

File

International Atomic Energy Agency

INFCIRC/94
9 June 1967

GENERAL Distr.

Original: ENGLISH

**THE TEXTS OF THE INSTRUMENTS CONNECTED WITH THE
AGENCY'S ASSISTANCE TO INDIA IN FURTHERING
PROJECTS BY THE SUPPLY OF MATERIALS**

The texts ¹⁾ of the Master Agreement between the Agency and the Government of India, and of Supplementary Agreement No. 1 thereto, in connection with the Agency's assistance to that Government in furthering projects by the supply of materials, are reproduced in this document for the information of all Members. Both Agreements entered into force on 9 December 1966.

1) The footnotes to the texts have been added in the present information circular.

I. MASTER AGREEMENT

MASTER AGREEMENT BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY AND THE GOVERNMENT OF INDIA FOR ASSISTANCE BY THE AGENCY IN FURTHERING PROJECTS BY THE SUPPLY OF MATERIALS

WHEREAS the International Atomic Energy Agency (hereinafter the "Agency") is authorized to assist its Member States in the acquisition of special fissionable or other materials for research on atomic energy for peaceful purposes;

WHEREAS the Government of India (hereinafter the "Government") wishes to make arrangements for securing from time to time, on a simplified basis, materials from the Agency;

NOW, THEREFORE, the Agency and the Government agree as follows:

Section 1. Upon approval by the Agency of a project proposed by the Government for the peaceful uses of atomic energy and of the allocation thereto of special fissionable or other materials, the Agency and the Government will enter into a supplementary agreement to this Agreement (hereinafter the "Supplementary Agreement") ²⁾ which shall *inter alia*:

- (a) Define the project;
- (b) Specify the materials allocated (hereinafter, and in the Supplementary Agreements, the "supplied material");
- (c) Set forth the terms and conditions, including charges, on which the supplied material is to be provided, which in general will be accomplished by incorporating into the Supplementary Agreement the provisions of the related instrument concluded between the Agency and the supplier (hereinafter the "Supply Instrument") ³⁾; and
- (d) Set forth any special provisions.

Section 2. Except as may be otherwise specified in the Supplementary Agreement, the Government shall perform on behalf of the Agency all obligations which the Agency assumes in the Supply Instrument, and the Agency and the Government shall have, with respect to each other, *mutatis mutandis* the same rights and obligations as are specified respectively for the seller and the purchaser in that Instrument.

Section 3. The Government shall communicate to the supplier any necessary shipping instructions and shall also indicate the person(s) authorized to accept the shipment and to sign a receipt therefor. If the Supply Instrument provides that the supplier is to deliver the supplied material to the Agency, then such person(s) designated by the Government is/are hereby also authorized and should be instructed to accept and sign on behalf of the Agency.

Section 4. The Government shall transmit to the Agency, immediately after accepting possession of the supplied material, a copy of the receipt by which delivery of the supplied material is acknowledged, which receipt should specify the exact amount and description of the nuclear material transferred and the date and place of transfer of possession.

Section 5. Unless otherwise specified in the Supplementary Agreement:

- (a) The Government shall pay to the Agency, within thirty days of receiving its invoice, an amount equal to that which the Agency is required to pay to the supplier pursuant to the

²⁾ Part II of this document.

³⁾ *Ibid.*, Annex.

Supply Instrument. If that Instrument provides for any penalty charge to be paid by the Agency in case of delayed payment, the Agency shall be entitled to a similar charge in case of a delay in payment by the Government; and

- (b) The Government shall also assume and pay directly all costs in connection with the supplied material that are not charged by the supplier to the Agency, including costs of fabrication, transportation and insurance, to whomsoever these may be payable.

Section 6. Unless otherwise provided in the Supply Instrument, title to the supplied material shall pass to the Government at the time it accepts possession of the material. If the Supply Instrument provides that title shall be transferred to the Agency, then the title shall upon such transfer immediately and automatically vest in the Government.

Section 7. Any part of the supplied material the shipment of which is arranged by the Government while the material is in its possession shall be entrusted to a licensed public carrier selected by the Government or shall be accompanied by a responsible person designated by the Government. The conditions of the shipment shall conform, as far as possible, to those set forth in the Agency's Regulations on the Safe Transport of Radioactive Materials ⁴⁾.

Section 8. The Government undertakes that the supplied material shall not be used in such a way as to further any military purpose.

Section 9. Upon its delivery to the Government, any supplied nuclear material shall be subject to Agency safeguards to the extent provided for in Agency document INFCIRC/66. The necessary safeguards procedures shall be determined by the Board of Governors of the Agency after the Director General of the Agency has consulted with the Government, except if the material can be exempted or suspended from the application of safeguards and the Government so requests.

Section 10. Unless otherwise provided in the Supplementary Agreement, each project shall be subject to the following health and safety provisions: the Government shall apply to operations carried out in implementation of each project the Agency's Basic Safety Standards ⁵⁾ and its specialized regulations, and shall endeavour to ensure safety conditions as recommended in the relevant parts of the Agency's Codes of Practice. The Government shall arrange for the submission of the reports specified in paragraphs 25 (a), 26 and 27 of Agency document INFCIRC/18 with respect to any supplied material and operations involving it. The Agency may carry out special inspections under the circumstances specified in paragraph 32 of the said document; the Government shall apply the relevant provisions of the Annex to Agency document GC(V)/INF/39 and of the Agreement on the Privileges and Immunities of the Agency ⁶⁾ to the Agency's inspectors and to any property of the Agency used by them in performing their functions.

Section 11. Pursuant to Article VIII.B of the Statute of the Agency, the Government shall make available to the Agency without charge all scientific information developed as a result of the assistance extended by the Agency. The Agency does not claim, on the basis of its participation resulting from this Agreement and the Supplementary Agreements thereto, any right in any inventions or discoveries arising from the projects. The Agency may, however, be granted licences under any patents upon terms to be agreed.

Section 12. Reports and other information should be submitted to the Agency in one of the working languages of the Board of Governors of the Agency.

Section 13. Any dispute concerning the interpretation or application of this Agreement or of any Supplementary Agreement thereto (including any Supply Instrument incorporated therein), which is not settled by negotiations or as may otherwise be agreed, shall be submitted to an arbitral tribunal. At the request of the Agency the supplier may also join in such proceeding as a separate party.

Each party to the disputes proceeding shall designate one arbitrator. If within thirty days of the request for arbitration any party has not designated an arbitrator, the President of the International Court

4) Safety Series No. 6, 1964 Revised Edition (STI/PUB/97).

5) Safety Series No. 9 (STI/PUB/26).

6) INFCIRC/9/Rev.1.

of Justice (hereinafter the "Court") may appoint the necessary number of arbitrators at the request of any party to the proceeding. The arbitrators so designated or appointed shall by unanimous decision elect an additional arbitrator, who shall be the Chairman, as well as a sufficient number of parties to the proceeding. If within thirty days after the last of the necessary number of arbitrators has been designated or appointed, the Chairman or any of the other additional arbitrators have not been elected, the President of the Court may appoint the necessary number of additional arbitrators at the request of any designated or appointed arbitrator.

A majority of the members of the arbitral tribunal shall constitute a quorum, and decision shall be made by majority vote. The arbitral procedure shall be established by the tribunal, whose decision, including all ruling concerning its constitution, procedure, jurisdiction and the division of the expenses of arbitration between the parties, shall be binding on all parties to the proceeding. The remuneration of the arbitrators shall be determined on the same basis as that of *ad hoc* judges of the Court.

Section 14. This Agreement shall enter into force upon signature by or for the Director General of the Agency and by the authorized representative of the Government.

DONE in Vienna, on the 9th day of December 1966, in duplicate in the English language.

For the INTERNATIONAL ATOMIC ENERGY AGENCY:

(signed) Sigvard Eklund

For the GOVERNMENT OF INDIA:

(signed) R.G. Rajwade

II. SUPPLEMENTARY AGREEMENT

SUPPLEMENTARY AGREEMENT No. 1 TO THE MASTER AGREEMENT BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY AND THE GOVERNMENT OF INDIA FOR ASSISTANCE BY THE AGENCY IN FURTHERING PROJECTS BY THE SUPPLY OF MATERIALS

WHEREAS the International Atomic Energy Agency (hereinafter the "Agency") and the Government of India (hereinafter the "Government") on 9 December 1966 entered into a Master Agreement for Assistance by the Agency in Furthering Projects by the Supply of Materials (hereinafter the "Master Agreement")⁷⁾;

WHEREAS the Government has proposed a project for research on atomic energy for peaceful purposes and has requested the assistance of the Agency in the supply of certain material therefor;

WHEREAS the Board of Governors of the Agency approved the project on 16 June 1966; and

WHEREAS the Government of the United States of America has agreed to supply, through its Atomic Energy Commission (hereinafter the "Commission"), the necessary material;

NOW, THEREFORE, the Agency and the Government hereby agree as follows:

Section 1. The project to which this Supplementary Agreement relates is the conduct, at the Atomic Energy Establishment at Trombay, of experiments for testing the ionization chambers being made for the Rajasthan Atomic Power Project.

Section 2. The following material is hereby allocated to the project:

80 grams of plutonium incorporated in a 5-curie plutonium-beryllium neutron source.

Section 3. The supplied material is to be provided by the Commission in accordance with the terms of the Master Contract between the Agency and the Commission for Sales of Research Quantities of Special Nuclear Materials⁸⁾ and of the Supplemental Contract No. 12 thereto⁹⁾, a copy of each of which is attached hereto. Except as specifically provided therein and in this Supplementary Agreement, the provisions of the Master Agreement shall apply.

Section 4. In view of the special hazards connected with the project, the Agency shall have the right to perform one health and safety inspection, pursuant to paragraphs 31 and 33 through 35 of Agency document INFCIRC/18, as soon as the material is delivered.

Section 5. This supplementary Agreement shall enter into force upon signature by or for the Director General of the Agency and by the authorized representative of the Government.

For the INTERNATIONAL ATOMIC
ENERGY AGENCY:

For the GOVERNMENT OF INDIA:

(signed) Sigvard Eklund
9 December 1966

(signed) R.G. Rajwade
9 December 1966

7) Part I of this document.

8) INFCIRC/83, part II, Annex A.

9) Annex.

ANNEX

SUPPLEMENTAL CONTRACT No. 12 OF SALE OF RESEARCH QUANTITIES
OF SPECIAL NUCLEAR MATERIALS

The International Atomic Energy Agency (hereinafter referred to as the "Purchaser") agrees to purchase from the United States Atomic Energy Commission (hereinafter referred to as the "Seller"), acting for and on behalf of the United States of America, and the Seller agrees to sell to the Purchaser the following described material pursuant to the terms of the Master Contract for Sales of Research Quantities of Special Nuclear Materials entered into between the Purchaser and the Seller on 20 August 1962.

Item or material:

80 grams of plutonium to be incorporated into a Pu-Be neutron source.

Delivery to:

A representative of the Government of India, to be designated by that Government to act on behalf of the Agency in accepting this material.

Through:

Port of New York.

Delivery date:

As soon as possible and to be indicated by the Seller to the Government of India as well as to the Purchaser.

Charges:

As per the schedule of charges published in the United States Federal Register for plutonium in effect at the date of transfer of the material plus charges for packaging, handling and transportation. The Seller's current price for plutonium is approximately \$43.00 per gram. If the Seller's price as published in the United States Federal Register is increased prior to the actual delivery date, the Purchaser may cancel the Contract or appropriate part thereof, by notifying the Seller within fifteen days after having been informed of the price increase. The Purchaser or the Government of India, acting on behalf of the Purchaser, will pay and arrange for the transportation of the source. Nothing in this Contract or in the Master Contract referred to above shall obligate the Purchaser to pay any charges or observe any provisions of, or established pursuant to, this Contract if the Seller, in accordance with statutory or other authority available to it, determines that such charges or other provisions are not applicable.

Bill to:

International Atomic Energy Agency.

Delivery instructions:

To be provided by the Government of India.

For the INTERNATIONAL ATOMIC ENERGY
AGENCY:

(signed) Sigvard Eklund
9 December 1966

For the UNITED STATES ATOMIC ENERGY
COMMISSION, acting for and on behalf of the
GOVERNMENT OF THE UNITED STATES
OF AMERICA:

(signed) Verne B. Lewis
9 December 1966