General of the IAEA and by the authorized representatives of Poland and the United States.
2. This Agreement shall continue in effect so long as any material, equipment or facility which was ever subject to this Agreement remains in the territory of Poland or under its jurisdiction or control anywhere, or until such time as the Parties agree that such material, equipment or facility is no longer usable for any nuclear activity relevant from the point of view of safeguards.

DONE in triplicate in the English language.