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REVIEW OF THE NEGOTIATION OF THE MODEL PROTOCOL ADDITIONAL TO THE AGREEMENT(S) BETWEEN STATE(S) AND THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR THE APPLICATION OF SAFEGUARDS

INFCIRC/540 (Corrected)

VOLUME III/III

IAEA COMMITTEE 24
DEVELOPMENT OF INFCIRC/540
ARTICLE-BY-ARTICLE REVIEW
(1996-1997)

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BROOKHAVEN
NATIONAL LABORATORY

a passion for discovery

January, 2010

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DOE/NNSA Office of International Regimes and Agreements, NA-243

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VOLUME III
IAEA COMMITTEE 24: DEVELOPMENT OF INFCIRC/540
ARTICLE-BY-ARTICLE REVIEW
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REVIEW OF THE NEGOTIATION OF THE MODEL PROTOCOL ADDITIONAL TO THE AGREEMENT(S) BETWEEN STATE(S) AND THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR THE APPLICATION OF SAFEGUARDS (INFCIRC/540 (Corrected))

Volume III

Introduction

IAEA Committee 24: Development of INFCIRC/540 (Corrected); Article-by-Article Review

In this section of the report, the development of INFCIRC/540 is traced by a compilation of citations from the IAEA documents presented to the Board of Governors and the records of discussions in the Board that took place prior to the establishment of Committee 24 as well as the documents and discussions of that committee. The evolution of the text is presented separately for each article or, for the more complex articles, for each paragraph or group of paragraphs of the article. This section covers all articles, including those involving no issues. Background, issues, interpretations and conclusions, which were addressed in Volumes I, II, and III are not repeated here.

The comments by states that are included are generally limited to objections and suggested changes. Requests for clarification or elaboration have been omitted, although it is recognized that such comments were sometimes veiled objections.

For ease of reference, the treatment of each article begins with the final formulation as it appears in INFCIRC/540 (Corrected). This is followed by the detailed evolution of the article, beginning with the initial language most closely corresponding to the substance of the article and including the sequence of its development and its discussions by states in the Board, in Committee 24 and in written comments. For convenience in referencing the many citations, the following conventions are used:

- Board of Governors documents are designated GOV/....., e.g., GOV/2807;
- Board of Governors information documents are designated GOV/INF/....., e.g., GOV/INF/680;
- Official records of the Board of Governors are designated GOV/OR...... followed by the paragraph number, e.g., GOV/OR.688/¶25;
- Committee 24 documents are designated GOV/COM.24/..... (Note that most of the Committee 24 papers were not these formally designated documents and were variously labeled as GOV/COM.24 and a title rather than number.);
- Official records of Committee 24 are designated GOV/COM.24/OR......, usually followed by the paragraph number, e.g., GOV/COM.24/OR.55/¶25.

These document titles are underlined when they are shown as the source of text or comments.

It is important to keep in mind that the OR documents are summary records and do not necessarily contain complete quotes of the speaker. Moreover, the ORs do not cover the many private or informal negotiations that frequently took place between certain delegates, particularly on difficult issues.

If a particular draft of the Additional Protocol did not include the article in question or its substance, this is so noted.

A standard convention used in proposed changes to the text of the draft protocol is that "..." (three periods) represents unchanged text. A second convention used in the draft text and in most of the proposed changes to the draft text is that "....." (five periods) represents the name of the state. A third convention used in comments on the draft protocol text is that proposed new or replacement text is underlined. A convention used by the Chairman of Committee 24 in his rolling texts of the draft protocol is that text in dispute is presented in square brackets, i.e. [].
Lastly, explanatory or other comments added by the drafters of this negotiating history are shown in {}.

1. Title

INFCIRC/540 (Corrected)

MODEL PROTOCOL ADDITIONAL TO THE AGREEMENT(S) BETWEEN STATE(S) AND THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR THE APPLICATION OF SAFEGUARDS

Annex III of the "Discussion Draft" of 21 November 1995

PROTOCOL ADDITIONAL TO THE AGREEMENT BETWEEN ..... AND THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR THE APPLICATION OF SAFEGUARDS IN CONNECTION WITH [THE TREA TY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS] [AND] [THE TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LA TIN AMERICA AND THE CARIBBEAN]

Annex III of "Discussion Draft II" of 27 February 1996: {Same as "Discussion Draft" of 21 November 1995.}

Annex III of GOV/2863, 6 May 1996: {Same as "Discussion Draft" of 21 November 1995.}

> GOV/COM.24/W.P. 12: Argentina, Brazil (W.P. 14), Germany (W.P. 10) and Greece (W.P. 9): delete from "in connection" to "Caribbean].
>
> GOV/COM.24/W.P. 16: Slovakia: the title should contain the full name of the safeguards agreement concluded with the state concerned.
>
> GOV/COM.24/OR.21/¶17:_Russian Federation and China (¶20): leave the title and preambular paragraph as they stood; take care that any changes to the text do not lead to lack of clarity with regard to which countries the protocol applied.
>
> GOV/COM.24/OR.21/¶28:_Spain: use a generic formulation to avoid any prejudgment; each State would still be able to decide on the protocol's applicability to its own circumstances and to select those provisions that were relevant to its particular type of safeguards agreement.
>
> GOV/COM.24/OR.21/¶31: USA, India (¶34) and France (¶42): the Committee had been entrusted by the Board with the task of developing a model protocol for comprehensive safeguards agreements, in which case the title should perhaps refer to such agreements.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):

[PROTOCOL ADDITIONAL TO COMPREHENSIVE SAFEGUARDS AGREEMENTS]
OR
[PROTOCOL ADDITIONAL TO THE AGREEMENT BETWEEN ..... AND THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR THE APPLICATION OF SAFEGUARDS]
OR

Title

[PROTOCOL ADDITIONAL TO THE AGREEMENT BETWEEN ..... AND THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR THE APPLICATION OF SAFEGUARDS [full title of actual agreement to be inserted]]

> GOV/COM.24/OR.39/¶51: Pakistan, India and China: prefer the first option, as the Protocol was intended to apply to States with comprehensive safeguards agreements.
>
> GOV/COM.24/OR.39/¶52 and 57: Germany, South Africa, Nigeria and Turkey: prefer the second option, since the full title of the safeguards agreement would appear elsewhere in the Protocol, but could go along with the third option.
>
> GOV/COM.24/OR.39/¶53: Egypt, Saudi Arabia, Algeria, Syrian Arab Republic, Brazil, Luxembourg, Morocco, Tunisia, Islamic Republic of Iran, Netherlands and Russian Federation: prefer the second option.
>
> GOV/COM.24/OR.39/¶54: Slovakia, Austria, Finland, Czech Republic, New Zealand, UK, Sweden, Denmark, Canada, Greece, Australia and Argentina: prefer the third option, as it would be proper to include the full name of the safeguards agreement concerned in the title.
>
> GOV/COM.24/OR.39/¶60: Secretariat: either option 2 or 3 would be acceptable as long as it was specified clearly somewhere in the Protocol which safeguards agreement was being referred to.
>
> GOV/COM.24/OR.40/¶2-3: India and Pakistan: retain all three options in square brackets until the foreword and the preamble are discussed.
>
> GOV/COM.24/OR.40/¶5: Chairman: for the time being the three options would be retained as they stood in square brackets.

GOV/COM.24/Chairman’s W.P.2 Rolling Text/REV.1/ADD.4 (29 January 1997)

PROTOCOL ADDITIONAL TO THE AGREEMENT(S) BETWEEN ..... AND THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR THE APPLICATION OF SAFEGUARDS

> GOV/COM.24/OR.49/¶35-38: Cuba, India and Pakistan: had reservations about the proposed wording of the title and the first paragraph of the preamble because any effort to apply the Protocol in States with INFCIRC/66-type agreements went beyond the limits of the current exercise.

GOV/COM.24/Chairman’s REVISED TEXT (5 February 1997)

PROTOCOL ADDITIONAL TO THE AGREEMENT(S) BETWEEN ..... AND THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR THE APPLICATION OF SAFEGUARDS

> GOV/COM.24/OR.50/¶12: India: prefer the title of the Protocol to read “Protocol Additional to Comprehensive Safeguards Agreements”; that had been one of the options given in the Chairman’s working paper W.P.2 of 18 October 1996.

2. *Foreword*

INFCIRC/540 (Corrected)

This document is a model Additional Protocol designed for States having a Safeguards Agreement with the Agency, in order to strengthen the effectiveness and improve the efficiency of the safeguards system as a contribution to global nuclear non-proliferation objectives.

The Board of Governors has requested the Director General to use this Model Protocol as the standard for additional protocols that are to be concluded by States and other parties to comprehensive safeguards agreements with the Agency. Such protocols shall contain all of the measures in this Model Protocol.

The Board of Governors has also requested the Director General to negotiate additional protocols or other legally binding agreements with nuclear-weapon States incorporating those measures provided for in the Model Protocol that each nuclear-weapon State has identified as capable of contributing to the non-proliferation and efficiency aims of the Protocol, when implemented with regard to that State, and as consistent with that State's obligations under Article I of the NPT.

The Board of Governors has further requested the Director General to negotiate additional protocols with other States that are prepared to accept measures provided for in the Model Protocol in pursuance of safeguards effectiveness and efficiency objectives.

In conformity with the requirements of the Statute, each individual Protocol or other legally binding agreement will require the approval of the Board and its authorization to the Director General to conclude and subsequently implement the Protocol so approved.

Annex III of the "Discussion Draft" of 21 November 1995 {did not include a foreword.}

GOV/OR.884/¶91 (12 December 1995): Japan said that the provision of information on the export and import of sensitive nuclear equipment and non-nuclear material could only work effectively with the participation of all countries which were capable of producing or utilizing such nuclear equipment and non-nuclear material and that not only the non-nuclear-weapon States but also the nuclear-weapon States would have to participate in the system, if it were ever introduced.

Annex III of "Discussion Draft II" of 27 February 1996 {did not include a foreword.}

Annex III of GOV/2863, 6 May 1996 {did not include a foreword.}

GOV/OR.892/¶60: Morocco for African Group called for universality of protocol measures.
GOV/COM.24/W.P. 19: Egypt: Add a new paragraph between existing paras 2 and 3 as follows: "Conscious of the need to ensure that the Agency's safeguards, including the measures contained in this Protocol, should be applied in a universal and non-discriminatory manner."

GOV/COM.24/OR.5/¶19: Nigeria: Use phrase "Conscious of" at the beginning. Amend Egyptian proposal by replacing the words "should be applied" with "shall be implemented".

GOV/Com.24/W.P. 11: Algeria: Add a new preambular paragraph as follows: "Aware of the need to ensure that the Agency's safeguards system, including the measures contained in the present protocol, is applied in a universal and non-discriminatory manner".

GOV/Com.24/W.P. 14: Brazil: Add the following two preambular paragraphs:
"Conscious of the need to ensure that the measures described in this Protocol should be applied in a universal and non-discriminatory manner."
"Whereas the implementation of this Protocol should contribute to the process of nuclear disarmament with a view to the total elimination of nuclear weapons, on a verifiable and non-discriminatory basis."

GOV/Com.24/W.P. 20: Sweden: Add the following two paragraphs:
"Taking note that the activities in this Protocol are designed for States with Comprehensive Safeguards Agreements, participation of other States can enhance the effectiveness and efficiency of the implementation of the scheme in several ways. Thus, the safeguards system would be further enhanced if, in addition to the Protocol by the States with Comprehensive Safeguards Agreements, other States would be prepared to accept legally binding commitments with regard to Protocol activities relevant to the objectives of their safeguards agreements;"
"WHEREAS any changes to the export reporting list, beyond that contained in Article 16 of the Protocol, should be similarly changed for reporting by non-Comprehensive Safeguards Agreements States;"

GOV/COM.24/OR.21/¶62: UK: the model protocol was intended for negotiating protocols in connection with INFCIRC/153-type agreements; it should also remain capable of being used by states without comprehensive safeguards agreements, including the NWS, as the basis for concluding protocols additional to their existing agreements incorporating those measures which in their judgment made the most effective contribution towards the objectives of Programme 93+2.

GOV/COM.24/OR.22/¶32: Czech Republic, Austria, Australia and Argentina (¶33): supported the Swedish additional paragraphs.

GOV/COM.24/OR.22/¶34: Pakistan: opposed the Swedish proposal.

GOV/COM.24/OR.22/¶91: Belgium proposed the following text (attachment 1 to GOV/COM.24/OR.22) to be inserted before the preamble:
This document is a model of Additional Protocol designed for States having a Safeguards Agreement with the Agency, willing to strengthen the effectiveness and improve the efficiency of the safeguards system.
Nuclear-weapon States shall identify the measures they can apply without undermining their obligation under Article I of the Treaty on the Non-Proliferation of Nuclear Weapons.
Other States having a non-comprehensive Safeguards Agreement shall identify the measures they can apply on the basis of their safeguards policy and obligations.

GOV/COM.24/OR.22/¶92: Brazil, USA (¶93), Germany (¶94), Argentina (¶95), Japan (¶96), Spain (¶97), Republic of Korea (¶101) and Australia (¶103): partial to full support for the Belgian proposal.

GOV/COM.24/OR.22/¶102: Republic of Korea: amend the Belgian proposal to read: "This protocol is a model protocol open to all States willing to strengthen the effectiveness and improve the efficiency of the safeguards system without prejudice to obligations assumed under the NPT."

GOV/COM.24/OR.22/¶104: Brazil: oppose the pick-and-choose approach.

GOV/COM.24/OR.22/¶105: India: oppose language that does not make it explicit that implementation of the protocol and of the strengthened safeguards system could only apply to countries having comprehensive safeguards agreements.

GOV/COM.24/OR.23/¶1: UK and France (¶4): support the idea behind the Belgian proposal but while it imposed specific requirements on NWS and States with INFCIRC/66-type agreements made no specific reference to States with comprehensive safeguards agreements.

GOV/COM.24/OR.23/¶2: China: oppose the Belgian proposal.

GOV/COM.24/OR.23/¶3: Austria: support the Belgian proposal.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
[This document is a model of an Additional protocol designed for States having a Safeguards Agreement with the Agency, willing to strengthen the effectiveness and improve the efficiency of the safeguards system.

Nuclear-weapon States shall identify the measures they can apply without undermining their obligation under Article I of the Treaty on the Non-Proliferation of Nuclear Weapons.

Other States having non-comprehensive Safeguards Agreements shall identify the measures they can apply on the basis of their safeguards policy and obligations.]

[In conformity with the. requirements of the Statute, each individual Protocol concluded on the basis of this model will require the approval of the Board and its authorization to the Director General to conclude and subsequently implement the Protocol so approved.]

GOV/COM.24/OR.40/¶6 and attachment 1: Belgium: replace foreword with:
"This document is a model of all Additional Protocol designed for States having a Safeguards Agreement with the Agency, willing to strengthen the effectiveness and improve the efficiency of the safeguards system.
The model shall be used as the standard text of additional protocols to be concluded between the Agency and parties to comprehensive Safeguards Agreements.
Nuclear-weapon States shall apply those measures provided for in the model to the extent compatible with their obligations under Article I of the Treaty on the Non-proliferation of Nuclear Weapons.
Other States shall apply these measures to the extent possible under their respective non-proliferation and safeguards commitments and policies."

GOV/COM.24/OR.40/¶9-10 and attachment 2: UK: replace the foreword with the following, which was the result of consultations among the five NWS and the second paragraph represented the limit of what those States were prepared to accept:

"The Board of Governors has requested the Director General to use this model Protocol as the basis for negotiating additional protocols with States having comprehensive safeguards agreements with the IAEA.

The Board of Governors has also requested the Director General to negotiate additional agreements with nuclear-weapon States incorporating those measures provided for in the model Protocol that each nuclear-weapon State has identified as capable of contributing to the non-proliferation aims of the Protocol, when implemented by a nuclear-weapon State, and as consistent with that State's obligations under Article I of the NPT.
The Board of Governors has similarly requested the Director General to negotiate additional agreements with other States that are ready to accept measures provided for in the model in accordance with their safeguards commitments and policies."

GOV/COM.24/OR.40/¶11-17: USA: support the UK text, which represented the maximum that could be agreed upon by all five NWS and attempts to improve on it would fail; the US would make clear at the time when the text of the Protocol was approved by the Board what obligations it would assume, and he hoped that the other NWS would do the same.

GOV/COM.24/OR.40/¶18-20: France: support the UK text, the second paragraph of which made clear that the Protocol-related measures to be applied in the NWS should be capable of contributing to the non-proliferation aims of the Protocol and consistent with each NWS's obligations under Article I of the NPT; those criteria acknowledged the joint responsibility of the NWS to help develop the international non-proliferation regime still further; they would not result in uniform Protocol-based agreements with the NWS, because the voluntary-offer safeguards agreements of the five NWS were all different,

reflecting differences between their nuclear programs, where civilian and military aspects were separated in some cases but overlapped in others.

GOV/COM.24/OR.40/¶21 and 63: Japan and Spain: prefer the Belgian text, because the second paragraph of the UK text spoke of measures being capable of contributing to the non-proliferation aims of the Protocol, a criterion that was not necessary.

GOV/COM.24/OR.40/¶26-27: Russian Federation: measures applied in NWS, including the Russian Federation, would have to be worthwhile, their broad application in countries with comprehensive safeguards agreements helping to enhance the effectiveness and reliability of the Agency's safeguards system and thereby strengthen the non-proliferation regime: after completion of the second part of Programme 93+2, his country would be prepared to provide the Agency with information about its nuclear exports to NNWS, about nuclear material of Russian origin located within the territory of other States and about nuclear fuel cycle-related co-operation between the Russian Federation and NNWS, would also take measures to facilitate the designation of inspectors and the issuance of visas for inspectors and would consider the possibility of testing various new safeguards measures and hosting field trials with a view to enhancing the effectiveness and efficiency of safeguards in NNWS.

GOV/COM.24/OR.40/¶29: China: the UK text could become the basis for further consultations among the States concerned.

GOV/COM.24/OR.40/¶35: India: could not go along with any proposal aimed, however indirectly and in however neutral a manner, at bringing about the application of provisions of the Protocol in countries with INFCIRC/66/Rev.2-type safeguards agreements.

GOV/COM.24/OR.40/¶38: Denmark: the Protocol would be essentially for States which had comprehensive safeguards agreements, but the acceptance of some of its provisions by other States would obviously enhance the effectiveness of the overall safeguards system.

GOV/COM.24/OR.40/¶43: Philippines: prefer the Belgian text since it pointed towards universal nuclear disarmament more unequivocally and would make it easier for her delegation to commend the Protocol to her Government.

GOV/COM.24/OR.40/¶44-45: Cuba: it made no legal sense to try to extend the scope of the Protocol to include countries with INFCIRC/66/Rev.2-type safeguards agreements; all three options for the title should be retained within square brackets until the foreword and the preamble had been discussed.

GOV/COM.24/OR.40/¶46-47: Germany: prefer the Belgian text; .it was clear that States with only INFCIRC/66/Rev.2-type safeguards agreements had no legal obligation to declare all their nuclear activities, and the aim of the last paragraph of both texts was not to compel those States to make the sacrifices which would have to be made by States

with comprehensive safeguards agreements but rather to enlist their support in making the safeguards system as a whole more effective and efficient.

GOV/COM.24/OR.40/¶48-50: Australia: while the Protocol was being designed primarily for States with comprehensive safeguards agreements, the participation of other States in the implementation of the Protocol would help to achieve its objectives; it would make no sense to deny States with non-comprehensive safeguards agreements the right to accept measures provided for in the Protocol if they so wished; the UK text should serve as the basis for discussion: add "Such protocols shall contain all of the measures in this model Protocol" at the end of the first paragraph of the UK text to make it clear that States with comprehensive safeguards agreements would not be free to pick and choose among the Protocol's provisions; add in the second paragraph "in consultation with the Agency," after "has identified", so that the Agency would have the right to indicate which measures it considered the most useful; add "and efficiency" after "non-proliferation", since improved efficiency was one aim of the current exercise; in the third paragraph amend "safeguards commitments and policies" to read "non-proliferation and safeguards commitments and policies" as in the Belgian text, and insert "to the extent possible", as in the Belgian text.

GOV/COM.24/OR.40/¶51: Luxembourg: support the Belgian text; the UK text was unacceptable since it would enable each NWS to pick and choose among the provisions of the Protocol while States with comprehensive safeguards agreements would have to accept those provisions in their entirety; the negotiation of Protocol-based agreements with the NWS might well delay the achievement of a strengthened safeguards system if other States wished to wait until such agreements had been negotiated before themselves proceeding further.

GOV/COM.24/OR.40/¶52: Morocco: use the Belgian text as a basis for discussion but add "This document is a model of an Additional Protocol designed to strengthen the safeguards system of the Agency and improve its effectiveness with the aim of limiting the proliferation of nuclear weapons."

GOV/COM.24/OR.40/¶54: Republic of Korea: prefer the Belgian text since it indicated the minimum commitment which could be expected from the NWS and from other countries with non-comprehensive safeguards agreements.

GOV/COM.24/OR.40/¶55: Slovak Republic: prefer the Belgian text, which would go some way to meeting Slovakia's wish for a universal and non-discriminatory safeguards system.

GOV/COM.24/OR.40/¶56: Algeria: prefer the Belgian text but in its first paragraph replace "willing to" by "in order to".

GOV/COM.24/OR.40/¶57: Switzerland: prefer the Belgian text.

GOV/COM.24/OR.40/¶59-60: Pakistan: the purpose of Programme 93+2 should be to strengthen the Agency's capability for detecting undeclared nuclear activities in States with comprehensive safeguards agreements; Programme 93+2 was not relevant to States with item-specific safeguards agreements; oppose the final paragraph of both the Belgian and UK texts; the absence of those paragraphs would not prevent any State with an item-specific safeguards agreement from assuming obligations pursuant to the Protocol if it so wished.

GOV/COM.24/OR.40/¶61: South Africa: support the UK.

GOV/COM.24/OR.40/¶74: Egypt: support the Belgian text; delete "Article 1 of" from the third paragraph; end the fourth paragraph after the words "to the extent possible".

GOV/COM.24/OR.41/¶3-4: Czech Republic: combine first two paragraphs of the Belgian text and the second and third paragraphs of the UK text with the Australian amendments.

GOV/COM.24/OR.41/¶5: Syrian Arab Republic: support Brazil's proposal that the foreword be deleted.

GOV/COM.24/OR.41/¶10-12: Chairman: although no comments had been made on the final paragraph of the foreword in the Rolling Text, it was useful and should be retained; he would attempt to produce a new draft foreword using both the Belgian and UK texts and taking into account comments made during the Committee's discussion.

GOV/COM.24/Chairman's Rolling Text/Rev.1/Add.2 (29 January 1997):

This document is a model Additional Protocol designed for States having a Safeguards Agreement with the Agency, in order to strengthen the effectiveness and improve the efficiency of the safeguards system.

The Board of Governors has requested the Director General to use this model Protocol as the basis for additional protocols or agreements to be concluded by States and other parties to comprehensive safeguards agreements with the Agency. Such protocols or agreements shall contain all of the measures in this model Protocol.

The Board of Governors has also requested the Director General to use this model Protocol to negotiate additional agreements with nuclear-weapon States incorporating those measures provided for in the model Protocol that, after consultations with the Agency, each nuclear-weapon State has identified as capable of contributing to the non-proliferation and efficiency aims of the Protocol, when implemented by a nuclear-weapon State, and as consistent with that State's obligations under Article I of the NPT.

The Board of Governors has similarly requested the Director General to consult and negotiate additional agreements with other States that are ready to accept to the extent possible measures provided for in the model Protocol in accordance with their non-

proliferation and safeguards commitments and policies, and in pursuance of safeguards effectiveness and efficiency objectives.

In conformity with the requirements of the Statute, each individual Protocol or Agreement concluded on the basis of this model will require the approval of the Board and its authorization to the Director General to conclude and subsequently implement the Protocol or Agreement so approved.

> GOV/COM.24/OR.43/¶2: Morocco: proposed the addition of the phrase "as a contribution to global nuclear non-proliferation objectives" at the end of the first paragraph.
>
> GOV/COM.24/OR.43/¶3-5: India and Pakistan: refer to "global disarmament" rather than "global nuclear non-proliferation objectives"; insert "Comprehensive" before "Safeguards Agreement with the Agency".
>
> GOV/COM.24/OR.43/¶6-11 and 14-19: USA, Egypt, Turkey, Syrian Arab Republic, South Africa, Japan, Philippines, Germany, Spain, Russian Federation, France, Islamic Republic of Iran, Austria and Algeria: support Morocco's proposal but not India's.
>
> GOV/COM.24/OR.43/¶20: Chairman: re the first paragraph, broad opposition to India's proposal and broad support for Morocco's proposal.
>
> GOV/COM.24/OR.43/¶21: Netherlands: accept the second paragraph.
>
> GOV/COM.24/OR.43/¶22: Brazil: there seemed to be a contradiction between using the model Protocol "as the basis" for additional protocols or agreements and the second sentence, which stated that such protocols or agreements should contain "all of the measures in this model Protocol".
>
> GOV/COM.24/OR.43/¶23: Australia: need to make it absolutely clear that all of the measures provided for in the model Protocol would have to be provided for in the protocols or agreements concluded between the Agency and States with comprehensive safeguards agreements; could go along with the deletion of the second sentence if the first sentence were amended to read "... to use all of the measures in this model Protocol as the basis for ...".
>
> GOV/COM.24/OR.43/¶24: Germany: had no objection to the second sentence but if it were deleted, the first sentence should be amended to read "... to use this model Protocol as the standard ...".
>
> GOV/COM.24/OR.43/¶25: Netherlands, New Zealand, Hungary and Luxembourg: prefer the second paragraph as it stood.
>
> GOV/COM.24/OR.43/¶26: USA, UK, France and South Africa: could accept "standard" in place of "basis" but retain the second sentence.

GOV/COM.24/OR.43/¶31: Philippines: oppose replacing "basis" by "standard".

GOV/COM.24/OR.43/¶33: Switzerland: support the replacement of "basis" by "standard" and deletion of the second sentence.

GOV/COM.24/OR.43/¶34: Secretariat: retain the second sentence; all of the measures in the model Protocol should be provided for in the additional protocols or agreements to be concluded by States and other parties to comprehensive safeguards agreements.

GOV/COM.24/OR.43/¶35: chairman: except for the replacement of "basis" by "standard", the text of the second sentence should be left unchanged.

GOV/COM.24/OR.43/¶36: Belgium: to avoid the interpretation in the third paragraph that "measures ... capable of contributing to the non-proliferation and efficiency aims of the Protocol, when implemented by a nuclear-weapon State" meant that the measures in question were not capable of contributing to those aims when implemented by other States, amend the paragraph to read "... to negotiate, for the purpose of contributing to the non-proliferation and efficiency aims of the Protocol, additional agreements with nuclear-weapon States incorporating those measures provided in the model Protocol that, after consultations with the Agency, each nuclear-weapon State has identified as consistent with that State's obligations under Article I of the NPT."

GOV/COM.24/OR.43/¶38 and 41: China and Russian Federation: delete ", after consultations with the Agency,"

GOV/COM.24/OR.43/¶37, 39-40 and 42: Japan, Republic of Korea, Germany, Spain and Philippines: support the Belgium proposal.

GOV/COM.24/OR.43/¶43: UK: the formulation ", when implemented by a nuclear-weapon State," was an important element of the text because there might be some measures which could contribute to "the non-proliferation and efficiency aims of the Protocol" when implemented by a non-nuclear-weapon State but not when implemented by a nuclear-weapon State.

GOV/COM.24/OR.43/¶44: France: support the UK remarks and retain ", after consultations with the Agency,"

GOV/COM.24/OR.43/¶50: Australia: retain ", after consultations with the Agency.
GOV/COM.24/OR.43/¶51: Germany: if "when implemented by a nuclear-weapon State," was retained, replace "by" with "in" as some measures might be implemented by the Agency rather than by the State.

GOV/COM.24/OR.43/¶52: Chairman: the third paragraph dealt with a variety of sensitive issues and at present see no obvious way of meeting all the concerns expressed.

GOV/COM.24/OR.43/¶53-55, 58 and 61: Egypt, Syrian Arab Republic, Tunisia, Morocco and Islamic Republic of Iran: in the fourth paragraph delete "in accordance with their non-proliferation and safeguards commitments and policies", because it would give the states too much leeway in deciding what provisions to accept.

GOV/COM.24/OR.43/¶56-57: Germany: substitute "further" for "similarly"; had no problem with "in accordance with their non-proliferation and safeguards commitments and policies"; delete "to the extent possible"; insert "the" before "measures" and amend that part of the paragraph to read "... accept the measures provided for in the model Protocol to the extent compatible with their non-proliferation and ...".

GOV/COM.24/OR.43/¶60 and 62: Pakistan and India: delete the paragraph.

GOV/COM.24/OR.43/¶64-65: Japan, Spain and Republic of Korea: delete "consult and" and "to the extent possible".

GOV/COM.24/OR.43/¶66: Chairman: further consultations will be held on the fourth paragraph.

GOV/COM.24/OR.43/¶67: USA and UK: the fifth paragraph is not necessary.

GOV/COM.24/OR.43/¶68: Germany: the paragraph, although not necessary, was useful.

GOV/COM.24/OR.43/¶70: Morocco: insert "to be" before "concluded" to make clear that Board approval would be before conclusion.

GOV/COM.24/OR.43/¶71: Germany: delete "concluded on the basis of this model".

GOV/COM.24/OR.43/¶74-76: Secretariat: paragraph was useful; regarding Morocco's change, replace "concluded" by "negotiated" or simply delete the words "concluded on the basis of this model"; questioned whether "or Agreement" was needed.

GOV/COM.24/OR.43/¶77 and 79: Chairman: "Protocol or Agreement" had been used in order to allay the concerns of certain delegations; "concluded on the basis of this model" could usefully be deleted.

GOV/COM.24/OR.43/¶80: Syrian Arab Republic: during the discussion of the preambular paragraph "CONSCIOUS OF the need to ensure ... implemented in a universal and non-discriminatory manner;" the Chairman had suggested that the question of deletion or retention of that paragraph be taken up again in the context of the foreword.[1]

GOV/COM.24/OR.43/¶81: Chairman: would bear that point in mind.

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[1] See GOV/COM.24/OR.41, para. 108.

GOV/COM.24/OR.49/¶32-34: Chairman: had not had time to develop an improved version; suggested he be allowed to develop a new text, which he would then circulate with the consolidated Rolling Text.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)

This document is a model Additional Protocol designed for States having a Safeguards Agreement with the Agency, in order to strengthen the effectiveness and improve the efficiency of the safeguards system as a contribution to global nuclear non-proliferation objectives.

The Board of Governors has requested the Director General to use this model Protocol as the standard for additional protocols to be concluded by States and other parties to comprehensive safeguards agreements with the Agency. Such protocols shall contain all of the measures in this model Protocol.

The Board of Governors has also requested the Director General to use this model Protocol to negotiate additional protocols with nuclear-weapon States incorporating those measures provided for in the model Protocol that, after consultations with the Agency, each nuclear-weapon State has identified as capable of contributing to the non-proliferation and efficiency aims of the Protocol, when implemented by a nuclear-weapon State, and as consistent with that State's obligations under Article I of the NPT.

The Board of Governors has further requested the Director General to negotiate additional protocols with other States that are prepared to accept measures provided for in the model Protocol in pursuance of safeguards effectiveness and efficiency objectives.

In conformity with the requirements of the Statute, each individual Protocol will require the approval of the Board and its authorization to the Director General to conclude and subsequently implement the Protocol so approved.

GOV/COM.24/OR.50/¶14: Chairman: delete "to the model Protocol" from the title.

GOV/COM.24/OR.50/¶15 and 18: Pakistan, India and Cuba: amend the first paragraph to read "... States having comprehensive safeguards agreements with ...".

GOV/COM.24/OR.50/¶16-17: Germany, Spain, Brazil and Sweden: oppose the Pakistani change.

GOV/COM.24/OR.50/¶21-23: China: in the third paragraph delete "to use this model Protocol" and ", after consultations with the Agency,"; insert "or other legally binding agreements" after "additional protocols"; delete "and efficiency" before the word "aims".

GOV/COM.24/OR.50/¶24: Belgium: in the third paragraph replace "that, after consultations with the Agency, each nuclear-weapon State has identified as" by the words "which are".

GOV/COM.24/OR.50/¶25-27: Germany: replace “when implemented by a nuclear-weapon State” by “when implemented in a nuclear-weapon State” or “when implemented with regard to a nuclear-weapon State”: oppose deletion of “to use this model Protocol” and “and efficiency”.

GOV/COM.24/OR.50/¶29, 31-32 and 36-40: USA, Japan, UK and France: could go along with the deletion of “to use this model Protocol” and “after consultations with the Agency,” and the addition of the phrase “or other legally binding agreements”; oppose deletion of “and efficiency”; oppose the Belgium proposal.

GOV/COM.24/OR.50/¶33: Australia: oppose deletion of “after consultations with the Agency”; that phrase was proposed to convey the hope that the NWS would as far as possible take into account the Agency’s views - based on technical considerations.

GOV/COM.24/OR.50/¶48: Syrian Arab Republic, Tunisia and Egypt: if the Protocol was to be applicable to all countries without discrimination, the words “that are prepared” should be deleted in the fourth paragraph.

GOV/COM.24/OR.50/¶49-50: Cuba and Pakistan: delete the fourth paragraph, as the Protocol was neither applicable nor acceptable as it had been designed for countries with comprehensive safeguards agreements.

GOV/COM.24/OR.50/¶51-54: Germany, Hungary, Belgium and Spain: urged retention of the fourth paragraph.

GOV/COM.24/OR.50/¶55: India: opposed the fourth paragraph, because the additional protocol, whose main purpose was to make the safeguards system capable of detecting undeclared nuclear activities, made no sense in states having only INFCIRC/66-type safeguards agreements.

GOV/COM.24/OR.50/¶58-60: USA: expected countries like India and Pakistan not to object to the inclusion of the fourth paragraph; even if most of the measures provided for in the model Protocol were unacceptable to countries with only INFCIRC/66-type safeguards agreements, some ought to be acceptable to a country like India, which claimed to be “non-proliferant” and which could contribute to the overall aims of the protocol by, for example, participating in the reporting scheme endorsed by the Board in February 1993; as there were three categories of states, it was politically unrealistic to call for the deletion of the words “that are prepared”.

GOV/COM.24/OR.50/¶61: China: if the words “or other legally binding agreements” were going to be added in the third paragraph, the words “or other legally binding agreement” should be inserted after “each individual Protocol” in the fifth paragraph.
GOV/COM.24/OR.50/¶62: Chairman: revert to the Foreword after a revised version had been produced.

GOV/COM.24/W.P.26 (2 April 1997) Foreword

This document is a model Additional Protocol designed for States having a Safeguards Agreement with the Agency, in order to strengthen the effectiveness and improve the efficiency of the safeguards system as a contribution to global nuclear non-proliferation objectives.

The Board of Governors has requested the Director General to use this model as the standard for additional protocols, to be concluded by States and other parties to comprehensive safeguards agreements with the Agency. Such protocols shall contain all of the measures in this model Protocol.

The Board of Governors has also requested the Director General to negotiate additional protocols or other legally binding agreements with nuclear-weapon States incorporating those measures provided for in the model Protocol that each nuclear-weapon State has identified as capable of contributing to the non-proliferation and efficiency aims of the Protocol, when implemented with regard to that State, and as consistent with that State's obligations under Article I of the NPT.

The Board of Governors has further requested the Director General to negotiate additional protocols with other States that are prepared to accept measures provided for in the model Protocol in pursuance of safeguards effectiveness and efficiency objectives.

In conformity with the requirements of the Statute, each individual Protocol or other legally binding agreement will require the approval of the Board and its authorization to the Director General to conclude and subsequently implement the Protocol so approved.

> GOV/COM.24/OR.52/¶4: Chairman: no comments on the first two paragraphs of the revised text in W.P.26.
>
> GOV/COM.24/OR.52/¶6: Japan: disappointed about the deletion of the phrase ", after consultations with the Agency"; understood that the Agency would always be free to initiate relevant consultations with the nuclear-weapon states.
>
> GOV/COM.24/OR.52/¶7: Mexico: urged that the phrase "after consultations with the Agency" be reinstated.
>
> GOV/COM.24/OR.52/¶8: Chairman: the phrase would be useful but was not essential.
>
> GOV/COM.24/OR.52/¶9: Greece: noting that the third and fourth paragraphs spoke of "to negotiate additional protocols" whereas the second paragraph spoke of "additional protocols to be concluded", asked whether there was any substantive difference between the two formulations.
>
> GOV/COM.24/OR.52/¶11: Chairman: the formulation in the second paragraph reflected the expectation that States with comprehensive safeguards agreements would accept all of the measures in the model Protocol without a great deal of negotiation whereas the

formulation in the third and fourth paragraphs reflected the expectation that there would be a great deal of negotiation whose outcome could not be accurately predicted.

GOV/COM.24/OR.52/¶12-13: Egypt, Syrian Arab Republic and Jordan: recalling the proposal to delete “that are prepared” in the fourth paragraph, expressed regret that the phrase appeared in the revised text and requested that mention of the proposal be made in the Committee’s report to the Board.

GOV/COM.24/OR.52/¶14-15: India: oppose deletion of “that are prepared”; in the second paragraph replace “model” by “framework”.

GOV/COM.24/OR.52/¶16: Austria: retain “model”, since “framework” would imply that states with comprehensive safeguards agreements could pick and choose among the safeguards measures, which was not the intention underlying that paragraph.

GOV/COM.24/OR.52/¶18-19: Pakistan: the fourth paragraph was unnecessary and should be deleted; its absence would not deprive states having only INFCIRC/66-type safeguards agreements with the Agency of the opportunity to conclude additional protocols if they so desired; reflect this view in the Committee’s report to the Board.

GOV/COM.24/OR.52/¶20: Cuba: still had reservations with regard to the title and to the first and fourth paragraphs of the foreword.

GOV/COM.24/OR.52/¶21-22: Chairman: a preponderance of support for the retention of “that are prepared” in the fourth paragraph; the opinions of Egypt, the Syrian Arab Republic and Jordan would be reflected in the summary records; hope that the concerns of India, Pakistan and Cuba on a number of occasions could be taken into account in the Committee’s report to the Board.

GOV/COM.24/OR.52/¶23: Egypt: would like the opinions of Egypt, the Syrian Arab Republic and Jordan to be reflected in the Committee’s report to the Board and not just in the summary records.

GOV/COM.24/OR.52/¶24: Chairman: if Egypt proposed wording for inclusion in the report, he would be happy to consider it.

GOV/COM.24/OR.52/¶25: Chairman: no comments on the fifth paragraph; assumed that, subject to the outcome of the work on the Committee’s report to the Board, the Committee had agreed on the Foreword.

On 3 April 1997 the Committee considered the draft (GOV/COM.24/W.P.22/Rev.1 of 2 April 1997) of its report transmitting the Draft Model Protocol to the Board. Paragraphs 5-8 of this draft report relate directly to parts of the foreword and, together with key statements by Committee members on these paragraphs, are presented here.

5. In agreeing to submit the draft Model Protocol for the Board's consideration, participating States took into consideration the declaration made by the Chairman of the Committee at the opening meeting of its session of January 20-31, 1997. In that statement, the Chairman - inter alia - indicated his understanding that the Nuclear Weapon States

"had been looking at two issues:

(a) the substance, that is to say, what measures that will be accepted by States with comprehensive safeguards agreements that they, the Nuclear Weapon States, will be prepared to adopt; and,

(b) the procedures for ensuring that commitments on the part of both the NWS and NNWS proceed with a certain degree of parallelism."

6. The Chairman went on to note that

"this means that the meeting of the Board that would be called upon to approve the report of the Committee (including the Protocol) would take a decision on the Protocol in light of an understanding of the positions of the NWS.

This would be achieved by the NWS setting out their positions before the Board so that the Board could take account of this information in approving the Protocol.

The Board meeting may also be an appropriate moment for any other country that might wish to indicate its position to do so."

7. The Committee recommends to the Board that in its consideration of the draft Model Protocol it take account of the foregoing statement by the Chairman and such developments as relate to it.

8. With regard to the last sentence of the Chairman's text quoted in paragraph 6, some States with INFCIRC/66-type agreements indicated that, in their view, the provisions of the draft Model Protocol were not designed for them."

GOV/COM.24/OR.53/¶7 and 9: Japan, supported by Germany: attached great importance to the Chairman's reference to "a certain degree of parallelism" as regards commitments on the part of NWS and NNWS (¶5) and to his statement that the Board would take a decision on the Protocol in May in the light of an understanding of the positions of the NWS (¶6).

GOV/COM.24/OR.53/¶11: Cuba: suggested that paragraph 8 be amended to read "... in paragraph 6, all the States with INFCIRC/66-type agreements indicated that the provisions of the draft Model Protocol are not applicable to them."

GOV/COM.24/OR.53/¶12: Australia: not correct to speak of "all the States with INFCIRC/66-type agreements" since a number of NWS had INFCIRC/66-type agreements over and above their voluntary-offer agreements.

GOV/COM.24/OR.53/¶13: Germany: delete the word "some" since not all States with INFCIRC/66-type agreements had been participating in the work of the Committee.

GOV/COM.24/OR.53/¶14: USA and UK: replace "some" by "many", "several" or "a number of".

GOV/COM.24/OR.53/¶15: Egypt: add a new paragraph on the following lines: "Some delegations expressed concern that the Protocol addressed only those States with INFCIRC/66-type agreements which were prepared to accept it and did not address all of those States in the same manner." Such a paragraph would help to compensate for the fact that the words "that are prepared" had not been deleted from the Foreword.

GOV/COM.24/OR.53/¶18: Chairman: amend paragraph 8 to read "... paragraph 6, several States with INFCIRC/66-type agreements ... the provisions of the draft Model Protocol are not applicable to them."

GOV/COM.24/OR.53/¶20: Pakistan: amend paragraph 8 to read "... paragraph 6, all States with exclusively INFCIRC/66-type agreements ...".

GOV/COM.24/OR.53/¶23: India: amend Pakistan's proposal to read "... paragraph 6, all States with exclusively INFCIRC/66-type agreements which participated in the deliberations of the Committee ...".

GOV/COM.24/OR.53/¶25: Chairman: suggested "... paragraph 6, all the participating States with exclusively INFCIRC/66-type agreements indicated that, in their view, the provisions of the draft Model Protocol are not applicable to them."

GOV/COM.24/OR.53/¶38: Chairman: invited comments on the following additional paragraph, circulated by Egypt: "A number of delegations called upon all INFCIRC/66 States to adopt additional protocols based upon provisions contained in the Model Protocol."

GOV/COM.24/OR.53/¶39: Australia: amend to read "... called upon all States with exclusively INFCIRC/66-type agreements to adopt additional protocols ...".

GOV/COM.24/OR.53/¶48: India and Pakistan: the proposed additional paragraph would be tantamount to a duplication of the fourth paragraph of the foreword and states with exclusively INFCIRC/66-type agreements might be entitled to reopen the discussion of the fourth paragraph of the foreword.

GOV/COM.24/OR.53/¶49: Chairman: the proposed additional paragraph with the amendment by the Australia was an accurate reflection of the Committee's discussions.

3. *Preamble*

Preamble paragraph 1
WHEREAS ….. (hereinafter referred to as "…..") is a party to (an) Agreement(s) between ….. and the International Atomic Energy Agency (hereinafter referred to as the "Agency") for the application of safeguards [full title of the Agreement(s) to be inserted] (hereinafter referred to as the "Safeguards Agreement(s)"), which entered into force on . . . .;

Annex III of the "Discussion Draft" of 21 November 1995

Preamble first paragraph
WHEREAS ..... (hereinafter referred to as .....) is a party to the Agreement between ..... and the International Atomic Energy Agency (hereinafter referred to as the Agency) for the Application of Safeguards in Connection with [the Treaty on the Non-Proliferation of Nuclear Weapons] [and] [the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean] (hereinafter referred to as the Safeguards Agreement), which entered into force on .....;

Annex III of the "Discussion Draft II" of 27 February 1996
Preamble first paragraph: {Same as "Discussion Draft" of 21 November 1995.}

Annex III of GOV/2863, 6 May 1996
Preamble first paragraph: {Same as "Discussion Draft" of 21 November 1995.}

GOV/COM.24/W.P. 14: Brazil: Delete the phrase " in connection with ... Agreement)".

GOV/COM.24/W.P. 19: Egypt Delete the remainder of the paragraph after "for the Application of Safeguards".

GOV/COM.24/W.P. 10: Germany: Delete text following " ... Agency) for the" to the end of the paragraph and replace with "[Application of Safeguards in connection with] [in implementation of Article IlI,(1) and (4) of] [the Treaty on the Non-Proliferation of Nuclear Weapons] [and] [the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean] "[in[*/]]" (hereinafter referred to as the Safeguards Agreement(s)) which entered into force on . . . . . [and on . . . . ., respectively][**/]." Insert new footnote[*/] to read: "Insert the title(s) of the safeguards agreement(s) of the State concerned, e.g. of a so-called voluntary offer or an INFCIRC/66/Rev.2 agreement."
[**/] reads as footnote [1/] in original text.

GOV/COM.24/W.P. 9: Greece: Delete "in connection ... Caribbean]".

GOV/COM.24/W.P. 13: Mexico: Delete "WHEREAS ... the International Atomic Energy Agency (hereinafter referred to as the Agency)" and replace with the following: "Bearing

in mind the provisions of the Agreement between ..... (hereinafter referred to as .....) and the International Atomic Energy Agency (hereinafter referred to as the Agency) for the application of ... ".

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
Preamble paragraph 1
[WHEREAS ..... (hereinafter referred to as " ......") is a party to a Comprehensive Safeguards Agreement (hereinafter referred to as the "Safeguards Agreement") with the International Atomic Energy Agency (hereinafter referred to as the "Agency"), which entered into force on .....;]
OR
[WHEREAS ..... (hereinafter referred to as ".....") is a party to the Agreement between ..... and the International Atomic Energy Agency (hereinafter referred to as the "Agency") for the Application of Safeguards (hereinafter referred to as the "Safeguards Agreement"), which entered into force on .....;]
OR
[WHEREAS ..... (hereinafter referred to as ".....") is a party to the Agreement between ..... and the International Atomic Energy Agency (hereinafter referred to as the "Agency") for the application of safeguards [full title of the Agreement to be inserted] (hereinafter referred to as the "Safeguards Agreement"), which entered into force on .....;]

GOV/COM.24/OR.41/¶14-16 and OR.40 attachment 3: USA: preferred that there be no preamble but because many other delegations felt that there should be one; proposed the following text for the first paragraph of the preamble: "WHEREAS ..... is a party to the Agreement between ..... and the International Atomic Energy Agency (hereinafter referred to as the "Agency") for the application of safeguards (full title of the Agreement to be inserted) (hereinafter referred to as the "Safeguards Agreement") which entered into force on .....;"

GOV/COM.24/OR.41/¶35, 37, 44 and 47: Germany, Finland, Sweden, Czech Republic, South Africa and Algeria: preferred the third option in the Rolling Text, which was almost identical with the first paragraph of the USA text.

GOV/COM.24/OR.41/¶36 and 46: Ecuador and Syrian Arab Republic: preferred the second option in the Rolling Text.

GOV/COM.24/OR.41/¶41: Islamic Republic of Iran: prefer the third option; the preamble should contain a reference to the objectives of the protocol and give some idea of the underlying aspirations.

GOV/COM.24/OR.41/¶42: Chile: prefer the third option, said that the excellent text proposed by the United States delegation would be improved through the insertion - suggested by the representative of the Syrian Arab Republic - of the phrase ", taking into account any existing constitutional obligations and the demands of sovereignty of .....".

GOV/COM.24/OR.41/¶43: Secretariat: irrespective of which option was chosen, each protocol would have to specify the safeguards agreement to which it was additional, giving the title and date of entry into force.

GOV/COM.24/OR.41/¶48: India: could accept only the first option.

GOV/COM.24/OR.41/¶53: Chairman: the third option for the first paragraph of the preamble in the Rolling Text seemed to enjoy the greatest support and was the most appropriate.

Preamble paragraph 2
AWARE OF the desire of the international community to further enhance nuclear non-proliferation by strengthening the effectiveness and improving the efficiency of the Agency's safeguards system;

Annex III of the “Discussion Draft” of 21 November 1995
Preamble second paragraph
WHEREAS..... and the Agency are agreed to strengthen the effectiveness and improve the efficiency of the safeguards provided for in the Safeguards Agreement with a view to providing additional assurance of the non-diversion of nuclear material subject to the Safeguards Agreement to nuclear weapons or other nuclear explosive devices, including credible assurance of the absence of undeclared nuclear material and activities;

Annex III of the “Discussion Draft II” of 27 February 1996
Preamble second paragraph: {Same as “Discussion Draft” of 21 November 1995.}

Annex III of GOV/2863, 6 May 1996
Preamble second paragraph
WHEREAS..... and the Agency are agreed to strengthen the effectiveness and improve the efficiency of the safeguards provided for in the Safeguards Agreement with a view to providing additional assurance of the non-diversion of nuclear material subject to the Safeguards Agreement to nuclear weapons or other nuclear explosive devices, including the absence of undeclared nuclear material and activities;

> GOV/Com.24/W.P. 10: Germany: Amend to read: "Whereas the international community deems desirable to strengthen the effectiveness and to improve the efficiency of Agency safeguards with a view of providing additional assurance of the non-diversion of nuclear material to nuclear weapons or other nuclear explosive devices anywhere and of enhancing the Agency's capability to detect undeclared nuclear material and activities;"
>
> GOV/COM.24/OR.21/¶76: USA: questioned Germany's amendment proposal as the result of the amendment would be more like a general political statement than part of a protocol to an agreement between the Agency and a particular state.

GOV/COM.24/Chairman’s W.P.2 Rolling Text (18 October 1996):
Preamble paragraph 2
[AWARE OF the desire of the international community to strengthen the effectiveness and improve the efficiency of Agency safeguards with a view to providing additional assurance of the non-diversion of nuclear material to nuclear weapons or other nuclear explosive devices and of enhancing the Agency's capability to detect undeclared nuclear material and activities;]

> GOV/COM.24/OR.41/¶79 and OR.40 attachment 3: USA: replace the Rolling Text second paragraph with "AWARE of the desire of the international community to strengthen the effectiveness and improve the efficiency of the Agency's safeguards system with a view to providing credible assurance of the non-diversion of nuclear

material to nuclear weapons or other nuclear explosive devices and of the absence of undeclared nuclear activities;" the main difference between this and the Rolling Text was the replacement of the word "additional" by "credible".

GOV/COM.24/OR.41/¶81 and 85: Netherlands, Russian Federation and Algeria: prefer the USA text.

GOV/COM.24/OR.41/¶83, 86 and 94: Brazil, Chile and Argentina: insert "additional" in the US text before "credible assurance", to avoid implying that present Agency safeguards could not provide credible assurance.

GOV/COM.24/OR.41/¶84 and 87: France and South Africa: include a reference to non-proliferation in the USA text.

GOV/COM.24/OR.41/¶88: Greece: insert "material and" between "nuclear" and "activities" in the US text.

GOV/COM.24/OR.41/¶89-90: Germany: change USA text to something like "... the desire of the international community to strengthen the non-proliferation regime by improving the effectiveness and efficiency of ..."; insert "additional" and "material and".

GOV/COM.24/OR.41/¶91: Belgium: insert "additional" in the US text; replace "and of the absence of undeclared nuclear activities" at the end of the USA text with the wording in the Rolling Text "and enhancing the Agency's capability to detect undeclared nuclear material and activities".

GOV/COM.24/OR.41/¶100: Chairman: use the second paragraph of the USA text with the addition of a reference to non-proliferation; the insertion of the word "additional" before "credible"; and the insertion of "material and" between "nuclear" and "activities".

Preamble paragraph 3

RECALLING that the Agency must take into account in the implementation of safeguards the need to: avoid hampering the economic and technological development of ..... or international co-operation in the field of peaceful nuclear activities; respect health, safety, physical protection and other security provisions in force and the rights of individuals; and take every precaution to protect commercial, technological and industrial secrets as well as other confidential information coming to its knowledge;

Annex III of the "Discussion Draft" of 21 November 1995 {Did not include such a paragraph.}

Annex III of the "Discussion Draft II" of 27 February 1996 {Did not include such a paragraph.}
Preamble fifth paragraph:
BEARING IN MIND the obligations of the Agency to avoid hampering the economic and technological development of the State, to avoid undue interference in the State's peaceful nuclear activities and to protect commercial and industrial secrets and other confidential information coming to its knowledge in the implementation of the Safeguards Agreement or of this Protocol;

Annex III of GOV/2863, 6 May 1996
Preamble fifth paragraph:
BEARING IN MIND the obligations of the Agency to avoid hampering the economic and technological development of the State, to avoid undue interference in the State's peaceful nuclear activities and to protect commercial and industrial secrets and other confidential information coming to its knowledge in the implementation of the Safeguards Agreement;

> GOV/Com.24/W.P. 14: Brazil: Add at the end of the paragraph the following: "as well as the right of the State to take reasonable measures to protect information it considers sensitive from a commercial and industrial point of view."
>
> GOV/Com.24/W.P. 19: Egypt: Insert "as stipulated in paragraphs 4 and 5 of INFCIRC/153, " after "Agency".
>
> GOV/Com.24/W.P. 10: Germany: Amend to read: "Whereas the Agency is obliged to avoid hampering ... economic and technological development ..., to avoid undue interference in ... peaceful nuclear activities, to act in accordance with health, safety, physical protection and other security provisions in force and with the rights of individuals, to remain consistent with prudent management practices for the economic and safe conduct of nuclear and other activities falling into the scope of this Protocol, and to protect commercial and industrial secrets as well as classified and other confidential information coming to its knowledge in the implementation of safeguards ...."
>
> GOV/Com.24/W.P. 13: Mexico: Insert "both" after "implementation of"; add at the end of the paragraph "and this Protocol;".

GOV/COM.24/OR.22/¶56: Egypt: supported the proposal by Brazil and withdraw its own proposal.

GOV/COM.24/OR.22/¶57: USA and Netherlands (¶65): delete preambular paragraph 5 and leave the matter to be covered by article 15.

GOV/COM.24/OR.22/¶60: Germany: Oppose deletion.

GOV/COM.24/OR.22/¶67: USA and UK (¶70): support the Secretariat's draft and oppose all the amendments proposed.

GOV/COM.24/OR.22/¶68: Brazil, Republic of Korea (¶69) and Nigeria (¶71): support the German proposal.

GOV/Com.24/W.P. 19: Egypt: Add a new paragraph after paragraph 5: "Taking into account any existing constitutional obligations and the demands of sovereignty of ..... ."

GOV/COM.24/OR.22/¶79: Chairman: as there were no comments on the Egyptian proposal for a new paragraph to be added after paragraph 5, put it in square brackets.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
Preamble paragraph 3
[BEARING IN MIND the obligations of the Agency to avoid hampering the economic and technological development of the State, to avoid undue interference in the State's peaceful nuclear activities and to protect commercial and industrial secrets and other confidential information coming to its knowledge in the implementation of the Safeguards Agreement;]
OR
[WHEREAS the Agency is obliged to avoid hampering economic and technological development, to avoid undue interference in peaceful nuclear activities, to act in accordance with health, safety, physical protection and other security provisions in force and with the rights of individuals, to remain consistent with prudent management practices for the economic and safe conduct of nuclear and other activities falling within the scope of this Protocol, and to protect commercial and industrial. secrets as well as classified and other confidential information coming to its knowledge in the implementation of safeguards;]
[TAKING into account any existing constitutional obligations and the demands of sovereignty of .....;]

GOV/COM.24/OR.42/¶19 and OR.40 attachment 3: USA: replace these alternatives with "RECALLING that the Agency must take into account in the implementation of safeguards the need to avoid hampering the economic and technological development of ..... or international cooperation in the field of nuclear activities, to respect health, safety, physical protection and other security provisions in force and the rights of individuals, and to take every precaution to protect commercial and industrial secrets as well as other confidential information coming to its knowledge;".

GOV/COM.24/OR.42/¶20: Australia: prefer the third paragraph of the USA text to the alternative paragraphs in the Rolling Text, but there was overlap with the reference to the rights of individuals and the provision in square brackets at the beginning of Article 5 of the revised Rolling Text (ROLLING TEXT/REV.1 of 27 January 1997).

GOV/COM.24/OR.42/¶21 and 29: Brazil, South Africa and Sweden: endorsed USA text.

GOV/COM.24/OR.42/¶22: Chile: could accept USA text but using "is obliged to avoid" rather than "must take into account" would create a more appropriate balance between the obligations of the Agency and those of Member States.

GOV/COM.24/OR.42/¶23: Argentina: welcomed the USA text but insert "technological" after "commercial" in the penultimate line.

GOV/COM.24/OR.42/¶24-25: Germany and Greece: endorsed the USA text, as amended by Argentina.

GOV/COM.24/OR.42/¶27: Algeria: combine the USA text with the second of the two Rolling Text paragraphs, which had the merit of referring to an actual obligation to avoid hampering economic and technological development, etc.

GOV/COM.24/OR.42/¶28: Syrian Arab Republic: prefer the second version in the Rolling Text, because it covered the need to avoid hampering economic development and the need to respect a State's sovereignty and constitutional requirements.

GOV/COM.24/OR.42/¶30: Chairman: widespread agreement with the third paragraph of the USA text as amended by Argentina.

Preamble paragraph 4
WHEREAS the frequency and intensity of activities described in this Protocol shall be kept to the minimum consistent with the objective of strengthening the effectiveness and improving the efficiency of Agency safeguards;

Annex III of the “Discussion Draft” of 21 November 1995
Preamble fifth paragraph
WHEREAS the frequency and intensity of activities described in this Protocol will be as required to resolve inconsistencies in information concerning the nuclear programme in ....., and not necessarily as a function of the scale of that programme;

Annex III of the “Discussion Draft II” of 27 February 1996
Preamble sixth paragraph
WHEREAS the frequency and intensity of activities described in this Protocol will be kept to a minimum consistent with the effective implementation of the Protocol and will not necessarily be a function of the scale of that programme;

Annex III of GOV/2863, 6 May 1996
Preamble sixth paragraph: {Same as “Discussion Draft II” of 27 February 1996.}

GOV/Com.24/W.P. 10: Germany: Replace the word "will" after "this Protocol" with "shall"; replace the text from "the effective implementation" to the end of the paragraph with the following: "the objective of strengthening the effectiveness and improving the efficiency of Agency safeguards."

GOV/COM.24/OR.5/¶21: Philippines: this paragraph should follow paragraph 4 and the words "will not necessarily be a function of the scale of that programme" should be clarified.

GOV/Com.24/W.P. 16: Slovakia: Delete "and will not necessarily be a function of the scale of that programme;”

GOV/COM.24/OR.22/¶80: Russian Federation supported by Argentina (¶85): after "Whereas" insert "the Agency shall make every effort to implement safeguards in a cost-effective manner and".

GOV/COM.24/OR.22/¶83: Cuba and Czech Republic: support Slovakia’s proposal.

GOV/COM.24/OR.22/¶84: USA supported by Australia (¶87): change to: "... will be kept to a minimum consistent with the effective and efficient implementation of the protocol"; avoid reference to the "objective" of the protocol, as that was still a matter of debate.

GOV/COM.24/OR.22/¶88: Chairman: agreement on deletion of the phrase "and will not necessarily be a function of the scale of that programme" and on inclusion of a reference to the need for efficiency and effectiveness. He would prepare two square-bracketed

alternatives, one based on the Russian and USA proposals and the other based on the German proposal.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
Preamble paragraph 4
[WHEREAS the frequency and intensity of activities described in this Protocol will be kept to the minimum consistent with the effective and efficient implementation of this Protocol;]
OR
[WHEREAS the frequency and intensity of activities described in this Protocol shall be kept to the minimum consistent with the objective of strengthening the effectiveness and improving the efficiency of Agency safeguards;]

GOV/COM.24/OR.42/¶42-45: USA, Australia: Sweden, Argentina and Brazil: support the second alternative.

GOV/COM.24/OR.42/¶46: Chairman: assumed the Committee would like to retain the second alternative.

Preamble paragraph 5
NOW THEREFORE .... and the Agency have agreed as follows:

Annex III of the "Discussion Draft" of 21 November 1995
Preamble sixth paragraph: {Same as paragraph 5 of INFCIRC/540 (Corrected).}

Annex III of the "Discussion Draft II" of 27 February 1996
Preamble seventh paragraph: {Same as paragraph 5 of INFCIRC/540 (Corrected).}

Annex III of GOV/2863, 6 May 1996
Preamble seventh paragraph: {Same as paragraph 5 of INFCIRC/540 (Corrected).}

GOV/COM.24/OR.22/¶89: no proposals or comments on preambular paragraph 7.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
Preamble paragraph 5
NOW THEREFORE ..... and the Agency have agreed as follows:

GOV/COM.24/OR.42/¶58: Chairman: assumed that no one had any problems with the final preambular paragraph.

GOV/COM.24/Chairman's W.P.2 Rolling Text/Rev.1/Add.4 (29 January 1997):
WHEREAS ..... (hereinafter referred to as ".....") is a party to (an) Agreement(s) between ..... and the International Atomic Energy Agency (hereinafter referred to as the "Agency") for the application of safeguards [full title of the Agreement(s) to be inserted] (hereinafter referred to as the "Safeguards Agreement(s)"), which entered into force on ....;

AWARE OF the desire of the international community to further enhance nuclear non-proliferation by strengthening the effectiveness and improving the efficiency of the Agency's safeguards system with a view to providing additional credible assurance of the non-diversion of nuclear material to nuclear weapons or other nuclear explosive devices;

RECALLING that the Agency must take into account in the implementation of safeguards the need to: avoid hampering the economic and technological development of ..... or international co-operation in the field of nuclear activities; respect health, safety, physical protection and other security provisions in force and the rights of individuals; and take every precaution to protect commercial, technological and industrial secrets as well as other confidential information coming to its knowledge;

WHEREAS the frequency and intensity of activities described in this Protocol shall be kept to the minimum consistent with the objective of strengthening the effectiveness and improving the efficiency of Agency safeguards;

NOW THEREFORE..... and the Agency have agreed as follows:

GOV/COM.24/OR.49/¶39: USA: the main aim of the Protocol was to uncover clandestine activities and not to ensure non-diversion, therefore add a phrase to the second paragraph to clarify that fact or delete the phrase in question, so that the paragraph would end after the words "safeguards system"; insert "peaceful" before "nuclear activities" in the third line of the third paragraph.

GOV/COM.24/OR.49/¶42-43: Chairman: nothing had been agreed until everything had been agreed; the second USA suggestion with regard to the second paragraph, namely the deletion of the last phrase, was the more attractive option; no objection to the insertion of the word "peaceful" in the third paragraph.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)

WHEREAS..... (hereinafter referred to as ".....") is a party to (an) Agreement(s) between ..... and the International Atomic Energy Agency (hereinafter referred to as the " Agency") for the application of safeguards [full title of the Agreement(s) to be inserted] (hereinafter referred to as the "Safeguards Agreement(s)"), which entered into force on ....;

AWARE OF the desire of the international community to further enhance nuclear non-proliferation by strengthening the effectiveness and improving the efficiency of the Agency's safeguards system;

RECALLING that the Agency must take into account in the implementation of safeguards the need to: avoid hampering the economic and technological development of..... or international co-operation in the field of peaceful nuclear activities; respect health, safety, physical protection and other security provisions in force and the rights of individuals; and take every precaution to protect commercial, technological and industrial secrets as well as other confidential information coming to its knowledge;

WHEREAS the frequency and intensity of activities described in this Protocol shall be kept to the minimum consistent with the objective of strengthening the effectiveness and improving the efficiency of Agency safeguards;

NOW THEREFORE..... and the Agency have agreed as follows:

GOV/COM.24/OR.50/¶63: Chairman: no comment on the Preamble.

Paragraphs not in INFCIRC/540 were proposed for inclusion in the preamble

(These were discussed but were not accepted by the Committee.}

GOV/Com.24/W.P. 9: Greece: After the first paragraph add: "Taking note of the Decisions and Resolutions adopted by the NPT Conference in 1995 in New York and in particular the Principles and Objectives for Nuclear Non-Proliferation and Disarmament where it was affirmed that the IAEA is the competent authority responsible to verify and

assure compliance with its safeguards agreements with States parties undertaken in fulfillment of their obligations under Article 111.1 of the NPT."
"Taking also note of the Statement made by the President of the Security Council on 31 January 1992, concerning the risk of proliferation as a threat to international security".

GOV/COM.24/OR.21/¶82: Spain, India, Belgium and Brazil (¶83): opposed Greece's proposed additional paragraphs as they had political implications going far beyond the scope of the envisaged protocol.

GOV/COM.24/OR.21/¶85: Germany: supported Greece’s additions.

GOV/COM.24/OR.21/¶86: Chairman: will include the two additional paragraphs in the Rolling Text in square brackets.

GOV/COM.24/Chairman’s W.P.2 Rolling Text (18 October 1996):
[TAKING NOTE of the Decisions and Resolutions adopted by the NPT Conference in 1995 in New York and in particular the Principles and Objectives for Nuclear Non-Proliferation and Disarmament where it was affirmed that the IAEA is the competent authority responsible to verify and assure compliance with its safeguards agreements with States parties undertaken in fulfillment of their obligations under Article III of the NPT;]
[TAKING NOTE ALSO of the Statement made by the President of the Security Council on 31 January 1992, concerning the risk of proliferation as a threat to international security;]

GOV/COM.24/OR.41/¶57-60, 64, 65, 66 and 68: Germany, Chile, Brazil, Egypt, Greece Belgium, Spain and South Africa: could go along with deleting the first of these paragraphs.

GOV/COM.24/OR.41/¶61 and 63: Islamic Republic of Iran and Algeria: retain the paragraph.

GOV/COM.24/OR.41/¶70: Chairman: widespread agreement, albeit tinged with some regret, to delete the paragraph.

GOV/COM.24/OR.41/¶71, 73, 74 and 75: Argentina, Algeria, Spain, Syrian Arab Republic, Philippines, Greece and Chile: could agree to deletion of the second paragraph.

GOV/COM.24/OR.41/¶77: Chairman: widespread agreement, again tinged with some regret, to delete the paragraph.

GOV/COM.24/Chairman’s W.P.2 Rolling Text (18 October 1996):
[CONSCIOUS OF the need to ensure that the Agency's safeguards, including the measures contained in this Protocol, should be implemented in a universal and non-discriminatory manner;]

GOV/COM.24/OR.41/¶101: Egypt, Saudi Arabia, Syrian Arab Republic, Algeria, Islamic Republic of Iran, Tunisia and Philippines: include the paragraph in the preamble.

GOV/COM.24/OR.41/¶104: Netherlands, Germany, USA, Spain, Greece, Mexico, New Zealand, Finland and Turkey: delete the paragraph because the proper place to deal with the issue of universality was in the foreword.

GOV/COM.24/OR.41/¶106: India: would not accept any reference to universality, whether in the preamble or in the foreword.

GOV/COM.24/OR.41/¶107: UK, Austria, France, Romania, Ireland, Hungary, Denmark, Czech Republic, China and Russian Federation: delete the paragraph.

GOV/COM.24/OR.41/¶108: Chairman: many, some of which felt that universality would be better dealt with in the foreword than in the preamble, were in favor of deleting the paragraph; some wished to retain it; the Committee would revert to the question in the context of the foreword.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
[WHEREAS the implementation of this Protocol should contribute to the process of nuclear disarmament with a view to the total elimination of nuclear weapons, on a verifiable and non-discriminatory basis;]

GOV/COM.24/OR.42/¶1: USA: the paragraph was not included in the USA preambular text because some considered the matter not relevant to the present Protocol while others regarded the total elimination of nuclear weapons as an extremely complex question.

GOV/COM.24/OR.42/¶2: Saudi Arabia: retain the paragraph in the preamble.

GOV/COM.24/OR.42/¶3: France, Germany and Spain: the paragraph would be out of place in the preamble or anywhere in the Protocol because there was no direct link between the application of safeguards and nuclear disarmament.

GOV/COM.24/OR.42/¶4: India: the paragraph was quite innocuous and would not create an obligation for any country so retain it as a reminder of the ultimate objective or hope.

GOV/COM.24/OR.42/¶6: Mexico, Netherlands, New Zealand, UK, Finland, Turkey, South Africa, Denmark, Sweden and Czech Republic: not appropriate for inclusion in the preamble.

GOV/COM.24/OR.42/¶8: Chairman: the paragraph should be deleted, not because the subject matter was unimportant but because it had no direct bearing on the aims of the Protocol and because a majority of Committee members seemed to favor its omission.

Annex III of the "Discussion Draft" of 21 November 1995
Preamble third paragraph [not in INFCIRC/540 (Corrected)]
WHEREAS it is necessary to supplement the provisions of the Safeguards Agreement;

Annex III of the "Discussion Draft II" of 27 February 1996
Preamble third paragraph: {Same as "Discussion Draft" of 21 November 1995.}
Annex III of GOV/2863, 6 May 1996

Preamble third paragraph: {Same as "Discussion Draft" of 21 November 1995.}

GOV/Com.24/W.P. 19: Egypt: Delete.

GOV/Com.24/W.P. 10: Germany: Delete.

GOV/COM.24/OR.22/¶20: France: cannot agree to the deletion of any one of the first three preambular paragraphs as long as the whole question of the title and the first preambular paragraph remained undecided; put the first three preambular paragraphs in square brackets, in the expectation that some deletions would be possible once the structure became clearer.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
Preamble seventh paragraph: {Same as third paragraph of "Discussion Draft" of 21 November 1995.}

GOV/COM.24/OR.42/¶9: Germany, Chile and Algeria: omit the paragraph reading "[WHEREAS it is necessary ... the Safeguards Agreement;]", because it was superfluous since it effectively duplicated the last line of the preamble, not to mention the latest version of Article 1 and even the title of the Protocol.

GOV/COM.24/OR.42/¶10: Chairman: delete the paragraph, as the matter seemed adequately covered elsewhere.

Annex III of the "Discussion Draft" of 21 November 1995
Preamble fourth paragraph {not in INFCIRC/540 (Corrected)}
WHEREAS..... and the Agency agree that the measures described in this Protocol are designed to provide the Agency with a full understanding of the nuclear programme in .....;

GOV/OR.884/¶71: Brazil: had serious doubts regarding preambular paragraph 4: understood that Programme 93+2 was aimed at providing the Agency with the capability to detect, as far as possible, undeclared activities; if a greater knowledge of national nuclear programs helped the Agency achieve that aim, then well and good, but greater knowledge could not be an end in itself and the paragraph should either be deleted or redrafted.

Annex III of the "Discussion Draft II" of 27 February 1996
WHEREAS..... and the Agency agree that the measures described in this Protocol are designed to provide the Agency with a fuller understanding of the nuclear programme in .....;

Annex III of GOV/2863, 6 May 1996
Preamble fourth paragraph: {Same as fourth paragraph of "Discussion Draft II" of 27 February 1996.}

GOV/Com.24/W.P. 10: Germany: Delete.

GOV/COM.24/OR.22/¶26: Brazil, Cuba, Egypt and Belgium supported deletion.

GOV/COM.24/OR.22/¶27: Spain: put in square brackets (supported by France (28) and Sweden (29), or delete.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
Preamble eighth paragraph: {Same as fourth paragraph of "Discussion Draft II" of 27 February 1996.}

GOV/COM.24/OR.42/¶11: Germany, Algeria and Saudi Arabia: delete the paragraph reading "[WHEREAS ... and ... nuclear programme in .....;]" as it was redundant and "fuller understanding" was too vague a concept.

GOV/COM.24/OR.42/¶12 and 13: UK and France: agreed with the previous speakers but wished to point out that the paragraph proposed by the UK for inclusion in the preamble (GOV/COM.24/OR.41/¶32) had been intended to replace the text now under discussion and could perhaps be incorporated in the US text.

GOV/COM.24/OR.42/¶14: Chairman: delete the paragraph in question and would see if the UK text could be worked into the US text.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
[TAKING NOTE that the activities in this Protocol are designed for States with Comprehensive Safeguards Agreements; participation of other States can enhance the effectiveness and efficiency of the implementation of the scheme in several ways. Thus, the safeguards system would be further enhanced if, in addition to the Protocol by the States with Comprehensive Safeguards Agreements, other States would be prepared to accept legally binding commitments with regard to Protocol activities relevant to the objectives of their safeguards agreements;]

GOV/COM.24/OR.42/¶15-17: Sweden, Algeria and India: the paragraph had been put forward by Sweden during the Committee's October 1996 session but was now covered by the UK and Belgium proposals regarding the foreword, and so after the foreword had been agreed upon might be deleted.

GOV/COM.24/OR.42/¶18: Chairman: delete the paragraph but bear it in mind when reverting to the foreword.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
[TAKING into account .any existing constitutional obligations and the demands of sovereignty of .....;]

GOV/COM.24/OR.42/¶31-32 and 34: Chile, Egypt, Syrian Arab Republic, Saudi Arabia, Islamic Republic of Iran and Algeria: retain the paragraph.

GOV/COM.24/OR.42/¶33, 35, 37 and 38: USA, Australia, Germany and Greece: delete the paragraph, because the Committee had already taken very full account of States' constitutional obligations and that, when assuming obligations and waiving rights

through accession to international treaties, States were in fact exercising their sovereignty.

GOV/COM.24/OR.42/¶36: France: delete the paragraph, because the model Protocol could not be adapted to the constitutional peculiarities of individual States; such an "à la carte" approach would be unacceptable.

GOV/COM.24/OR.42/¶39-40: Sweden, Denmark, New Zealand, Netherlands, Spain, Finland, Switzerland, Czech Republic, Canada, UK, South Africa and Turkey: delete the paragraph.

GOV/COM.24/OR.42/¶41: Chairman: the sense of the meeting was that the paragraph should be deleted.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
[FOR the purpose of implementing the provisions of this Protocol, nothing contained in this Protocol shall limit, or be construed as limiting, the inalienable rights of ..... to develop research, production and the use of nuclear energy for peaceful purposes without discrimination and in conformity with the spirit of the Non-Proliferation Treaty;]

GOV/COM.24/OR.42/¶47: USA: delete the paragraph; it was based on NPT Article IV.1, and a States' obligations arising out of Article IV.1 would not be affected either by the retention of that paragraph or by its deletion.

GOV/COM.24/OR.42/¶48: Islamic Republic of Iran and Syrian Arab Republic: retain the paragraph.

GOV/COM.24/OR.42/¶49: Denmark, South Africa, Germany, Sweden, Australia, Czech Republic, UK, Spain, Netherlands and Hungary: delete the paragraph.

GOV/COM.24/OR.42/50: Chairman: there appeared to be a significant preponderance of views in favor of deleting the paragraph.

GOV/COM.24/OR.41/¶17: Algeria: proposed the following additional paragraph:

"AWARE of the need to ensure that the funding by the Agency of safeguards-related activities, including the measures provided for in this Protocol, does not detrimentally affect the resources which the Agency should devote to technical co-operation with Member States;"

GOV/COM.24/OR.42/¶52: Germany: the idea underlying the proposed paragraph related to the allocation of Agency resources, a matter for the Board and the General Conference and outside the purview of the envisaged Protocol; the paragraph should not be included in the preamble.

GOV/COM.24/OR.42/¶53-57: USA, Australia, Japan and Argentina: omit the proposed paragraph, as the Protocol was not an appropriate medium for dealing with that idea.

GOV/COM.24/OR.42/¶57: Chairman: omit the paragraph; the issue would no doubt be dealt with thoroughly in the Administrative and Budgetary Committee, the Board and the General Conference.

4. ARTICLE 1 -RELATIONSHIP BETWEEN THE PROTOCOL AND THE SAFEGUARDS AGREEMENT

INFCIRC/540 (Corrected)

1. The provisions of the Safeguards Agreement shall apply to this Protocol to the extent that they are relevant to and compatible with the provisions of this Protocol. In case of conflict between the provisions of the Safeguards Agreement and those of this Protocol, the provisions of this Protocol shall apply.

Annex III of the "Discussion Draft" of 21 November 1995

10.a. ..... and the Agency shall, at the request of either, shall consult on amendment to this Protocol.

b. All amendments shall require the agreement of ..... and the Agency.

c. Amendments to this Protocol shall enter into force in the same conditions as the entry into force of the Protocol itself.

d. The Director General shall promptly inform all Member States of the Agency of any amendment to this Protocol.

13. The provisions of the Safeguards Agreement and of this Protocol shall be interpreted and implemented as a single agreement. In the event of conflict between the Agreement and this Protocol, the provisions of this Protocol shall prevail.

Annex III of "Discussion Draft II" of 27 February 1996

11. {Same as article 10.a of Annex III of the "Discussion Draft" of 21 November 1995.}

14. The provisions of the Safeguards Agreement and of this Protocol shall be interpreted and implemented as a single agreement, provided that:

a. for the purposes of implementing the provisions of this Protocol, in the event of conflict between the provisions of the Safeguards Agreement and of this Protocol, the provisions of this Protocol shall prevail; and

b. for the purposes of implementing the provisions of the Safeguards Agreement, nothing contained in this Protocol shall limit, or shall be construed as limiting, the rights and obligations of the Agency contained in the Safeguards Agreement.

Annex III of GOV/2863, 6 May 1996

12. a. {Same as article 10.a of Annex III of the "Discussion Draft" of 21 November 1995.}

GOV/COM.24/W.P. 4/Add.1:_Belgium: has a general reservation on this as long as the question of updating the lists in article 16 has not been resolved.

GOV/COM.24/W.P. 10: Germany: delete.

ARTICLE 1 -RELATIONSHIP BETWEEN THE PROTOCOL AND THE SAFEGUARDS AGREEMENT

15. The Protocol shall be an integral part of the Safeguards Agreement.

GOV/COM.24/W.P. 11: Algeria: the protocol should refer to INFCIRC/153 with regard to the interpretation of the protocol and the settlement of disputes (paragraphs 20, 21 and 22 of INFCIRC/153).

GOV/COM.24/W.P. 4/Add.1: Belgium: add an article on "Interpretation and Application of the Protocol and Settlement of Disputes". the protocol should contain a section on this subject or make explicit reference to paragraphs 20-22 of INFCIRC/153.

GOV/COM.24/W.P. 19: Egypt: add an article on "Settlement of Disputes: Paras. 20-22 of INFCIRC/153"

GOV/COM.24/W.P. 5: Finland: insert "and the Annex thereof" after "Protocol".

GOV/COM.24/W.P. 9: Greece: include two articles on the implementation of the protocol and the settlement of disputes (paragraphs 18-22 of INFCIRC/153).

GOV/COM.24/W.P. 1: Spain: combine articles 14 and 15 and put before article 13 and read: "This Protocol shall be an integral part of the Safeguards Agreement and shall remain in force as long as the Safeguards Agreement remains in force.”

GOV/COM.24/W.P. 17: USA: Add at the end of article 15 the words "and does not derogate from the rights of the Agency under the Safeguards Agreement."

GOV/COM.24/OR.17/¶13 and 19: Secretariat: if, as envisaged in article 15, the protocol was to be an integral part of the safeguards agreement, there was no need for the proposed new articles; such agreements had final clauses based on paragraphs 20-22 of INFCIRC/153; the same or similar clauses on interpretation, settlement of disputes and amendment existed in all three types of agreement, and it would be redundant to repeat them in the protocol.

GOV/COM.24/OR.17/¶29: Spain: the Committee should decide whether to produce a freestanding agreement or a model in the sense that INFCIRC/153 was a model.

GOV/COM.24/OR.17/¶30: USA: the outcome of the Committee's work should be a model in the sense that INFCIRC/153 was a model.

GOV/COM.24/OR.17/¶31 and 39: Germany: the Committee should produce material to serve as the basis for the negotiation of protocols additional to INFCIRC/153 agreements; opposed the USA addition to article 15, to the effect that the protocol should not derogate from the safeguards agreement, as the content of the protocol would determine whether the provisions of the original safeguards agreement applied fully, partially or not at all.

GOV/COM.24/OR.17/¶41: Australia: the Chairman’s Rolling Text of article 15 should make absolutely clear that the protocol did not derogate from the Agency's rights under existing agreements, or identify provisions in existing agreements not squaring with the protocol and suggesting suitable formulations or covering provisions.

GOV/COM.24/OR.17/¶46: Islamic Republic of Iran: draft the protocol to make it attractive to all states and to allow room for negotiation on the basis of the type of safeguards agreement that had been concluded by individual states.

GOV/COM.24/OR.17/¶53: Syrian Arab Republic; delete article 15.

GOV/COM.24/OR.17/¶55: India: the objective of the protocol was to strengthen the effectiveness and to improve the efficiency of the safeguards system in states with comprehensive safeguards agreements and any reference to INFCIRC/66-type agreements was not relevant and therefore totally unacceptable.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):

[15.{Formerly Article 12}

a. ..... and the Agency shall, at the request of either, consult on amendment of this Protocol.
b. All amendments shall require the agreement of ..... and the Agency.
c. Amendments to this Protocol [except amendments to Annexes I and II thereto] shall enter into force in the same conditions as the entry into force of the Protocol itself.
d. The Director General shall promptly inform all Member States of the Agency of any amendment of this Protocol.][5/]

[17. {Formerly Article 15} This· Protocol shall be considered as an integral part of the Safeguards Agreement. The provisions of the Safeguards Agreement shall apply to this Protocol to the extent that its provisions are relevant to and compatible with the provisions of this Protocol. Accordingly:

a. The following provisions of the Safeguards Agreement shall apply, or shall apply mutatis mutandis, to the implementation of this Protocol: Articles: ... [reference will be made to the relevant Articles of the Safeguards Agreement, e.g., [paragraph 1 of INFCIRC/153][3/]];
b. The following provisions of the Safeguards Agreement shall apply as supplemented respectively by the following provisions of this Protocol, to the implementation of this Protocol: Articles: ... [e.g., [paragraph 10 of INFCIRC/153][3/] by Article 10 of the draft Protocol;];
c. The following provisions of the Safeguards Agreement are superseded respectively by the following provisions of this Protocol: Articles: ... [e.g. [paragraph 85 of INFCIRC/153][3/] by Article 8 of the draft Protocol;];
d. The following provisions of the Safeguards Agreement are not applicable to the implementation of this Protocol: Articles ... [reference will be made to the relevant Articles of the Safeguards Agreement, e.g. [paragraph 7 of INFCIRC/153][3/]].

GOV/COM.24/OR.35/¶55 and attachment 2: Netherlands: replace articles 15, 16, 17 and 19 with the following new article 1: "

a. ..... and the International Atomic Energy Agency have agreed to supplement the provisions of the [... Safeguards Agreement ...], hereafter referred to as the "Safeguards Agreement", with the provisions contained in the following articles, hereafter referred to as the "Protocol". The Annexes to this Protocol shall be an integral part thereof. Except for the purposes of amendment of the Annexes, the term "Protocol" as used in this instrument means the Protocol and the Annexes together.

b. This Protocol shall be considered additional and supplementary to the Safeguards Agreement and shall remain in force as long as the Safeguards Agreement remains in force.

c. The provisions of the Safeguards Agreement shall apply to this Protocol to the extent that its provisions are relevant to and compatible with the provisions of this Protocol. In the event of a conflict, the provisions of the Protocol shall prevail."

GOV/COM.24/OR.35/¶56 and attachment 1: Germany: delete articles 15 and 19 and replace article 17 with: "The Protocol shall be an integral part of the Safeguards Agreement. The general provisions of the latter shall apply to the implementation of the Protocol; its specific provisions shall apply mutatis mutandis where appropriate. Where there is a conflict between provisions of the Protocol and those of the Safeguards Agreement which were valid prior to the entry into force of the Protocol, the provisions of the Protocol shall prevail."

GOV/COM.24/OR.35/¶57-58 and attachment 3: USA: the overriding principle ought to be to ensure that the existing safeguards system was not impaired, and, unless there was a conflict between the Protocol and the safeguards agreement the existing provisions of the safeguards agreement should continue to apply; preferred the initial statement in the German text; proposed the following text: "The Protocol shall be an integral part of the Safeguards Agreement. The provisions of the Safeguards Agreement shall continue to apply except that, when its provisions directly conflict with provisions of the Protocol, the latter shall control to the extent of the conflict."; for the sake of flexibility no detailed listing of articles should appear in the Protocol.

GOV/COM.24/OR.35/¶59-60: Brazil: agreed with the USA.

GOV/COM.24/OR.35/¶61: Australia: use "inconsistency" rather than "conflict

GOV/COM.24/OR.35/¶62: Belgium: preferred the German text; the word "conflict" was preferable to "inconsistency".

GOV/COM.24/OR.35/¶70: Chile: commended the idea of a single article at the beginning of the Protocol in place of articles 15, 16, 17 and 19; favored a combination of the German and Netherlands texts, with particular emphasis on the first sentence of the German proposal.

GOV/COM.24/OR.35/¶74-75: Iran: once the issue of the universality of application of the Protocol had been dealt with, there would be no problem specifying the kind of safeguards agreement involved, whereas if it were not specified that could lead to ambiguity later on.

GOV/COM.24/OR.35/¶77: Turkey: the requirements of universality would be better served by not specifying any provisions of the safeguards agreement in the Protocol; advised against using the word "inconsistency" in the present context because it had a special meaning in the Protocol.

GOV/COM.24/OR.36/¶1 and 22: UK and Denmark: preferred "additional and supplementary to" in paragraph b. of the Netherlands text to "an integral part of" in the first paragraph of the German text.

GOV/COM.24/OR.35/¶14: Syria: the Protocol should be a stand-alone legal instrument and therefore preferred "additional and supplementary to".

GOV/COM.24/OR.36/¶15-16: Algeria: the Netherlands, German and US texts were all inconsistent with the Foreword, which was entitled "Foreword to the model Protocol"; protocol should be "an integral part of the Safeguards Agreement.

GOV/COM.24/OR.36/¶33-34: Secretariat: pursuant to the Vienna Convention on the Law of Treaties, which governed - inter alia - the relationship between successive agreements on the same subject, the existing safeguards agreements antedated the Protocol and would apply to the extent that their provisions were compatible with the provisions of the Protocol; the existing safeguards agreements would continue in force, governing all the activities which they had previously governed, and their provisions would apply, or apply *mutatis mutandis*, in the implementation of the Protocol unless they were in conflict with the provisions of the Protocol, which would prevail as it would be the later agreement. Whether the text of the Protocol referred to the Protocol as "an integral part of the Safeguards Agreement" or as "additional and supplementary to the Safeguards Agreement" was merely a matter of drafting; the legal effect would be the same.

GOV/COM.24/OR.36/¶37-38: Germany: the legal effect of referring to the Protocol as "an integral part of the Safeguards Agreement" would not be the same as that of referring to it as "additional and supplementary to the Safeguards Agreement"; for example, "additional and supplementary" would mean that Articles 10 and 11 of the Protocol would prevail over those provisions in existing safeguards agreements which were based on paragraphs 85 and 86 of document INFCIRC/153 only as far as implementation of the Protocol; clearly, however, the intention was that Articles 10 and 11 should supersede those provisions and that would be made clear by the "integral part" formulation.

GOV/COM.24/OR.36/¶40: Secretariat: the phrase "The Protocol shall be an integral part of the Safeguards Agreement" implied no obligation of States parties to existing safeguards agreements to conclude the Protocol; the phrase meant that the Protocol would become "an integral part of the Safeguards Agreement" once the State in question had concluded it.

GOV/COM.24/OR.36/¶43: UK: in light of the Secretariat's comments "additional and supplementary" was an accurate and sufficient description of the relationship and there was no need to describe the Protocol as "an integral part of the Safeguards Agreement".

GOV/COM.24/OR.36/¶45-57: Chairman: seemed to be agreement that the simplified texts were better than the more elaborate version in the Rolling Text; seemed to be a great deal of support for placing the substance of article 17 at the beginning of the protocol; hoped to have a new version available early the following week.

GOV/COM.24/OR.36/¶50-51: Japan: preferred "an integral part of the Safeguards Agreement".

GOV/COM.24/OR.36/¶52: USA; whatever happened with regard to article 17, article 15 should be deleted and reliance placed in the amendment procedures contained in existing safeguards agreements.

GOV/COM.24/OR.36/¶55: UK: if article 15 was retained, insert "except amendments to Annexes I and II thereof" after "All amendments" in paragraph b. and remove the square brackets from that phrase in paragraph c.; paragraph c. could usefully be amended to read "... shall enter into force upon written notification of those parties".

GOV/COM.24/OR.36/¶57-58: Australia: if article 15 is deleted, include in the substantive part of the protocol the following: "The list of activities specified in Annex I, and the list of equipment and material specified in Annex II, may be amended through adoption by the Board and confirmation by the General Conference. ..... shall give effect to any such amendment within [three] months of confirmation by the General Conference."

GOV/COM.24/OR.36/¶59: Chairman: during the redrafting of article 17, he would give careful consideration to whether article 15 should be retained and to the procedure for amending annexes I and II.

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):

1. This Protocol shall be additional to and its provisions shall be interpreted as an integral part of the Safeguards Agreement. The provisions of the Safeguards Agreement shall apply to this Protocol to the extent that its provisions are relevant to and compatible with the provisions of this Protocol. In case of conflict between the provisions of the Safeguards Agreement and those of this Protocol, the provisions of this Protocol shall apply.

GOV/COM.24/OR.47/¶46: Syrian Arab Republic, Saudi Arabia and Turkey: should not refer to the Protocol's being "an integral part of the Safeguards Agreement", so amend it to read "This Protocol shall be additional to the Safeguards Agreement."

GOV/COM.24/OR.47/¶47: Australia, UK, Greece, Sweden and Denmark: insert "and supplementary" after "additional" in the Syrian proposal.

GOV/COM.24/OR.47/¶49: USA: it was crucial to make clear the legal relationship between the protocol and the safeguards agreements to which it would be additional; USA would be treating the protocol as an integral part of its safeguards agreement.

GOV/COM.24/OR.47/¶50: Brazil and UK: the relationship between the protocol and the safeguards agreements to which it would be additional was determined in the second and third sentences; the first sentence could therefore be dispensed with.

GOV/COM.24/OR.47/¶51-52, 54-55 and 57: Secretariat: the relationship between the protocol and the safeguards agreements to which it would be additional (the word "supplementary" adding nothing) was indeed determined in the second and third sentences. Under the Vienna Convention on the Law of Treaties, where there were

successive agreements on the same subject the earlier ones applied to the extent that they were compatible with the later ones; in cases of conflict, the later ones prevailed; the protocol would be "an integral part of the Safeguards Agreement" whether or not an explicit statement to that effect was included in it; stating in the protocol that it was "an integral part of the Safeguards Agreement" would not create a legal obligation to conclude the protocol; the USA would be free to interpret the protocol as an integral part of its safeguards agreement even if the first sentence of article 1 had been deleted; countries without safeguards agreements with the Agency would not be able to conclude the protocol as the latter would not be a stand-alone legal instrument; no legal problems would arise if some countries treated the protocol as "an integral part of the Safeguards Agreement" and others did not.

GOV/COM.24/OR.47/¶58: France, Argentina, Japan, and Islamic Republic of Iran: the first sentence might as well be deleted.

GOV/COM.24/OR.47/¶59: Germany and Belgium: if the first sentence was deleted, it would be necessary to reinstate several provisions, such as those concerned with amendment and the duration of the Protocol, which had been deleted on the understanding that there would be a statement that the Protocol was "an integral part of the Safeguards Agreement"; such a statement was essential to make it clear that once the Protocol had entered into force for a State it would remain in force as long as the safeguards agreement did.

GOV/COM.24/OR.48/¶1: Syrian Arab Republic: clarifying the Syrian proposal made at the previous meeting, the first sentence of article 1 should not be deleted but amended to read "This Protocol shall be additional to the Safeguards Agreement."

GOV/COM.24/OR.48/¶2-7: Secretariat: it was important that everyone see eye to eye on that relationship between the protocol and the safeguards agreement and how it operated; article 1 did not seek to determine the question of the existence or non-existence of a legal obligation to adhere to the protocol or to prejudge the question of prospective parties or the modalities for their adherence; whether states would adhere individually, or as a group, or in conjunction with international organizations was outside the scope of article 1; questions of legal obligations and political undertakings had to be considered in the light of states' non-proliferation obligations and policies outside the framework of the protocol; for the purpose of interpretation, the two agreements had to be read and interpreted as one agreement; he would like his interpretation to be accepted by all Committee members and to serve as guidance in the future for implementing the protocol and the safeguards agreement.{Much of this interpretation dealt with matters not at issue and is not included here.}

GOV/COM.24/OR.48/¶12: France: wondered whether the first sentence was necessary since the title made it clear that the protocol was additional to the agreements between the State and the Agency.

GOV/COM.24/OR.48/¶13: Germany: shared the Secretariat's understanding that the concept of the protocol as an "integral part of the Safeguards Agreement" would not affect the modalities for adherence; the compromise wording set out in ROLLING TEXT/REV.1 was satisfactory.

GOV/COM.24/OR.48/¶15: USA: there appeared to be concern that the wording of the article would affect the allocation of responsibilities among the Member States of international organizations such as EURATOM; it might help to resolve the issue and enable the Committee to move forward if the Committee's report to the Board of Governors were to include a statement to the effect that the protocol did not prejudge how Member States and international organizations such as EURATOM decided on signature or responsibility for implementation of the Protocol.

GOV/COM.24/OR.48/¶27: Japan: the Secretariat had made it quite clear that the particular problems of a group of countries or international organizations should be dealt with outside article 1, yet those delegations which advocated the deletion of the words "integral part" still appeared to be trying to solve their problems in the context of article 1; the USA suggestion should help meet their concerns.

GOV/COM.24/OR.48/¶34 and 36: Chairman: broad agreement that article 1 should contain the second and third sentences; proposed that the first sentence should be deleted and that two statements should be included in the official record, the Committee's report to the Board and the Board's resolution: the first would state that in adopting article 1 the Committee had taken note of the interpretation provided by the Secretariat and the second statement would be along the lines of the United States proposal to the effect that the text did not prejudice the way in which Member States and other parties (or international organizations) decided on signature or responsibility for implementation of the protocol; deletion of the first sentence would not involve any further changes to the text.

GOV/COM.24/OR.48/¶41: Chairman: a revised text would be circulated shortly and the Committee would return to article 1 once it had had time for reflection.

GOV/COM.24/OR.49/¶6: Chairman: proposed that the first sentence of article 1 be deleted and that the contents of the following two papers be incorporated into the Committee's final report to the Board of Governors, with a recommendation that they be reflected in the decision taken by the Board when approving the model protocol; if that proposal were acceptable to the Committee, there would be no need to amend any other articles of the draft protocol.

GOV/COM.24/OR.49 Attachment 1: USA: in connection with article 1: "This text does not prejudge with what legal modalities Member States and international organizations to which they are parties decide on adherence to the Protocol or the division of responsibilities in its implementation."

GOV/COM.24/OR.49 Attachment 2: Chairman: in connection with article 1:

ARTICLE 1 -RELATIONSHIP BETWEEN THE PROTOCOL AND THE SAFEGUARDS AGREEMENT

1. In adopting Article 1, the Committee took note of the Interpretation provided by the Secretariat at the meeting of the Committee on 31 January 1997.
2. This text does not prejudge how Member States and other parties decide on adherence to or responsibilities for the implementation of this Protocol.

GOV/COM.24/OR.49/¶8: UK: some overlapping between the USA text and the second paragraph of the Chairman's text and suggested that they be merged, with the insertion of "to related safeguards agreements" between "parties" and "decide" in the second paragraph of the Chairman's text.

GOV/COM.24/OR.49/¶12: Argentina: had problems with the words "Member States and other parties" in the second paragraph of the Chairman's text and would prefer the USA text with suitable editorial amendments.

GOV/COM.24/OR.49/¶15: Chairman: the portion of the summary record of the previous meeting which covered Mr. ElBaradei's statement could be distributed towards the end of the following week together with the latest version of the Rolling Text.

GOV/COM.24/OR.49/¶16: Syrian Arab Republic: delete the second paragraph of the Chairman's text.

GOV/COM.24/OR.49/¶19: France: regarding the words "decide on adherence to or responsibilities for the implementation of", adherence to the Protocol would be a matter purely for States and the question of the responsibilities of "other parties to Safeguards Agreements" or "other parties concerned" would arise only at the implementation stage; accordingly, change to "decide on their respective responsibilities with regard to the implementation of".

GOV/COM.24/OR.49/¶20: Australia: delete "Member" in both texts.

GOV/COM.24/OR.49/¶22: Brazil: prefer the USA text without the word "Member".

GOV/COM.24/OR.49/¶24: USA: in the second paragraph of the Chairman's text, the Committee should be thinking in terms of states and international organizations to which states belonged and not simply of states.

GOV/COM.24/OR.49/¶2526: UK: retain "adherence” in the second paragraph of the Chairman's text; noting that EURATOM was not normally regarded as an international organization, insert after "parties" a phrase on the lines of "and other bodies in which they participate".

GOV/COM.24/OR.49/¶27: Algeria: support the USA text with the word "division" replaced by "sharing".

ARTICLE 1 -RELATIONSHIP BETWEEN THE PROTOCOL AND THE SAFEGUARDS AGREEMENT

GOV/COM.24/OR.49/¶28: Chairman: focus on the USA text: replace "organizations" with "institutions".

GOV/COM.24/OR.49/¶29: Germany: amended to read "international institutions of which they are members".

GOV/COM.24/OR.49/¶30: Chairman: suggested that the first sentence of article 1 be deleted; the first paragraph of his text together with the USA text (amended to read "This text does not prejudge with what legal modalities States and international institutions of which they are members decide on adherence to the Protocol or the division of responsibilities in its implementation") be incorporated into the Committee's final report to the Board, with a recommendation that they be reflected in the decision taken by the Board when approving the model protocol; and the portion of the summary record of the previous meeting which covered Mr. ElBaradei's statement be distributed towards the end of the following week together with the latest version of the Rolling Text.
GOV/COM.24/OR.49/¶31: It was so agreed.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)
1. The provisions of the Safeguards Agreement shall apply to this Protocol to the extent that they are relevant to and compatible with the provisions of this Protocol. In case of conflict between the provisions of the Safeguards Agreement and those of this Protocol, the provisions of this Protocol shall apply.

GOV/COM.24/OR.50/¶64-70: Germany: would prefer if the "integral part" concept were reinstated; concerned that elimination of the "integral part" concept would render the relationship between the additional protocols and the underlying safeguards agreements much less clear; a clause containing the "integral part" concept would make it absolutely clear that those provisions of the original safeguards agreements which were designed to protect states' and operators' interests would apply during implementation of the additional protocols wherever they were relevant to and not in conflict with the provisions of the latter; however, based on the interpretation by Mr. ElBaradei on 31 January that, even without the words "integral part" in the model text, the proposed

article 1 would, on the basis of a correct interpretation of international legal doctrine, lead to the conclusions that the provisions of original safeguards agreements would apply - or apply *mutatis mutandis* - as long as they were relevant to and not in conflict with the provisions of the additional protocols; if Mr. ElBaradei would confirm that this represented a correct analysis of his 31 January interpretation, if these understanding as regards the relationship between additional protocols and the respective underlying safeguards agreements would be reflected in the record of the current meeting, if the understandings expressed on 31 January and during the current meeting would be reflected in the Committee's report to the Board, and if the Board would include in the resolution whereby it approved the model text a direct reference to those understandings, Germany would be able to join a consensus on the wording of article 1 in the REVISED TEXT of 5 February 1997.

GOV/COM.24/OR.50/¶71: Belgium: supported the German statement.

GOV/COM.24/OR.50/¶76-78: Secretariat: confirmed that the German understanding - the crux of which had been that the provisions of original safeguards agreements would apply *mutatis mutandis* as long as they were relevant to and not in conflict with the provisions of the additional protocols - represented a correct analysis of his 31 January interpretation; agreed that the Protocol should be described as "additional to"; stated that those words did not mean that states having safeguards agreements of whatever type with the Agency would be under a legal obligation to conclude additional, protocol-based agreements; and stated that the legal status of the interpretation and the understanding attached to the Chairman's Note of 5 February 1997 was a matter for the Committee to decide and, for example, could take note of them or endorse them in its report to the Board.

GOV/COM.24/OR.51/¶1-7: UK and France: the explanation of the relationship between the Protocol and the safeguards agreement given by the Secretariat during the Committee's January meetings included a statement that the Protocol did not "... prejudge the question of prospective parties or the modalities for their adherence; whether States would adhere individually, or as a group, or in conjunction with international organizations was outside the scope of Article 1"; took it that where there were more than two parties to the safeguards agreement, each party to the safeguards agreement need participate in the Protocol only to the extent that the provisions of the Protocol were relevant to its rights and obligations under the safeguards agreements or other international agreements, and provisions in the model Protocol that were not relevant to all of the parties to the safeguards agreement could be given effect by means of a protocol or additional agreement between the other parties concerned; requested that that statement be reflected in the Committee's final report to the Board.

GOV/COM.24/OR.51/¶8: Secretariat: article 1 did not prejudge the question of prospective parties or the modalities for their adherence; that was for a State or group of States to decide for themselves in the light of their rights and obligations under their

respective safeguards agreements and non-proliferation treaties: it was a completely open question and lay outside the scope of article 1.

GOV/COM.24/OR.51/¶9: Chairman: proposed that article 1 be left as it stood; the exchange of views which had taken place would be taken into account when the Committee came to consider its report to the Board of Governors.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997) Understanding Recorded by the Committee Concerning the Interpretation of Article 1 as far as the Manner of Adhering to the Protocol and the Responsibility for its Implementation is Concerned

1. In adopting Article 1, the Committee took note of the Interpretation provided by the Secretariat at the meeting of the Committee on 31 January 1997.

2. This text does not prejudge with what legal modalities States and international institutions of which these States are members decide on adherence to the Protocol or on the division responsibilities in its implementation.

GOV/COM.24/OR.52/¶27: Egypt: insert, at the beginning of the second paragraph, which had been left unchanged in substance, "For States that are members of international institutions that are parties to safeguards agreements,"

GOV/COM.24/OR.52/¶28: Argentina: replace "members of international institutions" by "members of intergovernmental organizations".

GOV/COM.24/OR.52/¶30-31: Germany: "intergovernmental" would be inappropriate where the European Union was concerned; replace "adherence to the Protocol" by "concluding additional protocols or other legally binding agreements".

GOV/COM.24/OR.52/¶33-34: Netherlands and France: prefer "international institutions".

GOV/COM.24/OR.52/¶38-39: Germany, Greece and Netherlands: since the "Interpretation by the Secretariat of the relationship between the Protocol and the Safeguards Agreement" would presumably be endorsed in the Committee's report to the Board, it might be simplest to dispense with the Understanding.

GOV/COM.24/OR.52/¶40: UK and Sweden: the Understanding should be retained, as it would have a greater status than an endorsement of a statement made by the Secretariat.

GOV/COM.24/OR.52/¶42: Secretariat: redraft paragraph 2 to read "For States that are members of international institutions that are party to safeguards agreements with the IAEA, this text does not prejudge the legal modalities which these States and international institutions adopt regarding the conclusion of additional protocols or the division of responsibilities in their implementation."

GOV/COM.24/OR.52/¶43: France and UK: endorsed the Secretariat's suggestion.

GOV/COM.24/OR.52/¶44: Chairman: will circulate a working paper (W.P. 27) with the wording just suggested.

GOV/COM.24/Chairman's W.P.27 (3 April 1997) Understanding Recorded by the Committee Concerning the Interpretation of Article 1 as far as the Manner of Concluding Additional Protocols and the Responsibility for their Implementation

1. In adopting Article 1, the Committee took note of the Interpretation provided by the Secretariat at the meeting of the Committee on 31 January 1997.
2. For States that are members of international institutions that are party to safeguards agreements with the IAEA, this text does not prejudge the legal modalities which these

States and international institutions adopt regarding the conclusion of additional protocols or the division of responsibilities in their implementation.

{Agreed 3 Apr 1997.}

PROVISION OF INFORMATION
5. ARTICLE 2.a (Chapeau)

INFCIRC/540 (Corrected)

2.a. ..... shall provide the Agency with a declaration containing:

Annex III of the "Discussion Draft" of 21 November 1995
1.a. To the extent not already provided for under the Safeguards Agreement, ... undertakes to provide the Agency with the following information:

Annex III of the "Discussion Draft II" of 27 February 1996: {Same as "Discussion Draft" of 21 November 1995.}

Annex III of GOV/2863, 6 May 1996: {Same as "Discussion Draft" of 21 November 1995.}

GOV/Com.24/W.P. 11: Algeria: insert after "undertakes" ", subject to the obligations arising from its legislation on the matter,..."

GOV/Com.24/W.P. 12: Argentina: amend the paragraph to read: "In accordance with the principles for the implementation of safeguards set forth in Articles ... [cite the articles corresponding to paras 4, 5, 6 and 8 of INFCIRC/153] of the Safeguards Agreement, taking into account the constitutional obligations of .... vis-à-vis individuals, and to the extent not already provided for under the Safeguards Agreement, ... undertakes to provide the Agency with the following information:"

GOV/Com.24/W.P. 4: Belgium: replace with: "To the extent not already provided for under the Safeguards Agreement and taking into account any existing constitutional obligation ..... undertakes to provide the Agency with the following information:"

GOV/Com.24/W.P. 19: Egypt: insert after "Agreement," the words "and taking into account any existing constitutional obligations".

GOV/Com.24/W.P. 20: Sweden: protocol should include a provision to "describe generally the manner in which the information provided was gathered, and information on known general limitations."

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996): {Same as "Discussion Draft" of 21 November 1995.}

GOV/COM.24/OR.24/¶45: USA supported by Germany (¶48): question need for phrase "To the extent not already provided for under the Safeguards Agreement".

GOV/COM.24/OR.24/¶46: Algeria: add ", taking into account its legislation in this area," before "undertakes" in 1.a.

GOV/COM.24/OR.24/¶51: Germany and Spain (¶55): oppose Algerian addition.
GOV/COM.24/OR.24/¶57: Austria: retain the introductory phrase: need to distinguish between the information to be provided pursuant to article 1 and the information which already had to be provided pursuant to INFCIRC/153.

GOV/COM.24/OR.24/¶59: New Zealand and Netherlands (¶65): add "through an expanded declaration" after "the following information."

GOV/COM.24/OR.24/¶68: Brazil: omit the word "expanded".

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):
2.a. ..... undertakes to provide the Agency with a declaration containing:

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)
2.a. ..... shall provide the Agency with a declaration containing:

GOV/COM.24/OR.51/¶13: Japan: urged the Secretariat to produce without delay guidelines for the provision of article 2 information to facilitate implementation.

6. ARTICLE 2.a.(i) (Nuclear fuel cycle related research and development)

INFCIRC/540 (Corrected)

(i) A general description of and information specifying the location of *nuclear fuel cycle related research and development activities*[1] not involving nuclear material carried out anywhere that are funded, specifically authorized or controlled by, or carried out on behalf of, ...

[1] *Terms in italics have specialized meanings, which are defined in Article 18 below.*

Annex III of the "Discussion Draft" of 21 November 1995
1.a.(i) To the extent known to ....., a description of the nature and location of *nuclear fuel cycle-related research and development activities*[2] not involving nuclear material carried out at facilities[3], at locations outside facilities where nuclear material is customarily used[4] and at other locations.

[2] Terms in italics have specialized meanings, which are defined in Article 15 below.
[3] As defined in [paragraph 106 of INFCIRC/153]
[4] As referred to in [paragraph 49 of INFCIRC/153].

Annex III of the "Discussion Draft II" of 27 February 1996
1.a.(i) A description, the status and location of *nuclear fuel cycle-related research and development activities*[2] carried out anywhere within ..... that are owned, funded or authorized by, or otherwise come to the knowledge of, ... and that do not involve nuclear material.

[2] Terms in italics have specialized meanings, which are defined in Article 15 below.

Annex III of GOV/2863, 6 May 1996
1.a.(i) A description, the status and location of *nuclear fuel cycle-related research and development activities*[2] not involving nuclear material carried out anywhere in .....:
(a) that are owned, funded or authorized by ..... and are specifically related to conversion, fuel fabrication, power or research reactors, critical assemblies or accelerators; or
(b) that are specifically related to enrichment, reprocessing of nuclear fuel and treatment of waste containing nuclear material.

[2] Terms in italics have specialized meanings, which are defined in Article 16 below.

GOV/COM.24/OR.2/¶1: Secretariat: the Committee should bear in mind that one of the objectives of strengthened safeguards, and the purpose of the information requested in Article 1 was to provide as early a warning as possible of the existence of undeclared nuclear activities and activities aimed at the production of weapons-usable material. A

number of those nuclear processes could be developed to a deployment or near-deployment stage without the introduction of nuclear material.

GOV/OR.894/¶62: Canada: had difficulty providing information on nuclear fuel cycle-related research and development activities not involving nuclear material.

GOV/Com.24/W.P. 12: Argentina: merge sub-paragraphs (a) and (b) so that 1.a.(i) reads: "A general description and the location of *nuclear fuel cycle-related research and development activities* not involving nuclear material carried out anywhere in ..... that are conducted, controlled or carried out on behalf of ..... .
GOV/Com.24/W.P. 19 (8 August 1996): Egypt: delete.

GOV/Com.24/W.P. 10 (29 July 1996): Germany: merge sub-paragraphs (a) and (b) so that the paragraph reads: "A description, the status and location of *nuclear fuel cycle related research and development activities* not involving nuclear material but having been licensed or being funded by (State)".

GOV/Com.24/W.P. 3 Corr.1: Japan: add at the end of sub-paragraph (i): "... that are owned, funded or authorized by ....." and delete sub-paras (a) and (b).

GOV/Com.24/W.P. 16: Slovakia: add at the end of sub-paragraph (i): " ... that are owned, funded or authorized by ....." and revise sub-paragraph (a) by deleting "are owned, funded or authorized by ..... and" .

GOV/Com.24/W.P. 18: UK: add at the end of 1.a.(i) a separate paragraph as follows: "For the purposes of this Article and Article 1.a.(x) 'nuclear fuel cycle-related research and development activities' means those activities which are specifically related to conversion, enrichment, fuel fabrication, power or research reactors, critical assemblies, accelerators capable of producing a continuous neutron source sufficient for annual production of gram quantities of fissile isotopes, reprocessing of nuclear fuel and treatment of waste containing nuclear material."

GOV/Com.24/W.P. 11: Algeria: in article 1.a.(i)(a) delete from "power or research reactors" to the end, and replace with "power reactors; high-flux research reactors specifically designed and constructed for nuclear materials testing or accelerators as defined in Article 16; or".

GOV/Com.24/W.P. 6: Austria: in 1.a.(i)(a) delete "or research" before "reactors"; replace "assemblies" with "facilities".

GOV/Com.24/W.P. 16: Slovakia: in 1.a.(i)(a) delete "are owned, funded or authorized by ..... and".

GOV/Com.24/W.P. 1: Spain: in 1.a.(i)(a) replace "owned, funded or authorized by" with "owned or funded by or under the control of" or simply by "owned or funded by"; delete "or accelerators;"

GOV/Com.24/W.P. 20: Sweden: in 1.a.(i)(a) add "or otherwise is available to the State (Government)" after "authorized by".

GOV/Com.24/W.P. 1: Spain: in 1.a.(i)(b) delete "and treatment of waste containing nuclear material".

GOV/COM.24/OR.7/¶30-31: Secretariat: agreed to deletion of accelerators, because they were currently not used nor expected to be used for the production of substantial quantities of material of concern, and to excluding low-level waste and measured discards from the waste containing nuclear material referred to in 1.a.(i)(b).

GOV/COM.24/OR.7/¶33:_Germany: automatic reporting should apply only to activities being carried out or planned with Government involvement; activities in the private sector should be covered in article 1.b., where states were required to make every reasonable effort to provide information on certain activities at the specific request of the Agency.

GOV/COM.24/OR.7/¶34:_USA: oppose moving private section R&D to 1.b. {Most speakers seemed to support this view rather than the German proposal.}

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
1.a.(i) {former Article l.a.(i)(a)} A general description and location of *nuclear fuel cycle-related research and development activities*[1/] not involving nuclear material carried out anywhere in ..... that are funded, authorized or controlled by, or carried out on behalf of, ...

[1/] Terms in italics have specialized meanings, which are defined in Article 20 below.

GOV/COM.24/OR.24/¶47: Spain: replace "authorized" by another word or simply delete.

GOV/COM.24/OR.24/¶49-50: Germany, USA (¶54), UK (¶60) and France (¶62): add "specifically" before "authorized"; delete "in .....": it is not logical if anywhere in the world is meant.

GOV/COM.24/OR.24/¶58: Austria: retain "in .....": a country should not be required to report on activities being carried out in another country.

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):
2.a.(i) A general description of and information specifying the location of *nuclear fuel cycle-related research and development activities*[2] not involving nuclear material[3] carried out

[2] Terms in italics have specialized meanings, which are defined in Article 18 below.

anywhere that are funded, specifically authorized or controlled by, or carried out on behalf of, ...

> GOV/COM.24/OR.46/¶56-57: Chairman: agreed with the UK that 2.a.(i) included all research and development activities, which were linked in any way to the State.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997) {Same as in Chairman's Rolling Text/Rev.1 (27 January 1997).}

> {GOV/COM.24/OR.51: no comments.}

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[3] As defined in [paragraph 112 of INFCIRC/153].

7. ARTICLE 2.a.(ii) (Gains in effectiveness or efficiency)

INFCIRC/540 (Corrected)

2.a.(ii) Information identified by the Agency on the basis of expected gains in effectiveness or efficiency, and agreed to by ....., on operational activities of safeguards relevance at facilities and at locations outside facilities where nuclear material is customarily used.

Annex III of the "Discussion Draft" of 21 November 1995
1.a.(ii) Information to be agreed with ..... on operational activities at facilities and locations outside facilities where nuclear material is customarily used.

Annex III of the "Discussion Draft II" of 27 February 1996
1.a.(ii) Information as may be agreed with ..... on operational activities at facilities and locations outside facilities where nuclear material is customarily used.

Annex III of GOV/2863, 6 May 1996
1.a.(ii) Information as may be identified by the Agency and agreed to by ..... on operational activities at facilities and locations outside facilities where nuclear material is customarily used.

GOV/Com.24/W.P. 11, 12, 4 and 9: Algeria, Argentina, Belgium and Greece: replace "operational activities" with "safeguards-relevant operational activities".

GOV/Com.24/W.P. 19: Egypt: replace "operational activities" with "specified operational activities of safeguards relevance".

GOV/Com.24/W.P. 10 (29 July 1996): Germany: delete.

GOV/Com.24/W.P. 3 Corr.1: Japan: insert "on the basis of an expected gain in effectiveness or efficiency" after "Agency".

GOV/COM.24/OR.8/¶1: Secretariat: agreed with qualifying "operational activities" by "safeguards-relevant" and with adding "on the basis of an expected gain in effectiveness or efficiency" after "Agency".

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
1.a.(ii) Information identified by the Agency on the basis of expected gains in effectiveness or efficiency, and agreed to by ....., on operational activities at facilities and locations outside facilities where nuclear material is customarily used.

GOV/COM.24/OR.24/¶80: Belgium and Algeria: insert "of safeguards relevance" after "operational activities".

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):

ARTICLE 2.a.(ii) (Gains in effectiveness or efficiency)

2.a.(ii) Information identified by the Agency on the basis of expected gains in effectiveness or efficiency, and agreed to by ....., on operational activities of safeguards relevance at *facilities* and *locations outside facilities* where *nuclear material* is customarily used.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997) {Same as in Chairman's Rolling Text/Rev.1 (27 January 1997).}

{GOV/COM.24/OR.51: no comments.}

8. *Article 2.a.(iii) (Description of buildings on sites)*

INFCIRC/540 (Corrected)

(iii) A general description of each building on each site, including its use and, if not apparent from that description, its contents. The description shall include a map of the site.

Annex III of the "Discussion Draft" of 21 November 1995
1.a.(iii) A description of the nature and use of each building on each *site* on which are situated facilities and locations outside facilities where nuclear material is customarily used, including maps of such *sites.*

Annex III of the "Discussion Draft II" of 27 February 1996
1.a.(iii) A description, the contents and use of each building on each *site* on which is situated a facility[3] or a location outside facilities where nuclear material is customarily used[4]• The description shall include a map of such *site.*

[3] As defined in [paragraph 106 of INFCIRC/153] [the reference to the corresponding provision of the relevant Safeguards Agreement should be inserted where bracketed references to INFCIRC/153 are made.]
[4] As referred to in [paragraph 49 of INFCIRC/153].

Annex III of GOV/2863, 6 May 1996 {Same as in Annex III of the "Discussion Draft II" of 27 February 1996.}

GOV/Com.24/W.P. 12/Corr.: Argentina: insert at the beginning "Taking into account due physical protection precautions, a general "; delete "the contents"; insert "the" before "use".

GOV/Com.24/W.P. 4: Belgium: add at the end of the existing text: "Paragraph 8 of INFCIRCI1 53 and also regulations adopted pursuant to the Convention on the Physical Protection of Nuclear Material shall apply to this provision".

GOV/Com.24/W.P. 8: Canada: add the following at the end: "Paragraph 8 of INFCIRC/153 (Corrected) shall apply and stringent confidentiality measures shall be maintained concerning such information provided to the Agency."

GOV/Com.24/W.P. 19: Egypt: add at the end: "but not including the site where the location-outside- facilities is situated".

GOV/Com.24/W.P. 10: Germany: amend to read: "A general description of each building ..., and its use, on a *site* on which is situated ...".

GOV/Com.24/W.P. 18: UK: add at the end: "For the purposes of this Article and Articles 1.b. and 3.a.(i) "site" means that area delineated by (STATE) in the relevant design information for a facility, and the relevant information on a location outside facilities where nuclear material is customarily used, provided pursuant to the Safeguards

Agreement, and as agreed by the Agency. It shall also include installations co-located with the facility or location for the provision or use of essential services, including: hot cells for processing irradiated materials not containing nuclear material; radioactive waste treatment, storage and disposal facilities; and buildings associated with specific activities identified by (STATE) under Article 1.a.(iv) below."

GOV/COM.24/OR.8/¶4-6: Secretariat: opposed inclusion of references to paragraph 8 of INFCIRC/153, as the objective of article 15, which specified the relationship between the protocol and safeguards agreements, was to avoid the inclusion of, or reference to, individual paragraphs of INFCIRC/153 in the protocol; agreed to add "general" before "description"; with regard to the Egyptian proposal not to include the site where a LOF was situated, it was the responsibility of the State to define what constituted a site, which could simply be a room whose walls constituted the boundaries of the site.

GOV/COM.24/OR.8/¶15-18: USA: need some reference to "contents", although a detailed inventory was not required; opposed deleting LOF and including any part of INFCIRC/153 paragraph 8 in subparagraph (iii).

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
1.a.(iii) A general description and the use of each building on each *site* on which is situated a facility[2/] [3/] or a location outside facilities where nuclear material is customarily used.[4/] The description shall include a map of the site.

2/ As defined in [paragraph 106 of INFCIRC/153].
3/ The reference to the corresponding provision of the relevant Safeguards Agreement should be inserted where bracketed references to INFCIRC/153 are made.
4/ As referred to in [paragraph 49 of INFCIRC/153].

GOV/COM.24/OR.25/¶7: Chairman: noting acceptance of the Secretariat's new definition of *site* in 20.b., shortened 1.a.(iii) to read "A general description and the use of each building on each *site*. The description shall include a map of the site."
GOV/COM.24/OR.25/¶8: USA: change 1.a.(iii) to read "A general description of each building on each site, its use, and when not readily apparent from the general description and use, its contents, and a map of the site."

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):
2.a.(iii) A general description of each building on each *site,* including its use and, if not apparent from that description, its contents. The description shall include a map of the site.

GOV/COM.24/OR.46/¶59: Chairman: no comments on article 2.a.(iii).

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997) {Same as in Chairman's Rolling Text/Rev.1 (27 January 1997).}

{GOV/COM.24/OR.51: no comments.}

9. *Article 2.a.(iv) (Annex I locations, scale of operations)*

INFCIRC/540 (Corrected)

2.a.(iv) A description of the scale of operations for each location engaged in the activities specified in Annex I to this Protocol.

Annex III of the "Discussion Draft" of 21 November 1995
1.a.(iv) A description of the nature of the activities carried out at other any *location directly related to the operation of facilities, of locations outside facilities where nuclear material is customarily used, or of nuclear fuel cycle-related research and development activities.* as well as the address of that other location, its production capacity and its present and anticipated production.

Annex III of the "Discussion Draft II" of 27 February 1996
1.a.(iv) The identity, a description, the status, present production, production capacity and location of *activities directly related to the operation of facilities, or of locations outside facilities where nuclear material is customarily used, or of nuclear fuel cycle-related research and development activities.*

Annex III of GOV/2863, 6 May 1996
1.a.(iv) The identity, location, description, status, present annual production and approximate annual production capacity for the *manufacture, assembly or maintenance of specified items directly related to the operation of facilities, or of locations outside facilities where nuclear material is customarily used, or of nuclear fuel cycle-related research and development activities*.

GOV/Com.24/W.P. 12: Argentina: insert "general" before "description"; insert "estimated" before "annual production capacity"; insert "or" between "manufacture" and "assembly"; delete "status", "approximate", "or maintenance" and the text after "specified items".

GOV/Com.24/W.P. 14: Brazil: delete "present annual production and approximate annual production capacity" and "or of nuclear fuel cycle-related research and development".

GOV/Com.24/W.P. 19: Egypt: delete "maintenance" and "or of nuclear fuel cycle-related research and development activities".

GOV/Com.24/W.P. 10: Germany: amend to read: "The ... approximate annual production capacity in (State) for the *manufacture ... or assembly of specified items...*".

GOV/Com.24/W.P. 16: Slovakia: replace "specified items" with "items specified in Annex 1 to this Protocol". This Annex shall be an integral part of the Protocol.

GOV/Com.24/W.P. 1: Spain: delete "maintenance"; replace "specified items" with "items specified in Annex 1 to this Protocol".

GOV/Com.24/W.P. 18: UK: replace by: "The identity, location, description, status, present annual production and approximate annual production capacity of installations for the following nuclear fuel cycle-related activities:

(i) the manufacture of uranium enrichment centrifuge rotor tubes or assembly of gas centrifuges;
(ii) the manufacture of diffusion membranes for enrichment;
(iii) the assembly or maintenance of copper vapor or other laser systems for enrichment;
(iv) the manufacture or maintenance of electromagnetic separators;
(v) the manufacture or maintenance of columns or extraction equipment for chemical or ion exchange enrichment;
(vi) the manufacture or maintenance of separation nozzles or vortex tubes for aerodynamic separation;
(vii) the manufacture or maintenance of uranium plasma generation systems;
(viii) the manufacture of zircaloy tubes;
(ix) the manufacture of beryllium;
(x) the manufacture of boron-1 0 isotope;
(xi) the manufacture of enriched lithium;
(xii) the manufacture of tritium;
(xiii) the manufacture or upgrading of heavy water or deuterium;
(xiv) the manufacture or maintenance of flasks for irradiated fuel;
(xv) the manufacture of neutron absorbing control rods;
(xvi) the manufacture or machining of nuclear grade graphite.

Additional activities may be specified by the Board of Governors of the Agency from time to time acting by a two-thirds majority of the Members present and voting. Any such modification by the Board of Governors after entry into force of this Protocol shall have effect upon its adoption by the Board of Governors.

GOV/COM.24/OR.8/¶37-38: Secretariat: accepted "general" or "estimated"; opposed deletion of "maintenance".

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):

1.a.(iv) A general description, the location, present annual production and estimated annual production capacity with respect to the activities specified in Annex I to this Protocol.

GOV/COM.24/OR.25/¶35: Secretariat: the technological infrastructure of a country, both where it was directly nuclear related and otherwise, was clearly an important part of that country's capability for developing a clandestine nuclear programme. At an earlier date, proposals had been put forward in the context of the Article under discussion which had probed even deeper into a State's infrastructure, but it had become clear that States would not accept such provisions and that the volume of information involved would be bulky

and difficult to handle. The purpose of monitoring the activities listed in Annex I was to gather sufficient information to ensure that a State's activities in the limited but important areas in question were congruent with its declared nuclear programme.

GOV/COM.24/OR.25/¶20: USA: Agency needs to be able to detect a gross disparity between a State's declared production capacity and its actual production; as such disparity might indicate the existence of undeclared nuclear activities

GOV/COM.24/OR.25/¶29-30: Germany: production statistics were not needed to detect possible proliferation risks on the basis of differences between production and capacity: order-of-magnitude estimates would be sufficient; "production" is not an appropriate word for many of the items in annex I.
GOV/COM.24/OR.25/¶35: Secretariat: need sufficient information to ensure that a state's activities in question were congruent with its declared nuclear program.

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):
2.a.(iv) A description of the scale of operations for each location engaged in the activities specified in Annex I to this Protocol.

GOV/COM.24/OR.46/¶60: Chairman: no comments on article 2.a.(iv).

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997) {Same as in Chairman's Rolling Text/Rev.1 (27 January 1997).}

{GOV/COM.24/OR.51: no comments.}

10. Article 2.a.(v) (Mines and concentration plants)

INFCIRC/540 (Corrected)

2.a.(v) Information specifying the location, operational status and the estimated annual production capacity of uranium mines and concentration plants and thorium concentration plants, and the current annual production of such mines and concentration plants for ..... as a whole. ..... shall provide, upon request by the Agency, the current annual production of an individual mine or concentration plant. The provision of this information does not require detailed nuclear material accountancy.

GOV/2568 Attachment 1 of 20 January 1992, "Reporting and Verification of the Export, Import and Production of Nuclear Material for States Party to Comprehensive Safeguards Agreements"
States with comprehensive safeguards agreements report - by location - domestic production and inventories of ore concentrates.

GOV/2588 of 18 May 1992, "Universal Reporting of Exports, Imports and Inventories of Nuclear Material for Peaceful Purposes"

States report semi-annually - by location - inventories of ore concentrates

GOV/OR.780/¶50-52: European Community: support reporting of all civil nuclear materials, notably uranium ore concentrate produced within a state, at least yearly.

GOV/OR.780/¶58 and 60: Canada: adamantly opposed to reporting semi-annual inventories, by location, of nuclear material which had not reached a composition and purity suitable for fuel fabrication or isotopic enrichment; support reporting of exports and imports of such material..

GOV/OR.780/¶113: USA: support reporting of production.

GOV/OR.781/¶5-7: France*:* support reporting of national uranium production, rather than that of each installation, as soon as the concentrate stage was reached; prefer annual rather than semi-annual reporting; prefer to allow each country to choose whether it wished to report inventories or production, provided that the choice was made once and for all.

Annex III of the "Discussion Draft" of 21 November 1995
1.a.(v) To the extent known to ....., the location of uranium and thorium ore deposits and mines, and the status of such deposits and mines.

Annex III of the "Discussion Draft II" of 27 February 1996

Article 2.a.(v) (Mines and concentration plants)

1.a.(v) The location, operational status, production capacity and present annual production of uranium and thorium mines.

Annex III of GOV/2863, 6 May 1996
1.a.(v) The location, operational status, present annual production and approximate annual production capacity of uranium and thorium mines.

> GOV/Com.24/W.P. 12: Argentina: delete "approximate"; insert the word "estimated" before "annual production capacity"; add at the end "and the location and estimated quantities of uranium and thorium tailings;"
>
> GOV/Com.24/W.P. 8: Canada: replace with the following: "On the location, operational status, approximate annual production capacity of uranium and thorium mines and the current annual production for country as a whole."
>
> GOV/Com.24/W.P. 19: Egypt: add at the end of the sub-paragraph the following new sentence: "This does not involve material accountancy measures."
>
> GOV/Com.24/W.P. 3 Corr.1: Japan: add at the end: "This information does not include requirements for measurement or any other aspects of nuclear material accountancy."
>
> GOV/COM.24/OR.8/¶58: Secretariat: accepted "estimated annual production capacity" and "current annual production for country as a whole" and agreed that detailed material accountancy measures were not needed.
>
> GOV/COM.24/OR.8/¶62: US: noted that members already provided the OECD Nuclear Energy Agency the types of information requested here.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
1.a.(v) The location, operational status and the estimated annual production capacity of uranium and thorium mines and the current annual production of such mines for ..... as a whole. This information does not require detailed nuclear material accountancy as foreseen in the Safeguards Agreement.

> GOV/COM.24/OR.25/¶40: Chairman: change the second sentence to: "The provision of this information does not imply a requirement for detailed nuclear material accountancy."
>
> GOV/COM.24/OR.25/¶41-42: Australia: questioned reference to thorium mines, because thorium was a by-product or waste of mineral sand mining that could be sold to another State before the thorium was extracted; emphasis should not be on mining but on extraction and thorium concentration plants; and (supported by UK (¶47), Denmark (¶49) and Austria (¶53)) add the annual production figures of each mine or (supported by USA (¶50) that the Agency could request figures for individual mines.
>
> GOV/COM.24/OR.25/¶44: Argentina: include a reference to uranium and thorium tailings, since the quantities could be significant.

GOV/COM.24/OR.25/¶48: Canada and South Africa: oppose figures for individual mines.

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):
2.a.(v) Information specifying the location, operational status and the estimated annual production capacity of uranium mines and thorium concentration plants, and the current annual production of such mines and concentration plants for ..... as a whole. ..... shall provide, upon request by the Agency, the current annual production of an individual mine or concentration plant. The provision of this information does not require detailed nuclear material accountancy.

GOV/COM.24/OR.46/¶61: USA: insert "and concentration plants" after "uranium mines" in article 2.a.(v).

GOV/COM.24/OR.46/¶62: Chairman: following a technical discussion involving the Secretariat, USA, Australia and UK, those words would be inserted.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)
2.a.(v) Information specifying the location, operational status and the estimated annual production capacity of uranium mines and concentration plants and thorium concentration plants, and the current annual production of such mines and concentration plants for ..... as a whole. ..... shall provide, upon request by the Agency, the current annual production of an individual mine or concentration plant. The provision of this information does not require detailed *nuclear material* accountancy.

{GOV/COM.24/OR.51: no comments.}

11. Article 2.a.(vi) (Source material before the starting point of safeguards)

INFCIRC/540 (Corrected)

2.a.(vi) Information regarding source material which has not reached the composition and purity suitable for fuel fabrication or for being isotopically enriched, as follows:

(a) The quantities, the chemical composition, the use or intended use of such material, whether in nuclear or non-nuclear use, for each location in..... at which the material is present in quantities exceeding ten metric tons of uranium and/or twenty metric tons of thorium, and for other locations with quantities of more than one metric ton, the aggregate for ..... as a whole if the aggregate exceeds ten metric tons of uranium or twenty metric tons of thorium. The provision of this information does not require detailed nuclear material accountancy;

(b) The quantities, the chemical composition and the destination of each export out of ....., of such material for specifically non-nuclear purposes in quantities exceeding:

(1) Ten metric tons of uranium, or for successive exports of uranium from ..... to the same State, each of less than ten metric tons, but exceeding a total of ten metric tons for the year;

(2) Twenty metric tons of thorium, or for successive exports of thorium from ..... to the same State, each of less than twenty metric tons, but exceeding a total of twenty metric tons for the year;

(c) The quantities, chemical composition, current location and use or intended use of each import into ..... of such material for specifically non-nuclear purposes in quantities exceeding:

(1) Ten metric tons of uranium, or for successive imports of uranium into ..... each of less than ten metric tons, but exceeding a total of ten metric tons for the year;

(2) Twenty metric tons of thorium, or for successive imports of thorium into ..... each of less than twenty metric tons, but exceeding a total of twenty metric tons for the year;

it being understood that there is no requirement to provide information on such material intended for a non-nuclear use once it is in its non-nuclear end-use form.

GOV/2568 Attachment 1 of 20 January 1992, “Reporting and Verification of the Export, Import and Production of Nuclear Material for States Party to Comprehensive Safeguards Agreements”

States with comprehensive safeguards agreements report - by location - inventories of nuclear material, including material in non-nuclear use, which is further processed {beyond ore concentrates} but is not yet of a composition and purity suitable for fuel fabrication or isotopic enrichment. Any State with a comprehensive safeguards agreement which has already submitted its initial inventory but has not included such nuclear material should inform the Agency of its

present inventory of such material. (Once included in the inventory, the material in non-nuclear use could thereafter be exempted from safeguards, or the safeguards on it could be terminated in accordance with the provisions of the safeguards agreement. If the total quantity of such material at a location is less than 100 kg, the material might be excluded from the initial inventory.)

States with comprehensive safeguards agreements report exports and imports of nuclear material, transferred for peaceful non-nuclear use. (Exports and imports of natural or depleted uranium or thorium for use in a non-nuclear activity may be excluded from reports if less than 100 kg is transferred in any one shipment and the total amount exported to a particular State does not exceed 1000 kg in any 12-month period.)

> GOV/OR.777/¶78: Chairman: received a letter from the Director General referring to "a desire to extend the reporting requirements to all States, including nuclear-weapon States".

> GOV/OR.777/¶85: Canada: oppose reporting on the production of nuclear material in attachment 1.

> GOV/OR.777/¶90: Russian Federation: supported the proposed extension of the Agency's reporting regime on the export, import and production of nuclear material.

GOV/2588, "Universal Reporting of Exports, Imports and Inventories of Nuclear Material for Peaceful Purposes" of 18 May 1992

States report semi-annually within 30 days of the end of each half-year - by location - inventories of nuclear material which is further processed {beyond ore concentrates} but is not yet of a composition and purity suitable for fuel fabrication or isotopic enrichment.

States report exports and imports of nuclear material for peaceful non-nuclear use to the Agency within 30 days of the end of the month in which the transfer took place. (Exports and imports of natural or depleted uranium or thorium for use in a peaceful non-nuclear activity may be excluded from the reports if less than 100 kg was transferred in any one shipment and the total amount exported to a particular State did not exceed 1000 kg in any 12-month period.) (For this purpose "nuclear material" means any source or special fissionable material as defined in Article XX of the Statute of the Agency. It does not include ores or ore residues.)

> GOV/OR.780/¶113: USA: support reporting of inventories, exports and imports.

Annex III of the "Discussion Draft" of 21 November 1995

1.a.(vi) With respect to material containing uranium or thorium, which has not yet reached the composition and purity described in [paragraph 34(c) of INFCIRC/153],

(a) an inventory of such material which is located in ....., whether in nuclear use or in non-nuclear use, including uses, quantities, compositions and level of enrichment of such material, and the location or facility at which the material is currently stored, processed, produced or used. or the locations or facilities between which the material is in transit;

(b) the quantity, composition and destination of such material imported into ..... for specifically non-nuclear purposes, and the date of its arrival in .....;

(c) the quantity, composition and destination of such material exported from ..... for specifically non-nuclear purposes, the anticipated date of export, and, where available, the actual date of export.

> GOV/OR.884/¶75: Brazil: delete reporting on material which had not yet reached the composition and purity described in safeguards agreements, coupled with the possibility of access, because this changed the starting point of safeguards.

Annex III of the "Discussion Draft II" of 27 February 1996
1.a.(vi) With respect to material containing uranium or thorium, which has not yet reached the composition and purity described in [paragraph 34(c) of INFCIRC/153],
(a) for each location in ..... where such material is present in quantities exceeding those set out in [paragraph 37 of INFCIRCI153], whether in nuclear use or in non-nuclear use: an inventory of such material, including use, quantities, chemical composition and, if known, further intended use, of such material;
(b) for each import into ..... for specifically non-nuclear purposes of such material in quantities exceeding those set out in [paragraph 37 of INFCIRC/153], the use, quantities, chemical composition and, if known, further intended use, of such material, and its current location;
(c) for each export (or intended export) out of ..... for specifically non-nuclear purposes of such material in quantities exceeding those set out in [paragraph 37 of INFCIRCI153], the quantity, chemical composition and destination of such material.

> GOV/OR.889/¶24: Mexico: reporting on materials located at mines, as well as materials stored, exported or imported, and exempted materials, should be subject to the minimum quantities laid down in paragraph 37 of INFCIRC/153.

Annex III of GOV/2863, 6 May 1996
1.a.(vi) With respect to material containing uranium or thorium, which has not yet reached the composition and purity described in [paragraph 34(c) of INFCIRC/153],
(a) for each location in ..... where such material is present in quantities exceeding those set out in [paragraph 37(b) and (d) of INFCIRC/153], whether in nuclear use or in non-nuclear use: an inventory of such material, including use, quantities, chemical composition and, if known, further intended use, of such material;
(b) for each import into ..... for specifically non-nuclear purposes of such material in quantities exceeding those set out in [paragraph 37(b) and (d) of INFCIRC/153], the use, quantities, chemical composition and, if known, further intended use, of such material, and its current location;
(c) for each export (or intended export) out of ..... for specifically non-nuclear purposes of such material in quantities exceeding those set out in [paragraph 37(b) and (d) of INFCIRC/153], the quantity, chemical composition and destination of such material.

> GOV/Com.24/W.P. 11: Algeria, Argentina (W.P. 12) and Belgium (W.P. 4): delete.
>
> GOV/Com.24/W.P. 19: Egypt: replace "material containing" with "concentrates of".

GOV/Com.24/W.P. 3 Corr.1: Japan: insert "but which exceeds [a specific figure] in concentration" after " INFCIRC/153]" in 1.a.(vi)(a).

GOV/Com.24/W.P. 1: Spain: replace the various references to INFCIRC/153 with the corresponding sections of that document, or refer to the safeguards agreement in force between each country and the Agency.

GOV/Com.24/W.P. 18: UK: replace chapeau with: "With respect to ores and concentrates of uranium or thorium and any materials further processed from them which have not yet reached the composition and purity described in [paragraph 34(c) of INFCIRC/153].

GOV/Com.24/W.P. 10: Germany: amend 1.a.(vi)(a) to read: "... when such material is present in ..... in quantities exceeding ten metric tons of uranium and/or twenty metric tons of thorium, whether in nuclear use or in non-nuclear use: approximate total quantities, of which approximate total quantities in nuclear and/or in non-nuclear use ... , where appropriate in the form of best estimates."

GOV/COM.24/OR.1/¶83: Iran: in 1.a.(vi)(a) questioned the relevance of "chemical composition" of material, which was considered an industrial secret.

GOV/Com.24/W.P. 3 Corr.1: Japan: in 1.a.(vi)(a), (b) and (c) insert between "quantities" and "chemical composition" the following: "in tonnes or estimates".

GOV/Com.24/W.P. 14: Brazil: in 1.a.(vi)(b) insert "approximate" before "quantities".

GOV/Com.24/W.P. 10: Germany: delete 1.a.(vi)(b).

GOV/Com.24/W.P. 6: Austria: in 1.a.(vi)(c) remove the parentheses around "or intended export".

GOV/Com.24/W.P. 10: Germany: amend 1.a.(vi)(c) to read: "for each license for the export ... out of (State) of such material in quantities exceeding ten metric tons of uranium and/or twenty metric tons of thorium, whether for nuclear or for non-nuclear purposes, the quantity, ...".

GOV/COM.24/OR.8/¶64: Secretariat: "material containing uranium or thorium" was not intended to include uranium or thorium in its naturally occurring forms; accepted "concentrates"; very difficult to specify concentration values.

GOV/COM.24/OR.8/¶70: US and UK (¶74): opposed German proposal to delete "location" from the article.

GOV/COM.24/OR.8/¶71: Australia: concerned with repeated imports or exports of quantities less than the limits but accumulating very substantial amounts.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
1.a.(vi) With respect to [concentrates of] uranium and thorium which have not reached the composition and purity described in [paragraph 34(c) of INFCIRC/153][3/],

(a) for each location in ..... at which such material is present in quantities exceeding ten metric tonnes of uranium and/or twenty metric tonnes of thorium, whether in nuclear use or

in non-nuclear use: an inventory of such material, including use, quantities in tonnes, chemical composition and, if known, further intended use, of such material;

(b) for each actual export out of ....., [or, if such information is not available, for each license for the export out of .....,] for specifically non-nuclear purposes of such material in quantities exceeding ten metric tonnes of uranium and/or twenty metric tonnes of thorium, the quantities in tonnes, chemical composition and destination of such material;

[(c) [upon request by the Agency,] for each import into ..... for specifically non-nuclear purposes of such material in quantities exceeding ten metric tonnes of uranium and/or twenty metric tonnes of thorium, the use, quantities in tonnes, chemical composition and, if known, further intended use of such material [and its current location];]

> GOV/COM.24/OR.25/¶59: USA: although the word "concentrates" met the concern expressed in October by Japan to exclude the uranium and thorium in sea water, the new formulation excluded other important materials; therefore replace "concentrates" by the broader term "source material".
>
> GOV/COM.24/OR.25/¶64: Japan: accept US proposal only if reference was made to both "ore" and "source material".
>
> GOV/COM.24/OR.26/¶1: Chairman: to meet the concerns of some delegations about de minimis quantities insert "and the total for all other locations" after "tonnes of thorium" in 1.a.(vi)(a).
>
> GOV/COM.24/OR.26/¶2: Mexico: in 1.a.(vi)(a) replace "quantities in tonnes, chemical composition" by "quantities exceeding 10 metric tonnes of uranium and/or 20 metric tonnes of thorium".
>
> GOV/COM.24/OR.26/¶4: Secretariat: chemical composition would indicate that it had passed through some kind of processing and, together with any statement of intended use, would be important information.
>
> GOV/COM.24/OR.26/¶5: Chairman: leave 1.a.(vi)(a) as it stood.
>
> GOV/COM.24/OR.26/¶6: Chairman: cover de minimis quantities in 1.a (vi)(b) in the same way as in 1.a.(vi)(a) and, for the sake of simplicity, delete the words in square brackets.
>
> GOV/COM.24/OR.26/¶7: Czech Republic: change to: "(b) For each actual export out of ....., or, if such information is not available, for each license for the export out of ....., for specifically non-nuclear purposes of such material in quantities exceeding:
>
> (i) 10 metric tonnes of uranium, or for successive exports of uranium from..... within a period of three months each of less than 10 metric tonnes, but exceeding in total 10 metric tonnes; (ii) 20 metric tonnes of thorium, or for successive exports of thorium from ..... within a period of three months each of less than 20 metric tonnes, but exceeding in total 20 metric tonnes; the quantities in tonnes, chemical composition and destination of such material."

GOV/COM.24/OR.26/¶8: Germany: do not delete the bracketed text, as information about export licenses provided the earliest possible warning and were most pertinent, particularly when coupled, where possible, with actual export data.

GOV/COM.24/OR.26/¶15: Canada: specify detailed reporting of exports rather than of export licenses as actual export data would be of far greater use to the Agency than export license information.

GOV/COM.24/OR.26/¶16: Austria: reporting on the number of licenses was acceptable, provided the Agency received exact import information.

GOV/COM.24/OR.26/¶17: USA: information on export licenses followed by information on exports when they occurred would be the optimum solution; it could not be assumed that all recipients of exported material would be signatories of the protocol.

GOV/COM.24/OR.26/¶18: Belgium: while it would clearly be preferable to have actual export figures, states might not be in a position to provide them.

GOV/COM.24/OR.26/¶19: UK: delete the bracketed text and require reporting of actual exports; if information on exports of nuclear material was not available to the state, the state should take the necessary measures to obtain it; some merit in the US proposal to have licensing information as well actual exports reported.

GOV/COM.24/OR.26/¶20: Secretariat: most useful information would be licenses issued, licenses refused, actual exports and actual imports [however, as a number of states had indicated that such extensive information was beyond their reach, the prime information to be sought should be that on actual exports.

GOV/COM.24/OR.26/¶23: Chairman: the ideal situation in 1.a.(vi)(b) would be to require reporting on actual exports and licenses; export reporting should be retained, keeping licenses as an additional dimension rather than an option in square brackets and that the text be reconsidered in the light of 1.a.(vi)(c) and article 1.a.(ix).

GOV/COM.24/OR.26/¶7: Czech Republic: change 1.a.(vi)(c) to: "(c) For each import into ... for specifically non-nuclear purposes of such material in quantities exceeding: (i) 10 metric tonnes of uranium, or for successive imports of uranium into ... within a period of three months each of less than 10 metric tonnes, but exceeding in total 10 metric tonnes; (ii) 20 metric tonnes of thorium, or for successive imports of thorium into ... within a period of three months each of less than 20 metric tonnes, but exceeding in total 20 metric tonnes; the use, quantities in tonnes, chemical composition and, if known, further intended use of such material and its current location."

GOV/COM.24/OR.26/¶25: UK: in 1.a.(vi)(c) delete "[upon request by the Agency]" in order to build up a comprehensive picture of nuclear activities and the transfer of nuclear material; delete the second square brackets, since it would be valuable for the Agency to have information on the current location of nuclear material; if such information were not easily available to a state, it should take steps to gain access to the information.

GOV/COM.24/OR.26/¶27-28: Germany: adopt the same approach to subparagraphs (a) and (c), since imports became part of a country's inventory; with regard to the current

location, it was possible to trace that location until such time as the material was put to the non-nuclear use for which it was intended, but beyond that - for example, if uranium were used for tinting large quantities of glass - such action was impossible.

GOV/COM.24/OR.26/¶29: Brazil: delete 1.a.(vi)(c), as his country had no system of import registration for the kind of material in question and it would be very difficult to comply with subparagraph (c).

GOV/COM.24/OR.26/¶31-32: Belgium: retain the phrase in square brackets at the beginning of subparagraph (c) and add the word "specific", since it was much easier and indeed more practical for the receiving country to corroborate export information if the Agency specifically requested it; the qualification "if known" should apply to both "further intended use" and "current location".

GOV/COM.24/OR.26/¶33-34: USA: the Belgian proposal was more appropriate for article 1.a.(ix), since the material in question was nuclear; if a state did not have licensing laws for the holding of such material, it should take steps to remedy the situation; agreed with Germany that once nuclear material had been put to its intended use, a country's ability to report and indeed the Agency's interest in reporting on it would be greatly diminished; delete the first phrase appearing in square brackets in subparagraph (c), as it was important to provide information on location when material was in unmodified form or in large quantities.

GOV/COM.24/OR.26/¶35: Argentina and UK (¶36): the phrase "if known" should apply to both the use and location.

GOV/COM.24/OR.26/¶39: Secretariat: avoid complicating subparagraph (c); need reports on imports of nuclear material for nuclear or non-nuclear use that became part of a state's inventory; any further reporting would fall within the scope of subparagraph (a) and once the material intended for non-nuclear use was in its final form, the requirement to report on it would lapse; that should be mentioned in subparagraph (a) in the same way as for exempted material in article 1.a.(vii)(b).

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):
2.a.(vi) Information regarding source material which has not reached the composition and purity described in [paragraph 34(c) of INFCIRC/153][4] as follows:
(a) the quantities; the chemical composition, the use or intended use of such material, whether in nuclear or non-nuclear use, for each location in ..... at which the material is present in quantities exceeding ten metric tonnes of uranium and/or twenty metric tonnes of thorium, and for locations with smaller quantities, the aggregate for ..... as a whole;
(b) the quantities, the chemical composition and the destination of each export out of ....., of such material for specifically non-nuclear purposes in quantities exceeding:
(1) ten metric tonnes of uranium, or for successive exports of uranium from ..... to the same State, each of less than ten metric tonnes, but exceeding a total of ten metric tonnes for the

[4] The reference to the corresponding provision of the relevant Safeguards Agreement should be inserted where bracketed references to INFCIRC/153 are made.

year;

(2) twenty metric tonnes of thorium, or for successive exports of thorium from ..... to the same State, each of less than twenty metric tonnes, but exceeding a total of twenty metric tonnes for the year;

(c) the quantities, chemical composition, current location and use or intended use of each import into ...... of such material for specifically non-nuclear purposes in quantities exceeding:

(1) ten metric tonnes of uranium, or for successive imports of uranium into ....., , each of less than ten metric tonnes, but exceeding a total of ten metric tonnes for the year;

(2) twenty metric tonnes of thorium, or for successive imports of thorium into ..... each of less than twenty metric tonnes, but exceeding a total of twenty metric tonnes for the year;

GOV/COM.24/OR.46/¶64: Egypt: had problems with the part of 2.a.(vi)(a) which read "and for locations with smaller quantities, the aggregate for ..... as a whole" as uranium occurred in phosphates used in fertilizer production.

GOV/COM.24/OR.46/¶65-66: Brazil and Germany: agreed with Egypt; the phrase in question should be deleted or "smaller quantities" should be defined or set a lower limit for the aggregate.

GOV/COM.24/OR.46/¶69: USA; don't delete but add "where the aggregate exceeds the above-mentioned quantities".

GOV/COM.24/OR.46/¶75: Germany: the State would still have to find out where relatively small quantities of uranium and thorium were located, and the amount of work involved might be considerable.

GOV/COM.24/OR.46/¶76: USA: in countries where one needed a license in order to hold source materials, and that was probably most countries, the work involved should not be such a great burden.

GOV/COM.24/OR.46/¶77: Argentina: add "The provision of this information does not require detailed nuclear material accountancy."

GOV/COM.24/OR.46/¶78: Secretariat: appropriate to add that sentence at the end of 2.a.(vi)(a) and 2.a.(vii)(b).

GOV/COM.24/OR.46/¶80: Republic of Korea: in 2.a.(vi)(c), add "upon specific request by the Agency".

GOV/COM.24/OR.46/¶82: Chairman: would like to retain the existing wording of 2.a.(vi)(c), which reflected the preference expressed by most Committee members for a straightforward formula.

Chairman's redrafted text of Article 2.a.(GOV/COM.24/OR.47/attachment):

2.a.(vi) Information regarding source material which has not reached the composition and purity suitable for fuel fabrication or for being isotopically enriched, as follows:

(a) the quantities, the chemical composition, the use or intended use of such material, whether in nuclear or non-nuclear use, for each location in .... at which the material is present

in quantities exceeding ten tonnes of uranium and/or twenty tonnes of thorium, and for other locations with smaller quantities of more than one tonne, the aggregate for .... as a whole if the aggregate exceeds ten tonnes of uranium or twenty tonnes of thorium. The provision of this information does not require detailed *nuclear material* accountancy;

> GOV/COM.24/OR.47/¶45: Germany: delete "smaller" in subparagraph 2.a.(vi)(a).

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)

2.a.(vi) Information regarding source material which has not reached the composition and purity suitable for fuel fabrication or for being isotopically enriched, as follows:
(a) the quantities, the chemical composition, the use or intended use of such material, whether in nuclear or non-nuclear use, for each location in ..... at which the material is present in quantities exceeding ten metric tons of uranium and/or twenty metric tons of thorium, and for other locations with quantities of more than one metric ton, the aggregate for ..... as a whole if the aggregate exceeds ten metric tons of uranium or twenty metric tons of thorium. The provision of this information does not require detailed *nuclear material* accountancy;
(b) the quantities, the chemical composition and the destination of each export out of ....., of such material for specifically non-nuclear purposes in quantities exceeding:
(1) ten metric tons of uranium, or for successive exports of uranium from..... to the same State, each of less than ten metric tons, but exceeding a total of ten metric tons for the year;
(2) twenty metric tons of thorium, or for successive exports of thorium from..... to the same State, each of less than twenty metric tons, but exceeding a total of twenty metric tons for the year;
(c) the quantities, chemical composition, current location and use or intended use of each import into ..... of such material for specifically non-nuclear purposes in quantities exceeding:
(1) ten metric tons of uranium, or for successive imports of uranium into..... each of less than ten metric tons, but exceeding a total of ten metric tons for the year;
(2) twenty metric tons of thorium, or for successive imports of thorium into..... each of less than twenty metric tons, but exceeding a total of twenty metric tons for the year .

> GOV/COM.24/OR.51/¶10 and attachment (GOV/COM.24/W.P.23 of 2 April 1997): Chairman: amend the last sentence of 2.a.(vi)(a) to read: "However, the provision of this information does not require detailed nuclear material accountancy, nor does this paragraph require the provision of information on such nuclear material intended for a non-nuclear use once it is in its non-nuclear end-use form."
>
> GOV/COM.24/OR.51/¶11: Secretariat: add a new subparagraph (d) to 2.a.(vi) as follows: "Nothing in this paragraph requires the provision of information on such material intended for a non-nuclear use once it is in its non-nuclear end-use form".
>
> GOV/COM.24/OR.51/¶14: Finland: the proposed new subparagraph (d) would be better incorporated in the chapeau of 2.a.(vi).
>
> GOV/COM.24/OR.51/¶17: Germany: material already in its non-nuclear end-use form should not fall under the reporting requirement contained in 2.a.(vi).

GOV/COM.24/OR.51/¶18: Chairman: suggested the proposed amendment read "Nothing in Article 2.a.(vi) requires the provision of information ...".

12. Article 2.a.(vii) (Nuclear material exempted from safeguards)

INFCIRC/540 (Corrected)

2.a.(vii)(a) Information regarding the quantities, uses and locations of nuclear material exempted from safeguards pursuant to [paragraph 37 of INFCIRC/153][2];

(b) Information regarding the quantities (which may be in the form of estimates) and uses at each location, of nuclear material exempted from safeguards pursuant to [paragraph 36(b) of INFCIRC/153][2] but not yet in a non-nuclear end-use form, in quantities exceeding those set out in [paragraph 37 of INFCIRC/153][2]. The provision of this information does not require detailed nuclear material accountancy.

[2] The reference to the corresponding provision of the relevant safeguards agreement should be inserted where bracketed references to INFCIRC/153 are made.

Annex III of the "Discussion Draft" of 21 November 1995
1.a.(vii) Information on the uses, locations and quantities of nuclear material exempted from safeguards pursuant to 37 of INFCIRC/153, and available information on the uses, locations and quantities of nuclear material exempted from safeguards pursuant to paragraph 36(b).

> GOV/OR.884/¶75: Brazil: delete reporting on material exempted from safeguards which, if accepted, would make the application of paragraph 37 of INFCIRC/153 irrelevant; in addition, it would create, at least in the case of Brazil, an unbearable amount of work.

Annex III of the "Discussion Draft II" of 27 February 1996
1.a.(vii) Information on the quantities, uses and locations of nuclear material exempted from safeguards pursuant to [paragraph 37 of INFCIRC/153]; and, for each location where nuclear material exempted from safeguards pursuant to [paragraph 36(b) of INFCIRC/153] is present in quantities exceeding those set out in [paragraph 37 of INFCIRCI153], information on the quantities, uses and locations of such material (including indications of limitations on the completeness of such information).

> GOV/OR.888/¶147: Thailand: objected to providing information on imports and exports of depleted uranium which was used for radiation shielding and industrial purposes where strict supervision was difficult to enforce.

Article 2.a.(vii) (Nuclear material exempted from safeguards)

Annex III of GOV/2863, 6 May 1996
1.a. (vii) Information on the quantities, uses and locations of nuclear material exempted from safeguards pursuant to [paragraph 37 of INFCIRC/153]; and, for each location where nuclear material exempted from safeguards pursuant to [paragraph 36(b) of INFCIRC/153] but not yet in non-nuclear end-use form is present in quantities exceeding those set out in [paragraph 37 of INFCIRC/153], information on the quantities, uses and locations of such material (including indications of limitations on the completeness of such information) .

> GOV/COM.24/W.P. 6: Austria: remove parentheses around "including indications of limitations on the completeness of such information".
>
> GOV/COM.24/W.P. 19: Egypt: insert "or estimates" between "quantities" and "uses and locations"; delete the clause in parentheses at the end of the sub-paragraph.
>
> GOV/COM.24/W.P. 3 Corr.1: Japan: insert "or estimates" between "quantities" and "uses and locations" in the two places where they appear; insert "and in concentrations exceeding [a specific figure)" between "those set out in" and "[paragraph 37 of INFCIRC/153]".
>
> GOV/COM.24/W.P. 1: Spain: replace the various references to INFCIRC/153 with the corresponding sections of that document, or refer to the safeguards agreement in force between each country and the Agency.
>
> GOV/COM.24/OR.8/¶88-89: Secretariat: could remove parentheses in last line; accepted "estimates" and reporting quantities in tonnes.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
1.a.(vii)(a) information on the quantities, uses and locations of nuclear material exempted from safeguards pursuant to [paragraph 37 of INFCIRC/153l[3/];
(b) for each location where nuclear material exempted from safeguards pursuant to [paragraph 36(b) of INFCIRC/153][3/] is present but not yet in a non-nuclear end-use form, in quantities exceeding those set out in [paragraph 37 of INFCIRC/153][3/] information on the quantities (which may be in the form of estimates), uses and locations of such material.

> GOV/COM.24/OR.26/¶41: Chairman: as there were no comments, the Committee was generally agreed on articles 1.a.(vii)(a) and (b) in their present form.

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):
2.a.(vii)(a) information regarding the quantities, use and locations of nuclear material exempted from safeguards pursuant to [paragraph 37 of INFCIRC/153][3/];
(b) information regarding the quantities (which may be in the form of estimates), uses and locations of nuclear material exempted from safeguards pursuant to [paragraph 36(b) of INFCIRC/153][3/] but not yet in a non-nuclear end-use form, in quantities exceeding those set out in [paragraph 37 of INFCIRC/153][3/];

> GOV/COM.24/OR.46/¶84: Chairman: add "The provision of this information does not require detailed nuclear material accountancy." at the end of 2.a.(vii)(b).

Chairman's redrafted text of Article 2.a.(GOV/COM.24/OR.47/attachment):
2.a.(vii)(b) information regarding the quantities (which may be in the form of estimates), uses and locations of *nuclear material* exempted from safeguards pursuant to [paragraph 36(b) of INFCIRC/153][3/] but not yet in a non-nuclear end-use form, in quantities exceeding those set out in [paragraph 37 of INFCIRC/153][3/]. The provision of this information does not require detailed *nuclear material* accountancy;

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)
2.a.(vii)(a) information regarding the quantities, uses and locations of *nuclear material* exempted from safeguards pursuant to [paragraph 37 of INFCIRC/153][5];
(b) information regarding the quantities (which may be in the form of estimates) and uses at each location, of *nuclear material* exempted from safeguards pursuant to [paragraph 36(b) of INFCIRC/153][5] but not yet in a non-nuclear end-use form, in quantities exceeding those set out in [paragraph 37 of INFCIRC/153][5]. The provision of this information does not require detailed *nuclear material* accountancy.

{GOV/COM.24/OR.51: no comments.}

[5] The reference to the corresponding provision of the relevant Safeguards Agreement should be inserted where bracketed references to INFCIRC/153 are made.

13. Article 2.a.(viii) (Intermediate or high-level waste)

INFCIRC/540 (Corrected)

2.a.(viii) Information regarding the location or further processing of intermediate or high-level waste containing plutonium, high enriched uranium or uranium-233 on which safeguards have been terminated pursuant to [paragraph 11 of INFCIRC/153][2]. For the purpose of this paragraph, "further processing" does not include repackaging of the waste or its further conditioning not involving the separation of elements, for storage or disposal.

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2. The reference to the corresponding provision of the relevant safeguards agreement should be inserted where bracketed references to INFClR.C/153 are made.

Annex III of the "Discussion Draft" of 21 November 1995
1.a.(viii) Information on any changes in location or further processing of nuclear material in conditioned waste on which safeguards have been terminated pursuant to [paragraph 11 of INFCIRC/I53].

Annex III of the "Discussion Draft II" of 27 February 1996
1.a.(viii) Information on any changes in location or further processing of waste containing nuclear material on which safeguards have been terminated pursuant to [paragraph 11 of INFCIRC/153].

Annex III of GOV/2863, 6 May 1996
1.a.(viii) Information on any changes in location or further processing of waste containing nuclear material on which safeguards have been terminated pursuant to [paragraph 11 of INFCIRC/153] .

GOV/COM.24/W.P. 4: Belgium: replace with: "Information on any further processing of waste containing nuclear material on which safeguards have been terminated pursuant to paragraph 11 of INFCIRC/153."

GOV/COM.24/W.P. 19: Egypt: delete "any changes in location or".

GOV/COM.24/W.P. 10: Germany: delete "changes in location or"; replace "containing nuclear material" with "with a view to recovering nuclear material from such waste".

GOV/COM.24/W.P. 1: Spain: replace the various references to INFCIRC/153 with the corresponding sections of that document, or refer to the safeguards agreement in force between each country and the Agency.

GOV/COM.24/OR.8/¶96: Secretariat: opposed deletion of "changes in location or".

GOV/COM.24/OR.8/¶99: USA, UK and Australia (¶103) and Austria (¶105): opposed deletion of "changes in location or".

GOV/COM.24/OR.8: Belgium (¶98), Egypt (¶102) and Brazil (¶104): supported deletion of "changes in location or").

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
1.a.(viii) Information on [any changes in location or] further processing of intermediate or high-level waste containing plutonium, highly enriched uranium or uranium-233 on which safeguards have been terminated pursuant to [paragraph 11 of INFCIRC/153][3/] [and on the location of such further processing].

GOV/COM.24/OR.26/¶42: Germany: indicate in the text that the processing of waste did not include repackaging for storage or disposal.

GOV/COM.24/OR.26/¶43: USA: may need to define "intermediate waste"; the activity of concern to the Agency was not the repackaging or further conditioning of waste for long-term storage, but its further processing; need advance notice of further processing; changes in location of waste could be reported annually.

GOV/COM.24/OR.26/¶47: UK: changes in the location of waste should be reported whether or not it was intended for further processing after the fact rather than in advance.

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):
2.a.(viii) Information regarding the location or further processing of intermediate or high-level waste containing plutonium, high enriched uranium or uranium-233 on which safeguards have been terminated pursuant to [paragraph 11 of INFCIRC/153][3/]. For the purpose of this paragraph, "further processing" does not include simple repackaging of the waste or further conditioning, not involving the separation of elements, for long-term storage or disposal.

GOV/COM.24/OR.46/¶84: Germany: in 2.a.(viii) delete "simple" before "repackaging" and "long-term" before "storage or disposal" so as to bring the subparagraph into line with the related wording in article 18.a. in ROLLING TEXT/REV.1/ADD.1.

GOV/COM.24/OR.46/¶87: Chairman: the proposed deletions would be made in 2.a.(viii) and in related parts of the draft protocol.

GOV/COM.24/OR.46/¶89: UK: replace "the separation of elements" by "separation processes", as the separation; for example, of two isotopes of uranium could not properly be described as "the separation of elements".

GOV/COM.24/OR.46/¶90: Secretariat: "the separation of elements" were appropriate in 2.a.(viii), since it seemed unlikely that any separation of isotopes of a given element would occur without a prior separation of elements and even more unlikely that such an operation would be involved in the further processing of waste on which safeguards had been terminated.

> GOV/COM.24/OR.46/¶91: Australia and Germany: "the separation of elements" had been arrived at only after considerable consultation among interested delegations and they should be retained.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)
2.a.(viii) Information regarding the location or further processing of intermediate or high-level waste containing plutonium, *high enriched uranium* or uranium-233 on which safeguards have been terminated pursuant to [paragraph 11 of INFCIRC/153][5]. For the purpose of this paragraph, "further processing" does not include repackaging of the waste or its further conditioning not involving the separation of elements, for storage or disposal.

{GOV/COM.24/OR.51: no comments.}

14. *Article 2.a.(ix) (Exports and imports)*

INFCIRC/540 (Corrected)

2.a.(ix) The following information regarding specified equipment and non-nuclear material listed in Annex II:
(a) For each export out of ..... of such equipment and material: the identity, quantity, location of intended use in the receiving State and date or, as appropriate, expected date, of export;
(b) Upon specific request by the Agency, confirmation by ....., as importing State, of information provided to the Agency by another State concerning the export of such equipment and material to ......

GOV/2568 Attachment 2 of 20 January 1992, "Reporting and Verification of the Export, Import and Production of Sensitive Equipment and Non-Nuclear Material for States Party to Comprehensive Safeguards Agreements"

States with comprehensive safeguards agreements submit reports on their current inventories and on their domestic production - both by location - of the sensitive equipment and non-nuclear material identified on the list to be established by the Agency.

States with comprehensive safeguards agreements report to the Agency exports and imports of sensitive equipment and non-nuclear material that is on the list to be established by the Agency;

All other States report to the Agency exports to and imports of sensitive equipment and non-nuclear material that are on the list to be established by the Agency from States with comprehensive safeguards agreements.

GOV/OR.777/¶78: Chairman: received a letter from the Director General referring to "a desire to extend the reporting requirements to all States, including nuclear-weapon States".

GOV/OR.777/¶85: Canada: oppose reporting on the production of sensitive equipment and non-nuclear material in attachment 2.

GOV/OR.777/¶90: Russian Federation: supported reporting on the export, import and production of non-nuclear material and sensitive equipment.

GOVGOV/OR.777/¶91: Japan: opposed to attachment 2 that proposed measures that went beyond INFCIRC/153 and that would entail significant changes in national laws and regulations.

GOV/OR.777/¶160: USA: had reservations concerning the proposed reporting of inventories and domestic production of sensitive equipment and non-nuclear material.

GOV/2589 of 18 May 1992, "Universal Reporting of Exports and Imports of Certain Equipment and Non-Nuclear Material for Peaceful Nuclear Purposes"

Article 2.a.(ix) (Exports and imports)

All States report to the Agency all exports and imports of equipment and non-nuclear material to be used for peaceful purposes that are on the list given in the Attachment. A report should be received by the Agency within 60 days of the end of the quarter in which the transfer took place, or sooner if required pursuant to a safeguards agreement with the Agency. (The attachment to this paper is based on the list used by certain Member States in connection with their commitments under Article III, paragraph 2 of the Treaty on the Non-Proliferation of Nuclear Weapons and on the list used by another group of States in relation to their policy of requiring safeguards to be applied to certain exported items (see INFCIRC/209/Rev.1, INFCIRC/209/Rev.I/Mod.1 and INFCIRC/254).

GOV/OR.780/¶50-52: European Community: support reporting of international transfers of equipment.

GOV/OR.780/¶70: Australia: could agree to replace the reporting of imports of equipment and non-nuclear material with an arrangement such as that suggested by the countries of the EC whereby exporting countries would provide copies of export information to the Agency and recipient States, thus enabling the Agency to confirm delivery of equipment in the importing countries.

GOV/OR.780/¶105: Japan: reporting should be limited to exports.

GOV/OR.780/¶113: USA: support reporting of exports and imports of equipment and non-nuclear material.

Annex III of the “Discussion Draft” of 21 November 1995
1.a.(ix) With respect to *specified nuclear equipment and non-nuclear material* and *specified nuclear-related dual use equipment and material*:
(a) Information about export license approvals with respect to such equipment and material;
(b) Where available, information on actual exports and imports of such equipment and material.

GOV/OR.885/¶61: Belgium: major reservations about the Agency's requiring information on dual-use items; opposed to any broadening of the information and physical access requirements to cover the production of nuclear-related dual-use items.

Annex III of the “Discussion Draft II” of 27 February 1996: {Same as Annex III of the “Discussion Draft” of 21 November 1995.}

GOV/OR.888/¶147: Thailand: Expressed a reservation on the reporting of imports and exports of nuclear-related dual-use equipment and material since it might affect the industrial development of Member States.

Annex III of GOV/2863, 6 May 1996
1.a. (ix) With respect to *specified equipment and non-nuclear material:*

Article 2.a.(ix) (Exports and imports)

(a) Information about export license approvals with respect to such equipment and material, including the identity of the equipment or material, the destination, and, where available, the expected dates of export;
(b) Where available, information on actual exports and imports of such equipment and material, including the identity of the equipment or material, the destination, the origin of imports, and the date of export or import.

GOV/COM.24/W.P. 19: Egypt: rephrase as follows: "With respect to equipment and non-nuclear materials specified in the relevant annex".

GOV/COM.24/W.P. 16: Slovakia: replace "specified equipment and non-nuclear material" with "equipment and non-nuclear material specified in Annex 2". Annex 2 shall be an integral part of the Protocol.

GOV/COM.24/W.P. 1: Spain: replace "specified equipment and non-nuclear material" with "equipment and non-nuclear material specified in Annex 2".

GOV/COM.24/W.P. 20: Sweden: Insert "nuclear related" after "specified".

GOV/COM.24/W.P. 18: UK: replace "*specified equipment and non-nuclear material*" with: "equipment and non-nuclear material identified in GOV/2629*,* as modified from time to time by the Board of Governors of the Agency acting by a two thirds majority of the Members present and voting. Any such modification by the Board of Governors after entry into force of this Protocol shall have effect upon its adoption of the modification by the Board of Governors; and such other equipment and non-nuclear material as may be specified by the Board of Governors of the Agency from time to time acting by a two thirds majority of the Members present and voting. Any such modification by the Board of Governors after entry into force of this Protocol shall have effect under this Protocol upon its adoption by the Board of Governors:"

GOV/COM.24/W.P. 6: Austria: combine sub-paragraphs (a) and (b) to read as follows: "Information about exports and imports of such equipment or material, including the identity of the equipment or material, the destination of exports, the origin of imports, and the date of export or import."

GOV/COM.24/W.P. 10: Germany, Egypt (W.P.19) and Spain (W.P. 1): delete 1.a.(ix)(b).

GOV/COM.24/W.P. 9 (29 July 1996): Greece: Delete "Where available".

GOV/COM.24/W.P. 7 (22 July 1996): Switzerland: delete all reference to "imports" in 1.a.(ix)(b).

GOV/COM.24/OR.9/¶2: the idea behind that part of Article 1, and behind parts of Article 1.a.(vi), was to convert the voluntary reporting provided for in document GOV/2629 (regarding the "Universal reporting system on nuclear material and specified equipment and non-nuclear material") into a legal obligation, while at the same time taking into account the reporting difficulties which a number of States were apparently experiencing. For example, some States had informed the Secretariat that they were unable to report on actual exports - only on the granting of export licenses. It is worth considering attaching the list in Annex B of INFCIRC/254/Rev.2/Part 1 to the model protocol.

GOV/COM.24/OR.9/¶8: USA, Turkey (¶21), Nigeria (¶22), New Zealand (¶23), and Denmark and UK (¶24): opposed deleting subparagraph (b).

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
1.a.(ix) With respect to *specified equipment and non-nuclear material:*
(a) information on actual exports out of ..... of[, or, if such information is not available, information on export license approvals with respect to,] such equipment and material, that provides the identity and quantity of the equipment or material, the destination, and the date or, as appropriate, expected date, of export;
[(b) [upon request by the Agency,] information on actual imports into ..... of such equipment and material, that provides the identity and quantity of the equipment or material, the destination, the origin of imports, and the date of import.]

GOV/COM.24/OR.26/¶56: Belgium: change the chapeau to "With respect to equipment and non-nuclear material especially designed or prepared for nuclear uses".

GOV/COM.24/OR.26/¶57-58: USA: oppose the Belgian proposal since it involved expressions such as "capable of", "designed for" and "intended for" which would be a subjective test depending on the motivation or belief of the exporting country; favor use of technical parameters only; regarding 1.a.(ix)(a), include not only the intended end-use and its location, but also the location and identity of the intended end-user.

GOV/COM.24/OR.26/¶59: Belgium and Argentina (¶68): in 1.a.(ix)(a) include information on export licenses if data on actual exports were unavailable.

GOV/COM.24/OR.26/¶60: Austria and New Zealand (¶73): retain "specified equipment" as used in Annex II, so that the Agency could include items additional to the trigger list at the Board's discretion.

GOV/COM.24/OR.26/¶64: Switzerland: prefer deletion of 1.a.(ix) and Annex II since those provisions duplicated existing export controls, but would accept them if the reference in the chapeau was to equipment as defined in INFCIRC/254, Part I, if in subparagraph (a) licenses for exports would have to be reported first and, failing that, information on actual exports, if information was not required on imports since the administrative arrangements in his country would make it impossible to provide such information, and it was recognized that 1.a.(ix) would serve a useful purpose only if it were universally applied by all Member States.

GOV/COM.24/OR.26/¶65: UK, Nigeria (¶69), USA (¶70), Canada (¶71) and New Zealand (¶72): require information both on export licenses granted and on actual exports.

GOV/COM.24/OR.26/¶66-67: Spain: support the Belgium proposal on the chapeau; regarding 1.a.(ix)(a), prefer information on licenses to be provided if information on actual exports is unavailable.

GOV/COM.24/OR.26/¶70 and 80: USA and Austria (¶81): prefer information on actual exports but, it might be acceptable if the text were to specify that information on licenses

issued should be provided and that the exporting State should make every reasonable effort to provide information on the actual date of the export.

GOV/COM.24/OR.26/¶74: Secretariat: most useful for the Agency to have information on the export licenses granted, on export licenses that were denied, and on actual exports and actual imports; information on actual exports was more useful to the Agency than information on export licenses.

GOV/COM.24/OR.26/¶78: Belgium and Mexico (¶83): opposed "every reasonable effort" as too vague.

GOV/COM.24/OR.26/¶85: Germany, USA (¶86), Canada (¶89), Brazil (¶90), Netherlands (¶92), Denmark (¶99), France (¶101), Greece (¶102) and Slovakia (¶104): in 1.a.(ix)(b) retain "Upon request by the Agency"; replace provision of information on actual imports by confirmation by the receiving state of imports on the basis of information supplied to the Agency by the exporting state.

GOV/COM.24/OR.26/¶91: Belgium: support the German proposal; insert "specific" before "request" (also Spain and Egypt (¶93) and Republic of Korea (¶98).

GOV/COM.24/OR.26/¶94: Austria, Czech Republic (¶100) and Australia (¶103): delete "Upon request by the Agency".

GOV/COM.24/OR.26/¶106: Secretariat: need consistency between subparagraphs (a) and (b); amend to begin "When the information is readily available and upon request by the Agency,".

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):
2.a.(ix) Information regarding *specified equipment and non-nuclearmaterial* as follows :
(a) the identity, quantity, location of intended use and date of exports out of ..... of such equipment and material;
(b) upon specific request by the Agency, confirmation by ....., as importing State, of information provided to the Agency in accordance with paragraph (a) above.

GOV/COM.24/OR.47/¶1: Austria: in 2.a.(ix)(b), had problems with the phrase "upon specific request by the Agency", since the regular reporting of imports of specified equipment and non-nuclear material was essential.

GOV/COM.24/OR.47/¶3: Belgium: "date of exports" in subparagraph (a) could pose problems for some states, including Belgium, and states should be given the option of reporting the dates of issuance of export licenses.

GOV/COM.24/OR.47/¶4-5: USA: insert "in the receiving State" after the word "use" in subparagraph (a);.in subparagraph (b), amend "upon specific request by the Agency" to read "upon request by the Agency in relation to a specific export", the idea being to show that notification on a blanket basis was not required.

GOV/COM.24/OR.47/¶6: France: reword subparagraph (a) by including a reference to exports at the beginning to avoid the interpretation that information might be sought on the equipment and material in question even if they were not being exported.

GOV/COM.24/OR.47/¶11: USA: in subparagraph (a), reinstate the words "the date or, as appropriate, expected date, of export", which had been in the Rolling Text of 18 October 1996.

GOV/COM.24/OR.47/¶13-14: Chairman: the present wording had emerged from extensive discussions and he would not like a provision regarding the dates of issuance of export licenses to be introduced into it; since such a provision would place an additional burden on states and the Secretariat; insert "in the receiving State" after "use"; use "date or, as appropriate, expected date, of export" in subparagraph (a).

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)

2.a.(ix) Information regarding *specified equipment and non-nuclear material* as follows:

(a) for each export out of ..... of such equipment and material: the identity, quantity, location of intended use in the receiving State and date or, as appropriate, expected date, of export;

(b) upon specific request by the Agency, confirmation by ....., as importing State, of information provided to the Agency in accordance with paragraph (a) above.

GOV/COM.24/OR.51/¶19: Belgium: insert "listed in Annex II" after the word "material" in the chapeau of paragraph 2.a.(ix).

GOV/COM.24/OR.51/¶23: Chairman: took it that there was no objection to amendment of Article 2.a.(ix), as proposed by the Belgian delegation.

15. Article 2.a.(x) (General plans for the nuclear fuel cycle)

INFCIRC/540 (Corrected)

2.a.(x) General plans for the succeeding ten-year period relevant to the development of the nuclear fuel cycle (including planned nuclear fuel cycle-related research and development activities) when approved by the appropriate authorities in ..... .

Annex III of the "Discussion Draft" of 21 November 1995
1.a.(x) Plans for the further development of the national nuclear fuel cycle, including planned locations when known.
(xi) A description of planned national nuclear fuel cycle-related research and development activities, including planned locations when known.

Annex III of "Discussion Draft II" of 27 Feb 1996
1.a.(x) With respect to planned nuclear activities owned, funded or authorized by, or otherwise coming to the knowledge of .....:
(a) Plans for the further development of the nuclear fuel cycle, including planned locations when known; and
(b) A description of planned *nuclear fuel cycle-related research and development activities,* including planned locations when known.

GOV/OR.888/¶148: Thailand: the description of planned nuclear R&D activities should not violate the sovereign rights of states.

Annex III of GOV/2863, 6 May 1996
1.a.(x) With respect to planned nuclear activities owned, funded or authorized by .....:
(a) Plans for the further development of the nuclear fuel cycle, including planned locations when known; and
(b) A description of planned *nuclear fuel cycle-related research and development activities,* including planned locations when known.

GOV/COM.24/W.P. 12: Argentina: insert "conducted, controlled or carried out on behalf of ... " after "nuclear activities"; delete "owned, funded or authorized by"; insert at the beginning of 1.a.(x)(a) before the word "Plans" the word "General"; insert at the beginning 1.a.(x)(b), before "description", the word "general".

GOV/COM.24/W.P. 19: Egypt: rephrase to read: "With respect to planned nuclear activities reaching the stage of actual contracting and owned or under the control of ... "; in 1.a.(x)(a) replace "planned locations when known" with "locations when they are finally selected"; delete 1.a.(x)(b).

GOV/COM.24/W.P. 10: Germany: delete 1.a.(x).

GOV/COM.24/W.P. 1: Spain: replace "owned, funded or authorized by" with "owned or funded by or under the control of" or with "owned or funded by".

GOV/COM.24/W.P. 20: Sweden: insert "or otherwise is available to the State (Government)" after "authorized by"; add a specific time frame, e.g. 10 years, or if such a specific time frame is not considered helpful, replace "planned nuclear fuel cycle-related research and development activities" with the following: "Any contemplated research and development, regardless of time scale, that has been identified in official government studies or forecasts, regardless of whether the activity is firmly planned or scheduled."

GOV/COM.24/W.P. 18: UK: insert after "activities" and in parentheses the words "(as defined in Article 1.a.(i) above)". See also comment under Article 1.a.(i).

GOV/COM.24/OR.9/¶57: Secretariat: could accept adding "general" at the beginning of subparagraphs (a) and (b) and the indication in subparagraph (b) of a specific time frame of, for example, ten years.

GOV/COM.24/OR.9/¶58: Brazil: delete 1.a.(x).

GOV/COM.24/OR.9/¶62: Netherlands, Australia (¶68), UK (¶69) and Czech Republic (¶70): retain 1.a.(x).

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
1.a.(x) [With respect to nuclear activities planned within the succeeding ten-year period that would be funded, authorized or controlled by, or carried out on behalf of, ..., general plans for the further development of the nuclear fuel cycle (including planned *nuclear fuel cycle-related research and development activities)* and planned locations when known.]

GOV/COM.24/OR.27/¶1: Chairman: insert "specifically" before "authorized".

GOV/COM.24/OR.27/¶2-3: Netherlands, Brazil (¶5), Sweden (¶13), Nigeria (¶14), Austria (¶15) and Turkey (¶16): oppose insertion of "specifically" before "authorized"; insert "when approved by the appropriate authorities" before "and planned locations when known".

GOV/COM.24/OR.27/¶4: Argentina: the ten-year time horizon seemed rather long and impractical.

GOV/COM.24/OR.27/¶10: Czech Republic: support the suggestion of the Netherlands; replace "the succeeding ten-year period" with "the succeeding five-year period".

GOV/COM.24/OR.27/¶11: Spain: oppose the Netherlands suggestion; insert "specifically" before "authorized".

GOV/COM.24/OR.27/¶18: Secretariat: could accept five years but prefer ten years.

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):
2.a.(x) General plans for the succeeding ten-year period relevant to the development of the nuclear fuel cycle (including planned *nuclear fuel cycle-related research and development activities)* when approved by the appropriate authorities in ......

GOV/COM.24/OR.47/¶20: Chairman: no comments on 2.a.(x).

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997) {Same as in Chairman's Rolling Text/Rev.1 (27 January 1997).}

Article 2a.(x) (General plans for the nuclear fuel cycle)

{GOV/COM.24/OR.51: no comments.

16. Article 2.b.(i) (Certain nuclear fuel cycle research and development not supported by the State)

INFCIRC/540 (Corrected)

2.b...... shall make every reasonable effort to provide the Agency with the following information:
(i) A general description of and information specifying the location of nuclear fuel cycle-related research and development activities not involving nuclear material which are specifically related to enrichment, reprocessing of nuclear fuel or the processing of intermediate or high-level waste containing plutonium, high enriched uranium or uranium-233 that are carried out anywhere in ..... but which are not funded, specifically authorized or controlled by, or carried out on behalf of, ... For the purpose of this paragraph, "processing" of intermediate or high-level waste does not include repackaging of the waste or its conditioning not involving the separation of elements, for storage or disposal.

Annex III of the "Discussion Draft" of 21 November 1995
{This provision was included in article 1.a.(i): To the extent not already provided for under the Safeguards Agreement, ... undertakes to provide the Agency with the following information: To the extent known to ....., a description of the nature and location of *nuclear fuel cycle-related research and development activities* not involving nuclear material carried out at facilities, at locations outside facilities where nuclear material is customarily used and at other locations.}

Annex III of the "Discussion Draft II" of 27 February 1996
{This provision was included in article 1.a.(i) To the extent not already provided for under the Safeguards Agreement, ... undertakes to provide the Agency with the following information: A description, the status and location of *nuclear fuel cycle-related research and development activities*[2] carried out anywhere within ..... that are owned, funded or authorized by, or otherwise come to the knowledge of, ... and that do not involve nuclear material.}

Annex III of GOV/2863, 6 May 1996
{This provision was included in article 1.a.(i)(b) To the extent not already provided for under the Safeguards Agreement, ... undertakes to provide the Agency with the following information:
(i) A description, the status and location of *nuclear fuel cycle-related research and development activities*[2] not involving nuclear material carried out anywhere in .....: that are specifically related to enrichment, reprocessing of nuclear fuel and treatment of waste containing nuclear material.}

GOV/OR.894/¶145: Japan: states were not usually in a position to obtain such information from the private sector and could not guarantee the credibility or correctness of information acquired; a state's obligation in that area could be to commit itself to make all reasonable endeavors to supply all relevant information on nuclear R&D which it

could assemble and provide to the Agency within existing laws and regulations. R&D on nuclear safety was not closely related to a state's capability to produce nuclear material of concern and such R&D should therefore be excluded from the activities to be reported to the Agency.

GOV/COM.24/W.P. 12 and Corr.: Argentina: insert after "reasonable effort" ", taking into account its constitutional obligations toward individuals and the need to protect industrial, technological and commercial secrets,"; insert "the following" before "information" and replace the remaining text beginning with "on the identity" to the end of the paragraph with: "a general description and the location of nuclear fuel cycle-related research and development activities not involving nuclear material carried out anywhere in ... that are specifically related to uranium enrichment and reprocessing of nuclear fuel other than those mentioned in subparagraph a.(i) of the present Article".

GOV/COM.24/W.P. 10: Germany: insert ", substantiated" after "specific" and replace the remaining text beginning with "on the identity" to the end of the paragraph with: "*nuclear fuel cycle-related research and development activities* not involving nuclear material, other than those referred to in sub-paragraph 1.a.(i) above and specifically related to enrichment, reprocessing of nuclear fuel or the recovery of nuclear material from waste."

GOV/COM.24/W.P. 3 Corr.1: Japan: insert a new para. b. as follows: "shall make every reasonable effort to provide the information on a description, the status and location of nuclear fuel cycle-related research and development activities not involving nuclear material carried out anywhere in ..... that are specifically related to enrichment, reprocessing of nuclear fuel and radio-chemical process of waste containing nuclear material other than those referred to in Article 1.a.(i)."

GOV/COM.24/OR.9/¶85: Spain: specific requests by the Agency should be "substantiated".

GOV/COM.24/OR.9/¶95: UK: had difficulty with "substantiated".

GOV/COM.24/OR.10/¶2: Canada: no need for a reference to "constitutional obligations" if the State was required to make "every reasonable effort".

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
1.b.{former Article l.a.(i)(b)} ..... shall make every reasonable effort to provide a general description and location of *nuclear fuel cycle-related research and development activities* not involving nuclear material that are specifically related to enrichment, reprocessing of nuclear fuel and the treatment of intermediate or high-level waste containing plutonium, highly enriched uranium or uranium-233, that are carried out anywhere in ..... but which are not funded, authorized or controlled by, or carried out on behalf of, ...

GOV/COM.24/OR.27/¶21: Japan: change "treatment" to "<u>processing</u>" for consistency with article 1.a.(viii),.

GOV/COM.24/OR.27/¶22: Spain: in front of "authorized" insert "<u>specifically</u>".

GOV/COM.24/OR.27/¶24: France, Japan and Germany: if "plutonium, highly enriched uranium or uranium-233" are replaced by "nuclear material" in article 1.a.(viii), the same change should be made in article 1.b.

GOV/COM.24/OR.27/¶26: UK: need understanding that "every reasonable effort" represents a serious obligation.

GOV/COM.24/OR.27/¶28: Mexico: delete "every reasonable effort" wherever they occurred in the draft protocol; they were imprecise and might well create loopholes.

GOV/COM.24/OR.27/¶30: Chairman: retain "every reasonable effort", on the understanding that it implied a very serious effort.

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):

2.b. ..... undertakes to make every reasonable effort to provide the Agency with the following information:

(i) a general description of and information specifying the location of *nuclear fuel cycle-related research and development activities* not involving nuclear material that are specifically related to enrichment, reprocessing of nuclear fuel and the processing of intermediate or high-level waste containing plutonium, high enriched uranium or uranium-233 that are carried out anywhere in ..... but which are not funded, specifically authorized or controlled by, or carried out on behalf of, ... For the purpose of this paragraph, "processing" of intermediate or high-level waste does not include simple repackaging of the waste or conditioning, not involving the separation of elements, for long-term storage or disposal.

GOV/COM.24/OR.47/¶21: Chairman: in 2.b.(i), as in 2.a.(viii), delete "simple" and "long-term".

GOV/COM.24/OR.47/¶22: Australia: replace "undertakes to" in the chapeau by "shall".

GOV/COM.24/OR.47/¶24: Algeria: define "intermediate or high-level waste".

GOV/COM.24/OR.47/¶25: Secretariat: several definitions could be proposed for "intermediate or high-level waste", but it might prove difficult to agree on any of them and the definition ultimately accepted would probably not be very useful.

GOV/COM.24/OR.47/¶26-27: France and Greece: replace "plutonium, high enriched uranium and uranium-233" by "nuclear material".

GOV/COM.24/OR.47/¶28: Spain: "nuclear material" was very broad; preferred to retain the existing language or to use the term "special fissionable material", which the Board could decide covered fissionable material over and above that mentioned in Article XX.1 of the Statute.

GOV/COM.24/OR.47/¶31: Belgium and Egypt: retain the current wording.

GOV/COM.24/OR.47/¶32: Chairman: accept 2.b.(i) as it stood apart from the deletion of "simple" and "long-term".

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)

2.b. ..... shall make every reasonable effort to provide the Agency with the following information:

(i) a general description of and information specifying the location of *nuclear fuel cycle-related research and development activities* not involving *nuclear material* which are specifically related to enrichment, reprocessing of nuclear fuel or the processing of intermediate or high-level waste containing plutonium, *high enriched uranium* or uranium-233 that are carried

out anywhere in ..... but which are not funded, specifically authorized or controlled by, or carried out on behalf of, ... For the purpose of this paragraph, "processing" of intermediate or high-level waste does not include repackaging of the waste or its conditioning not involving the separation of elements, for storage or disposal.

{GOV/COM.24/OR.51: no comments.}

17. Article2.b.(ii) (Information about activities at locations identified by the Agency outside a site)

INFCIRC/540 (Corrected)

2.b...... shall make every reasonable effort to provide the Agency with the following information:
(ii) A general description of activities and the identity of the person or entity carrying out such activities, at locations identified by the Agency outside a site which the Agency considers might be functionally related to the activities of that site. The provision of this information is subject to a specific request by the Agency. It shall be provided in consultation with the Agency and in a timely fashion.

Annex III of the "Discussion Draft" of 21 November 1995
1.b. Upon specific request by the Agency, and based on best efforts by ....., ... shall provide information on the identity and nature of activities identified by the Agency in the immediate vicinity of the perimeter of the site of a facility, as defined by the State in the relevant design information.

Annex III of the "Discussion Draft II" of 27 February 1996
1.b. Upon specific request by the Agency, ... shall make best efforts to provide information on the identity, and a description, of activities at locations identified by the Agency in the vicinity of the perimeter of the site of a facility, as defined by the State in the relevant design information.

Annex III of GOV/2863, 6 May 1996
1.b. Upon specific request by, and in consultation with, the Agency, ... shall make every reasonable effort to provide information on the identity, and a description, of activities at locations identified by the Agency outside a site identified by ..... under Article l.a.(iii) above which the Agency believes might be functionally related to the nuclear activities or associated infrastructure of that site.

GOV/COM.24/W.P. 11: Algeria: replace "specific request" with "a specific, substantiated and justified request"; insert "nuclear" before " activities at locations"

GOV/COM.24/W.P. 12 and Corr.: Argentina: insert after "reasonable effort" ", taking into account its constitutional obligations toward individuals and the need to protect industrial, technological and commercial secrets, "; insert "the following" before "information"; and replace the remaining text beginning with "on the identity" to the end of the paragraph with: "the identity, and a general description, of activities at locations identified by the Agency outside a site identified by ..... under Article 1.a.(iii) above which the Agency has justified reasons to believe might, in the Agency's opinion, be functionally related to the nuclear activities or safeguards-relevant associated infrastructure of that site and to possible undeclared nuclear activities involving nuclear

material. During the consultations, the Agency shall provide information on the basis for, and sources suggesting, the above-mentioned functional relationships."

.GOV/COM.24/W.P. 4: Belgium: insert "and motivated" after "specific".

GOV/COM.24/W.P. 19: Egypt: insert "subject to constitutional obligations" after "reasonable effort"; replace "the Agency believes might be" with "the Agency has proven evidence that it is".

GOV/COM.24/W.P. 10: Germany: insert ", substantiated" after "specific" and replace "identity, and a description" with "nature"; replace "believes" with "contends".

GOV/COM.24/W.P. 9: Greece: delete "reasonable".

GOV/COM.24/OR.1/¶102: Iran: include provisions that require the Agency in consultations with the Member States to reveal its source of information and to discuss the motives of the supplier of the information.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
1.c.{former Article l.b.} Upon specific request by the Agency which indicates the reasons therefore, and in consultation with the Agency, ... shall make every reasonable effort to provide information on the natural or juridical person carrying out, and a general description of, activities at locations identified by the Agency outside a site identified by ..... under paragraph a.(iii) above which the Agency considers might be functionally related to the nuclear activities or associated infrastructure of that site.

GOV/COM.24/OR.27/¶31: USA: change "the natural or juridical person" to "the identity of the person or entity".

GOV/COM.24/OR.27/¶33: Germany: delete "associated infrastructure" as its meaning was not clear.

GOV/COM.24/OR.27/¶34: Australia and USA (¶35): retain "associated infrastructure", with additional punctuation to make the sentence clearer.

GOV/COM.24/OR.27/¶31: UK and Germany, New Zealand and Greece (¶40): doubt need for the phrase "which indicates the reasons therefore".

GOV/COM.24/OR.27/¶37: Brazil, Nigeria (¶38), Slovakia (¶39), and Argentina, and Chile (¶51): the Agency should be required to explain why it was making requests of the kind envisaged in Article 1.c..

GOV/COM.24/OR.27/¶47: USA: redraft the end of article 1.c. to read "which the Agency considers might be functionally related to the activities of that site".

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):
2.b.(ii) A general description of activities and information on the identity of the person or entity carrying out such activities, at locations identified by the Agency outside a *site* which the Agency considers might be functionally related to the activities of that *site.* Such information is subject to a specific request by the Agency and is to be provided in consultation with the Agency and in a timely fashion.

Article2.b.(ii) (Information about activities at locations identified by the Agency outside a site)

GOV/COM.24/OR.47/¶33: Brazil: in article 2.b.(ii) replace "Such information" by "The provision of such information".
GOV/COM.24/OR.47/¶34: Germany: delete the comma in the first sentence and simplifying the second sentence to read "Such information shall be provided at the specific request of the Agency and in consultation with the Agency and in a timely fashion."

GOV/COM.24/OR.47/¶35: Chairman: will take those suggestions into account when producing a consolidated revised text.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)
2.b.(ii) A general description of activities and the identity of the person or entity carrying out such activities, at locations identified by the Agency outside a *site* which the Agency considers might be functionally related to the activities of that *site.* The provision of this information is subject to a specific request by the Agency. It shall be provided in consultation with the Agency and in a timely fashion.

{GOV/COM.24/OR.51: no comments.}

18. Rejected article 2 subparagraphs

GOV/COM.24/W.P. 14: Brazil: add a new paragraph 1.c: "Information will be provided under this article to a degree and extent consistent with the right of ..... to protect information it considers sensitive from a commercial and industrial point of view".
{This proposal was not discussed. In general, the Committee rejected proposals for withholding information from the Agency and focused instead on the Agency's obligation to protect information provided by states.}

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
1.d.{new} When providing the information referred to in paragraph[s] a.[(iv), (v), (vi)(c),] (vii)(b) above and that referred to in paragraphs b. and c. above, ... shall indicate the limitations on the completeness of such information.

GOV/COM.24/OR.27/¶53: Greece: limit article 1.d. to paragraphs a.(vii)(b), b. and c. above" and replace "indicate" by "explain" (also Czech Republic and Sweden (¶54) and Germany (¶58)}).
GOV/COM.24/OR.27/¶55: Belgium: delete article 1.d. as it might give rise to practical difficulties during the preparation of Expanded Declarations (also Brazil and Algeria (¶56), Chile (¶61), Secretariat (¶62) and USA (¶64)).
GOV/COM.24/OR.27/¶57: Canada; should also apply to article 1.a.(iv).

19. Article 2.c (Amplifications of clarifications)

INFCIRC/540 (Corrected)

2.c. Upon request by the Agency, ... shall provide amplifications or clarifications of any information it has provided under this Article, in so far as relevant for the purpose of safeguards.

Annex III of the "Discussion Draft" of 21 November 1995 {did not include this provision.}

Annex III of the "Discussion Draft II" of 27 February 1996 {did not include this provision.}

Annex III of GOV/2863, 6 May 1996 {did not include this provision.}

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996) {did not include this provision.}

GOV/COM.24/OR.27/¶59: Germany: add a new article based on paragraph 69 ("Amplification and clarification of reports") of INFCIRC/153 (also Australia (¶60), Secretariat (¶63)and USA (¶65)).

GOV/COM.24/OR.27/¶67: Germany: new article should read "Upon request by the Agency, ... shall provide amplifications or clarifications of any information it has provided under this article, insofar as relevant for the purpose of safeguards."

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):
2.c. Upon request by the Agency, ... shall provide amplifications or clarifications of any information it has provided under this Article, in so far as relevant for the purpose of safeguards.

GOV/COM.24/OR.47/¶36: Chairman: no comments on article 2.c.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997) {Same as in Chairman's Rolling Text/Rev.1 (27 January 1997).}

{GOV/COM.24/OR.51: no comments.}

20. Article 3 (Reporting deadlines)

INFCIRC/540 (Corrected)

3.a. ..... shall provide to the Agency the information identified in Article 2.a.(i), (iii), (iv), (v), (vi)(a), (vii) and (x) and Article 2.b.(i) within 180 days of the entry into force of this Protocol.
b. ..... shall provide to the Agency, by 15 May of each year, updates of the information referred to in paragraph a. above for the period covering the previous calendar year. If there has been no change to the information previously provided, ... shall so indicate.
c. ..... shall provide to the Agency, by 15 May of each year, the information identified in Article 2.a.(vi)(b) and (c) for the period covering the previous calendar year.
d. ..... shall provide to the Agency on a quarterly basis the information identified in Article 2.a.(ix)(a). This information shall be provided within sixty days of the end of each quarter.
e. ..... shall provide to the Agency the information identified in Article 2.a.(viii) 180 days before further processing is carried out and, by 15 May of each year, information on changes in location for the period covering the previous calendar year.
f. ..... and the Agency shall agree on the timing and frequency of the provision of the information identified in Article 2.a.(ii).
g ..... shall provide to the Agency the information in Article 2.a.(ix)(b) within sixty days of the Agency's request."

Annex III of the "Discussion Draft" of 21 November 1995
2.a. ..... shall provide to the Agency the information identified in Article l.a(i), (iii)-(v), (vi)(a), (vii), (x) and (xi) above within 180 days of entry into force of this Protocol.
b ..... shall provide to the Agency by 31 March of each year updates of the information identified above in Article l.a(i), (iii)-(v), (vi)(a), (vii), (x) and (xi) for the period covering the previous calendar year . If there has been no change to the information previously provided, ... shall so indicate, rather than resubmit such information.
c ..... shall provide to the Agency the information identified in Article l.a.(vi)(b) and (c) and Article 1.a.(ix) above on an annual basis, by 31 March of each year, for the period covering the previous calendar year.
d ..... shall provide to the Agency the information identified in Article l.a.(viii) above 180 days before the change in location or further processing is carried out.
e ..... and the Agency shall agree on the timing and frequency of the information identified in Article 1.a.(ii).
f ..... shall make its best efforts to provide [promptly][within two weeks] to the Agency, upon its request, information identified in Article l.b.

Annex III of the "Discussion Draft II" of 27 February 1996

2.a. ..... shall provide to the Agency the information identified in Article l.a(i), (iii)-(v), (vi)(a), (vii) and (x) above within 180 days of entry into force of this Protocol.

b. ..... shall provide to the Agency by 31 March of each year updates of the information identified above in Article 2.a for the period covering the previous calendar year. If there has been no change to the information previously provided, ... shall so indicate.

c. ..... shall provide to the Agency the information identified in Article l.a.(vi)(b) and (c) and Article l.a.(ix) above on an annual basis, by 31 March of each year, for the period covering the previous calendar year.

d. ..... shall provide to the Agency the information identified in Article 1. a. (viii) above 180 days before the change in location or further processing is carried out.

e. ..... and the Agency shall agree on the timing and frequency of the information identified in Article 1.a.(ii).

f. ..... shall make its best efforts to provide promptly to the Agency, upon its request, information identified in Article 1.b.

Annex III of GOV/2863, 6 May 1996

2. a. ..... shall provide to the Agency the information identified in Article 1.a(i), (iii)-(v), (vi)(a), (vii) and (x) above within 180 days of entry into force of this Protocol.

b. ..... shall provide to the Agency by 31 March of each year updates of the information identified above in Article 2.a for the period covering the previous calendar year. If there has been no change to the information previously provided, ... shall so indicate.

c. ..... shall provide to the Agency the information identified in Article l.a.(vi)(b) and (c) and Article l.a.(ix) above on an annual basis, by 31 March of each year, for the period covering the previous calendar year .

d. ..... shall provide to the Agency the information identified in Article l.a.(viii) above 180 days before the change in location or further processing is carried out.

e. ..... and the Agency shall agree on the timing and frequency of the information identified in Article l.a.(ii).

f. ..... shall make every reasonable effort to provide promptly to the Agency the information identified in Article 1. b.

GOV/COM.24/W.P. 14: Brazil: article 2.a should be consistent with article 13 and add the word "for ....." after the word "Protocol".

GOV/COM.24/W.P. 10: Germany: in 2.b and 2.c replace "31 March" with "30 June".

GOV/COM.24/W.P. 9: Greece: in 2.b and 2.c replace "31 March" with "30 April".

GOV/COM.24/W.P. 19 (8 August 1996): Egypt: in 2.d delete "the change in location or".

GOV/COM.24/W.P. 10: Germany: delete 2.e.

GOV/COM.24/W.P. 11: Algeria, Belgium (W.P. 4) and Egypt (W.P.19): in 2.f replace "promptly" with "as soon as possible".

GOV/COM.24/W.P. 3 Corr.1: Japan: replace 2.f with: "..... shall make every reasonable effort to provide to the Agency the information identified in Article 1.b. above within 180 days of entry into force of this Protocol."; replace 2.b. with ..... shall make every reasonable effort to provide to the Agency by 31 March of each year updates of the

information identified above in Article 2.1. for the period covering the previous calendar year. If there has been no change to the information previously provided, ... shall so indicate."

GOV/COM.24/OR.10/¶20: Secretariat: oppose replacement of "promptly" by "as soon as possible" in 2.f.

GOV/COM.24/OR.10/¶24 and ¶28: Germany: delete "the change in location or" in 2.d.; could accept "if possible by 31 March, but at the latest by 30 June".

GOV/COM.24/OR.10/¶30: UK: retain the 31 March deadlines in 2.b. and 2.c.; even with such deadlines, some of the information provided could be up to 15 months out of date.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):

2.a. ..... shall provide to the Agency the information identified in Article 1. a. (i), (iii), (iv), (v), (vi)(a), (vii) and (x) and Article l.b. above within 180 days of the entry into force of this Protocol.

b. ..... shall provide to the Agency by [31 March] [15 May] [30 June] of each year updates of the information referred to in paragraph a. above for the period covering the previous calendar year. If there has been no change to the information previously provided, ... shall so indicate.

c. ..... shall provide to the Agency the information identified in Article l.a.(vi)(b) [and (c)] and Article l.a.(ix) above on an annual basis by [31 March] [15 May] [30 June] of each year, for the period covering the previous calendar year.

d. ..... shall provide to the Agency the information identified in Article l.a.(viii) above 180 days before further processing is carried out [and changes in location when they occur].

e. ..... and the Agency shall agree on the timing and frequency of the provision of the information identified in Article 1.a.(ii) above.

..... shall make every reasonable effort to provide to the Agency in a timely fashion the information identified in Article 1.c. above.

GOV/COM.24/OR.27/¶69: Chairman: no one wished to speak on article 2.a.

GOV/COM.24/OR.27/¶70: Germany: accept 31 March in b. and c. as well as for reporting changes in the location of waste, except downstream waste, pursuant to 1.a.(viii), which was referred to in paragraph d. (also Republic of Korea (¶72); USA, noting that INFCIRC/153 envisaged 30-day reporting deadlines (¶76 and 85); and UK, noting that under the voluntary reporting scheme states undertook to provide information on the granting of export licenses within 60 days of the end of the quarter (¶84)).

GOV/COM.24/OR.27/¶71: Brazil: very difficult to comply with a 31 March; proposed 15 May (also Czech Republic (¶73) and Belgium (¶75)).

GOV/COM.24/OR.27/¶74: Algeria: preferred the 30 June.

GOV/COM.24/OR.27/¶78: USA: article 2.c. should apply only to 1.a.(ix)(a) rather than to 1.a.(ix) as a whole; propose a new 2.g. for 1.a.(ix)(b) with a 60-day deadline.

GOV/COM.24/OR.27/¶79 and 95: Chairman: delete 1.a.(vi)(c) from 2.c.; adopt 15 May deadline; include an additional paragraph applying to 1.a.(ix)(b).

GOV/COM.24/OR.27/¶80: Secretariat: favor 31 March; 15 May too late for the SIR.

GOV/COM.24/OR.27/¶83: Australia: the important consideration was not the SIR but how soon the Secretariat could act in the event of an anomaly (also Germany (¶82)).

GOV/COM.24/OR.27/¶90: USA: even with a 31 March deadline some of the information provided might be as much as 15 months old, suggest semi-annual reporting.

GOV/COM.24/OR.27/¶91-92: Germany: semi-annual reporting too burdensome; prefer15 May.

GOV/COM.24/OR.27/¶97: Chairman: amend the bracketed portion of 2.d. to read "[and information on changes in location by 15 May of each year for the previous calendar year]".

GOV/COM.24/OR.27/¶99-100: Australia: proposed a 60-day deadline for 2.f.; bring together the information to be provided upon request by the Agency and amend 2.f. to read "..... shall provide to the Agency the information identified in articles 1.a.(vi)(c), 1.a.(ix)(b) and 1.c. within 60 days of the Agency's request."

GOV/COM.24/OR.27/¶101: Germany: oppose grouping 1.a.(vi)(c), 1.a.(ix)(b) and 1.c.; delete 2.f. and move "in a timely fashion" to article 1.c. (also Brazil and Belgium (¶103)).

GOV/COM.24/OR.27/¶106: Germany: noting that no deadline was specified in paragraph 69 of document INFCIRC/153 and given the wide range of amplifications and clarifications which might be sought, no deadline should be provided for 1.d.

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):

3.a. ..... shall provide to the Agency the information identified in Article 2.a.(i), (iii), (iv), (v), (vi)(a), (vii) and (x) and Article 2.b.(i) within 180 days of the entry into force of this Protocol.

b. ..... shall provide to the Agency, by 15 May of each year, updates of the information referred to in paragraph a. above for the period covering the previous calendar year. If there has been no change to the information previously provided, ... shall so indicate.

c. ..... shall provide to the Agency, by 15 May of each year, the information identified in Article 2.a.(vi)(b) and (c) and Article 2.a.(ix)(a) for the period covering the previous calendar year.

d. ..... shall provide to the Agency the information identified in Article 2.a.(viii) 180 days before further processing is carried out and, by 15 May of each year, information on changes in location for the period covering the previous calendar year.

e. ..... and the Agency shall agree on the timing and frequency of the provision of the information identified in Article 2.a.(ii).

f. ..... shall provide to the Agency the information in Article 2.a.(ix)(b) within sixty days of the Agency's request.

GOV/COM.24/OR.47/¶37: Chairman: no comments on articles 3.a. and 3.b.

GOV/COM.24/OR.47/¶38: Austria: in article 3.c. delete "and Article 2.a.(ix)(a)" and create a new paragraph d. which would read "..... shall provide to the Agency on a quarterly basis, within the following month, the information identified in Article 2.a.(ix)(a).", the intention being to differentiate between nuclear material that was below nuclear grade and specified equipment and non-nuclear material; to avoid long reporting periods in the case of the latter item; and to utilize the experience gained with the

reporting system, which had shown that quarterly reporting was feasible. The time limit of one month should be achievable since the items in question in 2.a.(ix)(a) were trigger list items that any government would be keeping under close scrutiny.

GOV/COM.24/OR.47/¶39: Netherlands, UK, Denmark, Canada and South Africa: support the Austria proposal but prefer a 60-day time limit.

GOV/COM.24/OR.47/¶43: Chairman: widespread support for adopting the Austrian proposal with a 60-day time limit.

GOV/COM.24/OR.47/¶44: Chairman: no comments on articles 3.d., 3.e. and 3.f.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)

3.a. ..... shall provide to the Agency the information identified in Article 2.a.(i), (iii), (iv), (v), (vi)(a), (vii) and (x) and Article 2.b.(i) within 180 days of the entry into force of this Protocol.

b. ..... shall provide to the Agency, by 15 May of each year, updates of the information referred to in paragraph a. above for the period covering the previous calendar year. If there has been no change to the information previously provided, ... shall so indicate.

c. ..... shall provide to the Agency, by 15 May of each year, the information identified in Article 2.a.(vi)(b) and (c) for the period covering the previous calendar year.

d. ..... shall provide to the Agency on a quarterly basis the information identified in Article 2.a.(ix)(a). This information shall be provided within sixty days of the end of each quarter.

e. ..... shall provide to the Agency the information identified in Article 2.a.(viii) 180 days before further processing is carried out and, by 15 May of each year, information on changes in location for the period covering the previous calendar year.

f. ..... and the Agency shall agree on the timing and frequency of the provision of the information identified in Article 2.a.(ii).

g. ..... shall provide to the Agency the information in Article 2.a. (ix)(b) within sixty days of the Agency's request.

GOV/COM.24/OR.51/¶24: Chairman: no comments on articles 3.

COMPLEMENTARY ACCESS

21. Article 4.a (Basis for complementary access)

INFCIRC/540 (Corrected)

4. The following shall apply in connection with the implementation of complementary access under Article 5 of this Protocol:
a. The Agency shall not mechanistically or systematically seek to verify the information referred to in Article 2; however, the Agency shall have access to:
(i) Any location referred to in Article 5.a.(i) or (ii) on a selective basis in order to assure the absence of undeclared nuclear material and activities;
(ii) Any location referred to in Article 5.b. or c. to resolve a question relating to the correctness and completeness of the information provided pursuant to Article 2 or to resolve an inconsistency relating to that information;
(iii) Any location referred to in Article 5.a.(iii) to the extent necessary for the Agency to confirm, for safeguards purposes, ...'s declaration of the decommissioned status of a facility or of a location outside facilities where nuclear material was customarily used.

Annex III of the "Discussion Draft" of 12 November 1995 {does not contain these provisions per se but covers them partially in article 3.a. See section on Article 5.a.}

Annex III of the "Discussion Draft II" of 27 February 1996 {does not contain these provisions per se but covers them partially in article 3.a. See section on Article 5.a.}

Annex III of GOV/2863, 6 May 1996 {does not contain these provisions per se but covers them partially in article 3.a. See section on Article 5.a.}

GOV/COM.24/W.P. 4/Add.2: Belgium: add a new article 3 to read: "Any additional visit pursuant to this protocol must take account of existing constitutional obligations and shall be subject to the provisions of paragraphs 87-89 of INFCIRC/153 regarding the conduct of inspectors and the right of the State to have them accompanied by its inspectors."

GOV/OR.894/¶108: Egypt: limit complementary access to instances of inconsistencies and questions.

GOV/COM.24/W.P. 3 Corr.1: Japan: add a new article, "Purpose of Complementary Access," as follows: "In connection with access provided for in Articles 3 and 4, the Agency shall not proceed with systematic or mechanistic verification of the information provided under Articles 1 and 2. The said access shall be carried out only for the purpose of resolving questions and inconsistencies. The Agency shall provide..... with an opportunity in advance to clarify and resolve the said questions and inconsistencies."

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
3.{New} [The following shall apply in connection with the implementation of complementary access under this Protocol:
b. The information referred to in Article 1 above is subject to verification but shall not be verified on a routine basis, provided however, that the Agency shall have the authority to verify this information in order to assure the absence of undeclared nuclear material and activities where ..... has indicated that nuclear material is present, or, where such material is not present, to resolve an inconsistency or question relating to the correctness and completeness of the information provided pursuant to Article 1 above.]

GOV/COM.24/OR.29/¶8 and attachment: Germany: replace article 3.b. with: "The following shall apply in connection with the implementation of complementary access under Article 4 of this Protocol: a. The Agency shall not mechanistically or systematically verify the information referred to in Article 1 above, provided that the Agency may seek access to:
(i) any location to resolve an inconsistency or question relating to the correctness or completeness of the information referred to above.
(ii) any location on a *site*, or a location where (State) has indicated that nuclear material is present, to verify the information referred to in Article 1 on a selective basis, such as random sampling.
(iii) any decommissioned facility or a decommissioned LOF."

GOV/COM.24/OR.29/¶14: Belgium; begin article 3 by stating that the purpose of complementary access is clarification.

GOV/COM.24/OR.29/¶18-19: USA: at nuclear sites the Agency needed largely unrestricted complementary access rights to ensure that buildings were not being used for covert nuclear activities; the Agency would be "fighting the last war" if it could not also deal with undeclared sites and be able to conduct follow-up activities.

GOV/COM.24/OR.29/¶22-23: Canada: field trials in Canada had shown the successful implementation of no-notice and short-notice access to nuclear sites without causing inconvenience or disruption at the inspected facilities.

GOV/COM.24/OR.29/¶24: Sweden: field trials in Sweden had been very positive and showed that the alleged problems relating to access were being greatly exaggerated.

GOV/COM.24/OR.29/¶27: Japan: use "confirm" instead of "verify".

GOV/COM.24/OR.29/¶31-32: Greece: complementary access should be possible even in the absence of inconsistencies or questions (also Australia (¶34)).

GOV/COM.24/OR.29/¶38: Spain: redraft article 3 to make it clear that complementary access should be requested in writing, to distinguish clearly between complementary access and systematic verification, to provide for complementary access even in the absence of inconsistencies and questions, and to ensure that the state concerned was given an opportunity to clarify any inconsistency or question, but without prejudice to the Agency's right of access.

GOV/COM.24/OR.29/¶54-55: UK: the Agency should be granted complementary access in order to address any question or inconsistency relating to information provided in accordance with article 1; furthermore, at nuclear sites the Agency should have more extensive rights of access not linked to the clarification of questions or inconsistencies; support "due process" but states should not be able to prevent or delay complementary access, which should be a non-confrontational.

GOV/COM.24/OR.29/¶67: Germany: the phrase "Article 4 of" was inserted in the chapeau because the protocol should not go into the procedural arrangements for wide-area or undirected environmental sampling, which was covered in article X of Germany's proposed text (accepted by Australia (¶68), USA (¶69) and Spain (¶70)).

GOV/COM.24/OR.29/¶74: Brazil: the word "questions" was very vague so delete it or qualify by a phrase like "of non-proliferation relevance".

GOV/COM.24/OR.29/¶75: USA: retain the word "questions" without any qualification (also Belgium (¶78) and Finland (¶84)).

GOV/COM.24/OR.30/¶8 and attachment: Australia: replace article 3.b. with: The following shall apply in connection with the implementation of complementary access under this Protocol: b. The Agency shall have the authority to verify the information provided pursuant to Article 1:

(i) where ..... has indicated that nuclear material is present (i.e. on sites or at locations identified in Article 4a. below), on a selective basis in order to assure the absence of undeclared nuclear material and activities. The Agency shall request such access in writing;

(ii) where ..... has indicated that nuclear material is not present (i.e. at locations identified in Articles 4b., c. or d. below), in order to resolve an inconsistency or question relating to the correctness or completeness of such information. The Agency shall request such access in writing, indicating the reasons therefor and the activities intended to be performed during such access.

The information subject to verification under Article 1 shall not be verified on a mechanistic basis.

GOV/COM.24/OR.30/¶10: Brazil: use "confirm" instead of "verify"; support the Australian text but delete "the correctness or completeness of".

GOV/COM.24/OR.30/¶14-16 (22 January 1997): USA: support the German text; keep "the correctness or completeness of"; oppose "such as random sampling" as it contradicts "on a selective basis".

GOV/COM.24/OR.30/¶38 (22 January 1997): UK: give a reason, such as "to the extent necessary to confirm its decommissioned status," for requesting access in subparagraph 3.a.(iii).

GOV/COM.24/OR.30/¶65-66: Secretariat: the only reason, absent an inconsistency or question, the Agency could give and what activities it could specify when requesting access to a site where nuclear material was present would be something like "exercise of the right to confirm the absence of undeclared nuclear activities"; need to be sure that the information provided by a State was not only correct but also complete.

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):

4. The following shall apply in connection with the implementation of complementary access under Article 5 of this Protocol:

a. The Agency shall not mechanistically or systematically [seek to confirm] [verify] the information referred to in Article 2, provided that the Agency may have access to:

(i) Any location referred to in Article 5.a.(i) and (ii) on a selective basis in order to assure the absence of undeclared nuclear material and activities.

(ii) Any location referred to in Article 5.b. and c. to resolve a question relating to the correctness and completeness of the information provided pursuant to Article 2 or to resolve an inconsistency relating to that information.

(iii) any location referred to in Article 5.a.(iii) to the extent necessary for the Agency to confirm, for safeguards purposes, ...' s declaration of the decommissioned status of the facility or location outside facilities where nuclear material was customarily used.

GOV/COM.24/OR.45/¶1: Chairman: in article 4.a. the Committee had a choice between "seek to confirm" and "verify".

GOV/COM.24/OR.45/¶2, 5, 8-9, 13-14: Greece, Australia, Austria, Sweden, Hungary, New Zealand: preferred "verify".

GOV/COM.24/OR.45/¶3-4: Brazil: preferred "seek to confirm" because "verification" was linked with that of "nuclear material accountancy"; in subparagraph a.(ii) had problems with the words "the correctness and completeness of "; that conjured up the idea of nuclear material accountancy and preferred to speak of the resolution of questions relating to the general, qualitative consistency of the information provided.

GOV/COM.24/OR.45/¶10 and 15: Sweden and USA: retain "the correctness and completeness of".

GOV/COM.24/OR.45/¶27: UK: use the formulation "seek to verify"; change "may" to "shall" in the chapeau.

GOV/COM.24/OR.45/¶32-34: Secretariat: prefer "verify" as it seemed to reflect the nature of the activities to be carried out by the Agency, whereas "confirm" implied a prior assumption on the Agency's part; since the information to be provided under article 2 was largely qualitative, the Agency would in any case not deal with it in a mechanistic or systematic way; retain "the correctness and completeness of".

GOV/COM.24/OR.45/¶36-37: Chairman: replace "may" by "shall" and retain "not mechanistically or systematically" and "the correctness and completeness of"; use "seek to verify" as a reasonable compromise.

GOV/COM.24/OR.45/¶38: UK: to make it clear that the purpose of access to a location covered by Article 5.a.(i) and (ii) might be not to assure the absence of undeclared nuclear material and activities but to resolve a question relating to the correctness and completeness of information or to resolve an inconsistency relating to information, amend article 4.a.(ii) to read "Any location referred to in subparagraph (i) above or in Article 5.b. and c. ...".

GOV/COM.24/OR.45/¶41: Secretariat: access to locations covered by article 5.a.(i) and (ii) for the purpose of resolving questions or inconsistencies was implicitly provided for

in article 4.a.(i) since the resolution of inconsistencies or questions was one aspect of assuring the absence of undeclared nuclear material and activities.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)

4. The following shall apply in connection with the implementation of complementary access under Article 5 of this Protocol:

a. The Agency shall not mechanistically or systematically seek to verify the information referred to in Article 2; however, the Agency shall have access to:

(i) Any location referred to in Article 5 .a. (i) or (ii) on a selective basis in order to assure the absence of undeclared *nuclear material* and activities;

(ii) Any location referred to in Article 5. b. or c. to resolve a question relating to the correctness and completeness of the information provided pursuant to Article 2 or to resolve an inconsistency relating to that information;

(iii) Any location referred to in Article 5.a.(iii) to the extent necessary for the Agency to confirm, for safeguards purposes, ...'s declaration of the decommissioned status of a facility or location outside facilities where nuclear material was customarily used.

GOV/COM.24/OR.51/¶25: Chairman: delete "General" preceding article 4.

GOV/COM.24/OR.51/¶31: Belgium: still not clear what difference, if any, there was between "mechanistically" and "systematically".

GOV/COM.24/OR.51/¶34: Chairman: prefer to retain the phrase "mechanistically or systematically" in paragraph 4.a.

22. Articles 4.b (Advance notice) and 4.c (Type of notice)

INFCIRC/540 (Corrected)

4. The following shall apply in connection with the implementation of complementary access under Article 5 of this Protocol:
b. (i) Except as provided in paragraph (ii) below, the Agency shall give advance notice of access of at least 24 hours;
(ii) For access to any place on a site that is sought in conjunction with design information verification visits or ad hoc or routine inspections on that site, the period of advance notice shall, if the Agency so requests, be at least two hours but, in exceptional circumstances, it may be less than two hours.
c. Advance notice shall be in writing and shall specify the reasons for access and the activities to be carried out during such access.

Annex III of the "Discussion Draft" of 21 November 1995
6.a. Access to any location identified in Article 3.a.(i) may be carried out without prior notice to the State of the arrival of Agency inspectors at the location in question if such access is requested in the course of the conduct of design information verification, ad hoc inspection or routine inspection. Access shall be granted to the Agency inspectors upon arrival at the location.
b. For access other than that described in Article 6.a. above to any location identified in Article 3.a.(i), and for access to any location identified in Article 3.a.(ii) or 3.(b) above, advance notice to the State shall be given at least twenty-four hours before the arrival of Agency inspectors at the location in question.

GOV/COM.24/OR.3/¶48-51 SECRETARIAT: Concerning the compatibility of traditional safeguards and the Programme 93+2 measures, the Secretariat was aiming to produce an integrated system whereby the adoption of the new measures would be cost-neutral. When an inspector was sent on advance notice to a State to perform routine or ad hoc inspections, or to verify design information, the Agency wanted to be able to take advantage of his presence in that State to carry out additional activities. If separate visits were required for access to locations not covered by routine inspections, that would undermine the cost-neutrality of the exercise. The representative of Belgium was correct in stating that the concept of strategic points would largely disappear with the new protocol. In many ways, that was already the case. For instance, in the case of inspections within EURATOM there was a functional definition of strategic points which meant that, generally, inspectors could gain access to whatever locations they required - accompanied by EURATOM counterparts. If 24 hours' notice was required for all complementary access, that would evidently affect both efficiency and effectiveness, though largely the former, since most of the imaginable undeclared activity scenarios were non-time-sensitive, meaning that there was no strong technical reason for having no-notice access. Access to locations other than those where nuclear material was indicated to be present would be sought in connection with an inconsistency or a

question, and the process therefore, including consultations, was described in paragraph 68 of document GOV/2863. However, the case of additional access to locations on site was an altogether different matter. If the Agency were not in a position to carry out operations necessary to assure the absence of undeclared activities at declared locations, it would have failed to achieve one of the fundamental objectives of strengthened safeguards.

Annex III of the "Discussion Draft II" of 27 February 1996
7.a.(i) The notification requirements for design information verification, ad hoc inspection or routine inspection are as set forth in the Safeguards Agreement. No notice shall be required for access to any location referred to in Article 3.a.(i) which is sought in the course of the conduct of design information verification, ad hoc inspection or routine inspection.
(ii) For access other than that described in Article 7.a.(i) above to any location identified in Article 3.a.(i), advance notice to ..... shall be given at least twenty-four hours before the arrival of Agency inspectors at the location in question.
b. For access to any location identified in Article 3.a.(ii), 3.a.(iii), 3.b or 3.c. above, advance notice to ..... shall be given at least twenty-four hours before the arrival of Agency inspectors at the location in question.

Annex III of GOV/2863, 6 May 1996: {Same as Annex III of the "Discussion Draft II" of 27 February 1996.}

GOV/OR.894/¶124: South Africa: include the reasons for or purpose of the access.

GOV/COM.24/W.P. 3 Corr.1: Japan: replace article 7 with: "

a. For access to any location identified in Article 3 above, advance notice to ..... shall be given, in principle, at least twenty-four hours before the arrival of Agency inspectors at the location in question. This notice shall be accompanied by the Agency's note which describes why it seeks such access.

b. Unless otherwise agreed to by ..... access to any location referred to in Article 3 above shall only take place during regular working hours."

GOV/COM.24/W.P. 12: Argentina: add a chapeau to paragraph a.: "Without prejudice to the application of Article 6 when appropriate:"; delete the first sentence of sub-paragraph (i) and insert in the second sentence after "conduct" the phrase ", in accordance with the provisions of the Safeguards Agreement,"; in sub-paragraph (ii), insert after "For" the word "any" and delete "above to any location identified in Article 3.a.(i),"; further, in sub-paragraph (ii) insert after "shall be given" the phrase "by the Agency" and delete "twenty-four";[*/] delete paragraph 7.b.

[*/] Steps to gain access to private property may require more than 24 hours.

GOV/COM.24/W.P. 6: Austria: after "access" insert "under the Protocol" in sub-paragraphs a.(i),a.(ii) and 7.b.

GOV/COM.24/W.P. 4/Add.1: Belgium: delete 7.a.; in 7.b replace "Article 3.a.(ii), 3.a.(iii), 3.b. or 3.c." with "Article 3",

GOV/COM.24/W.P. 19: Egypt: delete the second sentence of (i); in (ii) delete the words "other than that described in Article 7.a.(i) above".

GOV/COM.24/W.P. 10: Germany: delete the first sentence of sub-paragraph (i); merge sub-paragraph 7.a.(ii) and paragraph 7.b.

GOV/COM.24/W.P. 16: Slovakia: in sub-paragraph (i), replace "No notice" with "Short notice".

GOV/COM.24/OR.14/¶60: Algeria: delete 7.a. and amend 7.b. to refer to all the locations in article 3 and to a minimum notice of 36 hours.

GOV/COM.24/OR.14/¶61: Egypt and Syrian Arab Republic (¶78): need at least 48 hours notice.

GOV/COM.24/OR.14/¶63: Netherlands: oppose 24-hour notice for 7.a.(i) but some notice for access to additional buildings in conjunction with routine or ad hoc inspections should be specified, but it should not be too long and inspectors should not have to leave the premises concerned.

GOV/COM.24/OR.14/¶64: Germany: 24 hours' notice for all complementary access.

GOV/COM.24/OR.14/¶65: New Zealand, USA (¶68), Finland (¶76), UK (¶82) and Nigeria (¶84): oppose 24-hour notice in 7.a.(i).

GOV/COM.24/OR.14/¶69: Japan supported by USA (¶85): 24 hours' notice in normal cases, with provision for shorter notice only in very exceptional cases.

GOV/COM.24/OR.14/¶75: Australia: suggested a notice period of less than 24 hours in 7.a.(i) that would not however apply in cases where it would be prejudicial to the objective of the Agency's request for access.

GOV/COM.24/OR.14/¶89: Secretariat: no notice should be understood as short notice, because it was clear that some notice was necessary; during field trials, a maximum of two hours had been provided.

GOV/COM.24/OR.15/¶2-3: Canada: field trials in Canada showed that access could be successfully implemented at very short notice and supported 2-hour notice in 7.a.(i).

GOV/COM.24/OR.15/¶8: Sweden: reported similar success in field trials in Sweden with no-notice access.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
9.a,{Formerly Article 7.a.(i)} [Short-notice, not exceeding two hours, shall be given by the Agency for access to any location referred to in Article 4.a.(i) above which is sought in the course of the conduct of design information verification, or ad hoc or routine inspection.]

OR

[Advance notice of twenty-four hours shall be given by the Agency for access to any location referred to in Article 4.a.(i) above which is sought in the course of conduct of design information verification, or ad hoc or routine inspection.]

OR

[Advance notice of twenty-four hours shall be given by the Agency for access to any location referred to in Article 4.a.(i) above which is sought in the course of conduct of design information verification, or ad hoc or routine inspection, unless the giving of such notice would, in the view

of the Agency, prejudice the purpose for which access is sought, in which case ..... shall grant the requested access within two hours.]
b.{Former Article 7.a.(ii) and 7.b} For any access under this Protocol other than that described in paragraph a. above, advance notice to ..... shall be given by the Agency at least [twenty-four] [thirty- six] [forty-eight] hours before the arrival of Agency inspectors at the location in question.
3.{New} [The following shall apply in connection with the implementation of complementary access under this Protocol:
c. The Agency shall make a written request for complementary access indicating the reasons therefore and the activities intended to be performed during such access.]

GOV/COM.24/OR.29/¶71 and attachment: Germany:

{New}Article 3 The following shall apply in connection with the implementation of complementary access under Article 4 of this Protocol:

b. The Agency shall give..... advance notice of at least 24 hours before the arrival of Agency inspectors at the location in question, provided that for access to any place on a site that is sought in the course of design information verification or ad hoc or routine inspections on that site, notice shall, if the Agency so requests, be shortened to two hours or even less. (This paragraph replaces article 9.)

c. Advance notice shall be in writing and shall specify the reasons for complementary access and the activities intended to be performed during such access.

GOV/COM.24/OR.29/¶71: Germany supported by Belgium: the Agency, even when requesting access to a site where nuclear material was present, should give reasons and specify the activities to be carried out. This would make it easier for the State to ensure that access was granted by the operator.

GOV/COM.24/OR.29/¶72: UK: need to ensure that indicating reasons and activities for access did not give the state an opportunity to delay the access beyond the notification period specified in the protocol.

GOV/COM.24/OR.34/¶2: Germany: German proposal was designed to simplify the present articles 9.a. and 9.b. and incorporate them into article 3 so that all the modalities of complementary access would be dealt with in one article. The basis for the proposal was a 24-hour notice period (traditional in safeguards practice), shortened to two hours or even less if access were sought to any place on a site in the course of design information verification or ad hoc or routine inspections on that site.

GOV/COM.24/OR.34/¶3: Czech Republic: preferred the first option for article 9.a. in the Rolling Text, with the words "not exceeding two hours" replaced by "not less than two hours".

GOV/COM.24/OR.34/¶4: Algeria and Saudi Arabia: preferred the second option for article 9.a. since it was the most consistent with the terms of Algeria's safeguards agreement.

GOV/COM.24/OR.34/¶5: Netherlands: supported the German proposal, with the reservation that notice of two hours or less could prove inadequate for a state to arrange for its representatives to accompany Agency inspectors.

GOV/COM.24/OR.34/¶6: Denmark:, supported the German proposal, recalling statements made by Canada and Sweden that field trials in those countries had shown that access could be provided at very short notice.

GOV/COM.24/OR.34/¶7: Brazil: 24 hours' notice was not enough; need to ensure that a state had an adequate opportunity to satisfy the Agency's requirements.

GOV/COM.24/OR.34/¶8: Australia: support the 24-and two-hour notice periods; support German proposal but amend the final part to read "... shortened to not less than two hours", since anything shorter than two hours might create problems for certain states.

GOV/COM.24/OR.34/¶9: Chile: need to provide for situations involving locations that did not fall within the direct competence of the state where complicated internal procedures were necessary and access could not be arranged within 24 hours.

GOV/COM.24/OR.34/¶10: USA: supported the German proposal, noting that unannounced inspections were already provided for in INFCIRC/153 and that the practice which had evolved in the Agency with respect to unannounced inspections was to give two hours' notice, so the protocol did not represent a new departure.

GOV/COM.24/OR.34/¶11-12: Japan: supported the German text as amended by Australia but add the words from the third option for Article 9.a. "unless the giving of such notice would ... prejudice ... etc."

GOV/COM.24/OR.34/¶13: Turkey: supported the German text but felt that it would be improved if the notion of "exceptional cases" were introduced as the reason for shortening the notice period to two hours.

GOV/COM.24/OR.34/¶14: UK, South Africa, France, Nigeria, New Zealand, Belgium, Spain and Austria: supported the German text as amended by Australia.

GOV/COM.24/OR.34/¶29-33: Secretariat: supported the German text, which exactly reflected the Secretariat's wishes - namely, a general rule of 24 hours' notice, a two-hour notice period for inspectors on site and less than two hours in exceptional cases; the Secretariat would apply the rules flexibly to meet differing circumstances and, where obstacles arose, the "best efforts" principle would apply; however, it was imperative that the Agency have the authority to act promptly and firmly when the need arose; achieving "cost neutrality" in the strengthening of safeguards would depend on reducing the number of interim inspections at light water reactors and certain other facilities through, inter alia, increased resort to short-notice and/or no-notice inspections; during field trials, very short-notice access to places on a site after the inspectors' arrival at the location had been achieved in 34 of the 35 cases within 15 minutes.

GOV/COM.24/OR.34/¶36: Brazil: the Agency should submit written notice only after the State had had an opportunity to clarify the inconsistency or question or amend the latter part of article 3.d. to read "... by it, provided that the access shall not be delayed in such a way as to prejudice the purpose for which access is sought."

GOV/COM.24/OR.34/¶38-40: Chairman: there seemed to be wide support for the German proposal, which he would take as his starting-point for further drafting, changing "at least 24 hours" to "not less than 24 hours" and changing "shortened to two hours" to "shortened to not less than two hours"; regarding the words "or even less", he would replace them with language conveying the idea that it was only in exceptional

circumstances that advance notice would not be required; also, he would consider the comments made by Brazil, Japan and the UK.

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):
4.b. The Agency shall give..... advance notice of access of not less than 24 hours, provided that for access to any place on a *site* that is sought in conjunction with design information verification visits or ad hoc or routine inspections on that *site,* notice shall, if the Agency so requests, be limited to not less than two hours or, in exceptional circumstances, not be given in advance.
c. Advance notice shall be in writing and shall specify the reasons for complementary access and the activities to be carried out during such access.

GOV/COM.24/OR.45/¶43, 54-56 and 58: Japan, Brazil, USA, Germany and Argentina: could go along with the wording article 4.b. in ROLLING TEXT/REV.1 on the understanding that "exceptional circumstances" meant, for example, a "hot pursuit" situation or "a clear and present danger" such as had existed in Iraq; change the latter part to read something like "... shall, if the Agency so requests, be at least two hours but, in exceptional circumstances, it may be less than two hours".

GOV/COM.24/OR.45/¶46-47: Republic of Korea: "exceptional circumstances" should be interpreted in a very strict manner; no-notice inspections might not be possible since national governments would require time to make the necessary arrangements for inspectors to enter facilities, so change "not be given in advance" to "to even less than two hours".

GOV/COM.24/OR.45/¶59-60: Secretariat: impossible to define "exceptional circumstances" exhaustively, but could subscribe to the Japanese delegation's understanding and wording.

GOV/COM.24/OR.45/¶61-62: Secretariat (Director, Division of Concepts and Planning): if inspectors were in a country for an unannounced routine inspection and were due to spend only a day at the facility in question, the Agency may wish to conduct Protocol activities and a notice period of less than 24 hours might be necessary; as regards "exceptional circumstances", "hot pursuit" sounded rather too dramatic and need to cover a situation where an inspector on site saw something which he/she did not understand and requested an explanation and permission to inspect.

GOV/COM.24/OR.45/¶64-65: Syrian Arab Republic and Saudi Arabia: administrative procedures for the entry of inspectors with their equipment varied from country to country, so advance notice of at least 48 hours or even 72 hours should be provided for in order to ensure that inspectors did not encounter problems.

GOV/COM.24/OR.45/¶68: Algeria: for administrative reasons, his country would find it very difficult to implement article 4.b. as it stood and the advance notice should be the minimum compatible with the normal performance of inspection activities.

GOV/COM.24/OR.45/¶73-76: Chairman: would look into splitting article 4.b. into two subparagraphs; "in conjunction with" could usefully be replaced by "during"; "the period of notice" was better than just "notice" after "routine inspections on that *site*"; the

wording suggested by Japan for the latter part of the paragraph had received considerable support and would be incorporated into the text; use of "shall" in one place and "may" in another did not constitute a problem; as regards the 24-hour notice question, given the provisions contained in paragraph 83 of document INFCIRC/153 it should not be reopened.

GOV/COM.24/OR.45/¶77: Chairman: no comments on article 4.c.

GOV/COM.24/Chairman’s REVISED TEXT (5 February 1997)
4.b. (i) Except as provided in paragraph (ii) below, the Agency shall give ..... advance notice of access of at least 24 hours;
(ii) For access to any place on a site that is sought in conjunction with design information verification visits or ad hoc or routine inspections on that site, the period of notice shall, if the Agency so requests, be at least two hours but, in exceptional circumstances, it may be less than two hours.
c. Advance notice shall be in writing and shall specify the reasons for access and the activities to be carried out during such access.

GOV/COM.24/OR.51/¶29: Brazil: amend paragraph 4.b.(ii) to read “... period of advance notice ...”, noting that paragraphs 4.b.(i) and 4.c. used the term “advance notice”.

GOV/COM.24/OR.51/¶34: Chairman: the Brazilian proposal to amend paragraph 4.b.(ii) seemed to be generally acceptable.

23. Article 4.d (In case of a question or inconsistency….)

INFCIRC/540 (Corrected)

4. The following shall apply in connection with the implementation of complementary access under Article 5 of this Protocol:
d. In the case of a question or inconsistency, the Agency shall provide ..... with an opportunity to clarity and facilitate the resolution of the question or inconsistency. Such an opportunity will be provided before a request for access, unless the Agency considers that delay in access would prejudice the purpose for which the access is sought. In any event, the Agency shall not draw any conclusions about the question or inconsistency until ..... has been provided with such an opportunity.

Annex III of the "Discussion Draft" of 21 November 1995 {did not include this provision.}

Annex III of the "Discussion Draft II" of 27 February 1996 {did not include this provision.}

Annex III of GOV/2863, 6 May 1996 {did not include this provision.}

GOV/OR.894/¶146: Japan: explain the nature of the inconsistency or question at the time of the notification.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
3.{New} [The following shall apply in connection with the implementation of complementary access under this Protocol:
a. The Agency shall provide..... with an opportunity to clarify, and facilitate the resolution of, any inconsistencies or questions which the Agency may have identified with respect to the information referred to in Article 1 above.]

GOV/COM.24/OR.29/¶8 and attachment: Germany:
{New}Article 3 The following shall apply in connection with the implementation of complementary access under Article 4 of this Protocol:
d. The Agency shall, before or after written notice for access sought under Article 3.a.(i), provide (State) with an opportunity to clarify and facilitate the resolution of the inconsistency or question specified by it, provided that the access shall not be delayed beyond the lapse of the notification times provided for in Article 3.b. if the Agency considers that such delay would prejudice the purpose for which access is sought.

GOV/COM.24/OR.30/¶4-5: Japan: paragraph 3.d. of the German text was acceptable if it dealt with whether any delay in access would prejudice the purpose for which access was sought and whether there was any urgency in the opinion of the Agency?

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):
4.d. In the case of an inconsistency or question, the Agency shall provide..... with an

opportunity to clarify and facilitate the resolution of the inconsistency or question. Such an opportunity will be provided before a request for access, unless the Agency considers that delay in access would prejudice the purpose for which the access is sought. In any event, the Agency shall not draw any conclusions about the inconsistency or question until ..... has been provided with such an opportunity.

> GOV/COM.24/OR.45/¶78: Chairman: the second sentence had been added to article 4.d. in response to requests for clarification; there were no comments.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)
4.d. In the case of a question or inconsistency, the Agency shall provide .....with an opportunity to clarify and facilitate the resolution of the question or inconsistency. Such an opportunity will be provided before a request for access, unless the Agency considers that delay in access would prejudice the purpose for which the access is sought. In any event, the Agency shall not draw any conclusions about the question or inconsistency until..... has been provided with such an opportunity.

> {GOV/COM.24/OR.51: no comments.}

24. Article 4.e (Regular working hours)

INFCIRC/540 (Corrected)

4. The following shall apply in connection with the implementation of complementary access under Article 5 of this Protocol:
e. Unless otherwise agreed to by ....., access shall only take place during regular working hours.

Annex III of the "Discussion Draft" of 21 November 1995 {did not include this provision.}

Annex III of the "Discussion Draft II" of 27 February 1996 {did not include this provision.}

Annex III of GOV/2863, 6 May 1996
7.c. Unless otherwise agreed to by ....., access to any location referred to in Article 3 above shall only take place during regular working hours.

GOV/COM.24/W.P. 6: Austria: insert "under the Protocol" after "access".

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
3.{New} [The following shall apply in connection with the implementation of complementary access under this Protocol:
d. Such access shall be subject to the notice specified in Article 9 below and, unless otherwise agreed to by ....., shall only take place during regular working hours.]

GOV/COM.24/OR.29/¶8 and attachment: Germany:
{New}Article 3 The following shall apply in connection with the implementation of complementary access under Article 4 of this Protocol:
e. Unless otherwise agreed to by ....., complementary access shall take place only during regular working hours.
{No comments.}

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):
4.e. Unless otherwise agreed to by ....., complementary access shall only take place during regular working hours in ......

GOV/COM.24/OR.45/¶80: Finland: how is a country's "regular working hours" defined.

GOV/COM.24/OR.45/¶81-82: Australia and Secretariat: 4.e. and f. were linked and the purpose of 4.e. was to indicate when states' representatives should be available to accompany Agency inspectors; leave 4.e. unchanged as the matter could be resolved in individual Subsidiary Arrangements.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)

Article 4.e (Regular working hours)

4.e. Unless otherwise agreed to by ....., access shall only take place during regular working hours in ......

GOV/COM.24/OR.51/¶25: Chairman: delete “in .....” at the end of article 4.e.

GOV/COM.24/OR.51/¶32: Germany: necessary to delete “in ...” at the end of article 4.e. since it was impossible to define regular working hours for the state, as they could be anything up to 24 hours a day depending on the facility.

25. Article 4.f (Right to accompany inspectors)

INFCIRC/540 (Corrected)

4. The following shall apply in connection with the implementation of complementary access under Article 5 of this Protocol:
f. ..... shall have the right to have Agency inspectors accompanied during their access by representatives of ....., provided that the inspectors shall not thereby be delayed or otherwise impeded in the exercise of their functions.

Annex III of the "Discussion Draft" of 21 November 1995 {did not include this provision.}

Annex III of the "Discussion Draft II" of 27 February 1996 {did not include this provision.}

Annex III of GOV/2863, 6 May 1996 {did not include this provision.}

GOV/COM.24/W.P. 19: Egypt: add a new paragraph: "Representatives of ..... shall accompany the Agency inspectors pursuant to paras 87-89 of the INFCIRC/153 for conducting activities referred to in Article 3."

GOV/COM.24/W.P. 3 Corr.1: Japan: insert after article 4 a new article: "..... shall have the right to have Agency inspectors accompanied during their complementary access by representatives of ..... provided that Agency inspectors shall not thereby be delayed or otherwise impeded in the exercise of their functions."

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
3.{New} [The following shall apply in connection with the implementation of complementary access under this Protocol:
e. ..... shall have the right to have Agency inspectors accompanied during their complementary access by representatives of ...., provided that the inspectors shall not be delayed or otherwise impeded in the exercise of their functions.]

GOV/COM.24/OR.29/¶8 and attachment: Germany:
{New}Article 3 The following shall apply in connection with the implementation of complementary access under Article 4 of this Protocol:
f. ..... shall have the right to have Agency inspectors accompanied during their complementary access by representatives of ....., provided that the inspectors shall not thereby be delayed or otherwise impeded in the exercise of their functions.
GOV/COM.24/OR.30/¶8 and attachment: Australia: replace article 3.d. with: The following shall apply in connection with the implementation of complementary access under this Protocol:
d. ..... shall have the right to have Agency inspectors accompanied during their complementary access by representatives of ....., provided that the inspectors shall not thereby be delayed or otherwise impeded in the exercise of their functions.

Article 4.f (Right to accompany inspectors)

GOV/COM.24/OR.30/¶75: Chairman: no comments.

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):
4.f. ..... shall have the right to have Agency inspectors accompanied during their complementary access by representatives of ....., provided that the inspectors shall not thereby be delayed or otherwise impeded in the exercise of their functions.

GOV/COM.24/OR.45/¶83: Chairman: no comments on article 4.f.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)
4.f. ..... shall have the right to have Agency inspectors accompanied during their access by representatives of ....., provided that the inspectors shall not thereby be delayed or otherwise impeded in the exercise of their functions.

{GOV/COM.24/OR.51: no comments.}

26. Article 5.a (Access to places associated with nuclear material)

INFCIRC/540 (Corrected)

5. ..... shall provide the Agency with access to:
a. (i) Any place on a site;
(ii) Any location identified by ..... under Article 2.a.(v)-(viii);
(iii) Any decommissioned facility or decommissioned location outside facilities where nuclear material was customarily used.

GOV/2568 Attachment 1 of 20 January 1992, "Reporting and Verification of the Export, Import and Production of Nuclear Material for States Party to Comprehensive Safeguards Agreements"

Agency verification activities in States with comprehensive safeguards agreements are extended to cover material which has not reached a composition and purity suitable for fuel fabrication or isotopic enrichment. (Such verification would be kept to a minimum and concentrate mainly on inventory verification at facilities where ore concentrate is produced, stored or processed towards a form suitable for fuel fabrication or enrichment.)

> GOV/OR.777/¶78: Chairman: received a letter from the Director General referring to "a desire to defer the verification activities proposed in GOV/2568 Attachments 1 and 2 to a later stage and until the reporting system envisaged in the two papers is in place".
>
> GOV/OR.777/¶84-85: Canada: welcomed the Director General's decision to abandon the proposals on verification in document GOV/ 2568.
>
> GOV/OR.777/¶140: Russian Federation: physical verification of the nuclear material in question would not achieve very much, apart from additional expense.
>
> GOV/OR.777/¶160: USA: had reservations concerning proposed verification activities.

GOV/2588, "Universal Reporting of Exports, Imports and Inventories of Nuclear Material for Peaceful Purposes" of 18 May 1992

Verification would be undertaken only in States with comprehensive safeguards agreements and only if it was required to clarify inconsistencies identified through the analysis and evaluation of the data.

Annex III of the "Discussion Draft" of 21 November 1995

3.a. ..... shall provide the Agency access to the following locations in accordance with the provisions described below:

(i) To any location on a *site* containing a facility or containing a location outside facilities where nuclear material is customarily used, including those facilities and locations outside facilities where nuclear material is customarily used which have been closed down but not decommissioned; and

(ii) To any other location identified by ..... under Article l.a.(i) and (iv)-(viii) above.

GOV/OR.884/¶74: Brazil: paragraph (a) of article 3 should begin with: "For the sole purpose of resolving significant inconsistencies which could not be otherwise resolved_". Even better would be a definition of the quantities of each type of nuclear material which would trigger a request for access.

GOV/OR.885/¶61: Belgium: Part 2 of Programme 93+2 should not become operational until the results of implementing Part 1 had been evaluated; the measures envisaged in Part 2 were far removed from the idea of tracking nuclear material and resembled much more a system for the surveillance - or even the policing - of nuclear activities; and the Part 2 measures should be applied only when it was widely assumed that a State was failing in its obligations.

Annex III of the “Discussion Draft II” of 27 February 1996
3.a. ..... shall provide the Agency access to the following locations:
(i) To any place on a *site* containing a facility or containing a location outside facilities where nuclear material is customarily used, including closed down facilities and locations outside facilities where nuclear material is customarily used;
(ii) To any decommissioned facility or decommissioned location outside facilities where nuclear material was customarily used, to the extent necessary to verify that it remains in its decommissioned status; and
(iii) To any location identified by ..... under Article 1.a. (v)-(viii) above.

GOV/OR.888/¶170: Republic of Korea: the Agency should rely on the SSAC's inspection results where power plants were concerned while concentrating its own efforts on more sensitive areas such as reprocessing and enrichment facilities.

Annex III of GOV/2863, 6 May 1996: {Same as Annex III of the “Discussion Draft II” of 27 February 1996.}

GOV/COM.24/W.P. 12: Argentina: add at the beginning of the paragraph: "In order to resolve an inconsistency or a relevant question regarding the possible existence of an undeclared nuclear activity involving nuclear material that it has not been possible to resolve otherwise in consultations between ..... and the Agency, ..., taking into account its constitutional obligations vis-à-vis individuals, "

GOV/COM.24/W.P. 4: Belgium: replace article 3.a. chapeau with: "In order to resolve an inconsistency or question relating to its expanded declaration, ... shall grant the Agency access to the following locations:"

GOV/COM.24/W.P. 10: Germany: add at the beginning of the paragraph (before a.): "Upon request by the Agency, specifying the purpose for which access is sought and explaining the reasons why the Agency considers that information made available by (State), including additional explanations from (State) and information obtained from Agency inspections, is not adequate for the Agency to fulfil its responsibilities under the Safeguards Agreement(s), ".

GOV/COM.24/W.P. 20: Sweden: add after "locations": "for the purposes described in GOV/2863, Section B ("Measures Involving Increased Physical Access"), noting that in no case the purpose of such access should be limited to the resolution of questions or inconsistencies only".

GOV/COM.24/W.P. 6: Austria: in 3.a.(i) add "closed down" before "locations outside facilities" at end of sub-paragraph.

GOV/COM.24/W.P. 19: Egypt: modify 3.a.(i) to read: "To any place on a site containing a facility (or "in a location") outside facilities where nuclear material is customarily used (but not including the whole site where the location outside facilities is situated). This applies to closed down facilities and closed down locations outside facilities."

GOV/COM.24/W.P. 16: Slovakia: in 3.a.(i) replace "closed down" with "shut down".

GOV/COM.24/W.P. 12: Argentina: delete the text in 3,a.(i) after "customarily used".

GOV/COM.24/W.P. 10: Germany: replace "verify" in 3.a.(ii) with "confirm".

GOV/COM.24/W.P. 3 Corr.1: Japan: replace "verify" in 3.a.(ii) with "confirm".

GOV/COM.24/W.P. 1: Spain: in 3.a.(ii) replace "to verify that it remains in its decommissioned status" with "to certify that its decommissioning has been completed".

GOV/COM.24/W.P. 14: Brazil: add at the end of 3.a.(iii) "upon request by the Agency and for the sole purpose of resolving inconsistencies which cannot be otherwise resolved".

GOV/COM.24/OR.10/¶53: USA: inadvisable to make complementary access in article 3.a. subject to the State's constitutional obligations; articles 3.b. and 3.c. were another matter.

GOV/COM.24/OR.10/¶56: Sweden and Australia (¶57): opposed limiting access to the resolution of inconsistencies and the like.

GOV/COM.24/OR.10/¶66-67: Secretariat: change the end of 3.a.(i) to "was customarily used"; states would be entitled to have the Agency's inspectors accompanied by their own representatives during complementary access; need complementary access for purposes over and above the resolution of inconsistencies; unhappy about references to constitutional obligations just in certain parts of the draft protocol; preferred no references to them at all and suggested the Chemical Weapons Convention approach of the state making every reasonable effort to provide "alternative means" if it provided "less than full access" in certain circumstances.

GOV/COM.24/OR.10/¶87: Australia: suggested wording as in paragraph 78 of INFCIRC/153 or in the penultimate preambular paragraph of the draft protocol be incorporated into the protocol as an operative paragraph.

GOV/COM.24/OR.10/¶88-89: UK: complementary access should be a routine and non-confrontational activity; the Agency must be able to form its own judgment as to what constituted an inconsistency and should not have to justify requests for complementary access; the relevant part of the protocol should state the purposes for which complementary access might be requested.

GOV/COM.24/Chairman’s W.P.2 Rolling Text (18 October 1996):
4.{Formerly Article 3}a. ..... shall provide the Agency access to the following locations:
(i) To any place on a *site* containing a facility or containing a location outside facilities where nuclear material is customarily used, including any *closed-down facility and closed-down location outside facilities where nuclear material was customarily used;* and
(ii) To any location identified by ..... under Article 1.a.(v)-(viii) above.
b.{former Article 3.a.(ii))} [..... shall provide the Agency with access to any *decommissioned facility or decommissioned location outside facilities where nuclear material was customarily used,* to the extent necessary to confirm, for safeguards purposes, ...'s declaration of the decommissioned status of the facility or location.]

> GOV/COM.24/OR.30/¶76: Chairman: change subparagraph a.(i) to "To any place on a *site*", the meaning of "site" being left for consideration under Article 20.b.
>
> GOV/COM.24/OR.30/¶78 and attachment to GOV/COM.24/OR.29: Germany: replace 4.a. with "a. ..... shall provide the Agency access to the following locations:
>
> (i) To any place on a site.
>
> (ii) To any location identified by (State) under Article 1.a.(v)-(viii) above.
>
> b. ..... shall provide the Agency with access to any decommissioned facility or decommissioned location outside facilities where nuclear material was customarily used, to the extent necessary to confirm for safeguards purposes .....'s declaration of the decommissioned status of the facility or location."
>
> GOV/COM.24/OR.30/¶79: Germany: add "taking into account any constitutional obligations it may have with regard to proprietary rights or searches and seizures" in the chapeau of article 4.a., to protect the rights of individuals on the basis of generally accepted international standards (also Belgium (¶82), Chile (¶83), Algeria (OR.31/¶12) and Saudi Arabia (¶13)).
>
> GOV/COM.24/OR.30/¶80: USA, Greece (¶84), Secretariat (¶85), Australia (OR.31/¶1), Nigeria (¶2), UK (¶4), Austria (¶5), Netherlands (¶6), Slovakia, Mexico, Finland, Denmark, New Zealand, Czech Republic, Sweden, France, and Turkey (¶10) and Canada (¶11): oppose the addition of that phrase.
>
> GOV/COM.24/OR.31/¶9: Germany: defer issue until the preamble is agreed.
>
> GOV/COM.24/OR.31/¶22: Greece: in 4.b. replace "to the extent necessary to confirm, for safeguards purposes," with "to the extent necessary for the Agency to confirm".

GOV/COM.24/Chairman’s Rolling Text/Rev.1 (27 January 1997):
5. [..... shall provide the Agency access to the following locations taking into account any constitutional obligations it may have with regard to proprietary rights or searches and seizures:] ..... shall provide the Agency access to:
a. (i) Any place on a *site*; and
(ii) Any location identified by ..... under Article 2.a.(v)-(viii).
(iii) Any *decommissioned facility or decommissioned location outside facilities where nuclear material was customarily used.*

GOV/COM.24/OR.45/¶84-85: Chairman and USA: given the progress made on the preamble, the square-bracketed phrase at the beginning of Article 5 could be deleted.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)

5. ..... shall provide the Agency with access to:

a. (i) Any place on a *site;*

(ii) Any location identified by ..... under Article 2.a.(v)-(viii);

(iii) Any *decommissioned facility* or *decommissioned location outside facilities* where *nuclear material* was customarily used.

GOV/COM.24/OR.51/¶35: Chairman: no comments by the Committee on article 5.

27. Article 5.b (Access to other locations identified under the Additional Protocol)

INFCIRC/540 (Corrected)

5. ..... shall provide the Agency with access to:
b. Any location identified by ..... under Article 2.a.(i), Article 2.a.(iv), Article 2.a.(ix)(b) or Article 2.b., other than those referred to in paragraph a.(i) above, provided that if ..... is unable to provide such access, ... shall make every reasonable effort to satisfy Agency requirements, without delay, through other means.

GOV/2568 Attachment 2 of 20 January 1992, "Reporting and Verification of the Export, Import and Production of Sensitive Equipment and Non-Nuclear Material for States Party to Comprehensive Safeguards Agreements"

Agency verification that the equipment or non-nuclear material reported as exported to States with comprehensive safeguards agreements have arrived at the declared facilities in the recipient States and have been installed and continue to be used as declared.

GOV/OR.777/¶78: Chairman: received a letter from the Director General referring to "a desire to defer the verification activities proposed in GOV/2568 Attachments 1 and 2 to a later stage and until the reporting system envisaged in the two papers is in place".

GOV/OR.777/¶84-85: Canada: welcomed the Director General's decision to abandon the proposals on verification in document GOV/ 2568.

GOV/OR.777/¶140: Russian Federation: physical verification of the non-nuclear material and sensitive equipment would not achieve very much, apart from additional expense.

GOV/OR.777/¶160: USA: had reservations concerning the proposed verification activities.

GOV/2589 of 18 May 1992, "Universal Reporting of Exports and Imports of Certain Equipment and Non-Nuclear Material for Peaceful Nuclear Purposes"

Verification would take place only in States with comprehensive safeguards agreements and only if required to clarify inconsistencies identified through the analysis and evaluation of the data available to the Agency.

GOV/OR.781/¶87: Belgium: differentiation between States with comprehensive safeguards agreements and other States should be eliminated.

Annex III of the "Discussion Draft" of 21 November 1995
{Article 3.a.(ii) covers most of this provision.}

Annex III of the "Discussion Draft II" of 27 February 1996

3.b. Upon request by the Agency, ... shall, taking into account any constitutional obligations it may have with regard to proprietary rights or searches and seizures, provide the greatest degree of access to the Agency to any location identified by ..... under Article 1.a.(i) or Article 1.a.(iv), other than those referred to in Article 3.a.(i) above, provided that if ..... is unable, by reason of such constitutional obligations, to provide such access, ... shall take such measures as are necessary otherwise to satisfy Agency requirements.

Annex III of GOV/2863, 6 May 1996: {Same as Annex III of the "Discussion Draft II" of 27 February 1996.}

> GOV/COM.24/W.P. 12: Argentina: insert "towards individuals" after the first "constitutional obligations"; delete the phrase "it may have with regard to proprietary rights or searches and seizures"; delete "are necessary" and replace with "it can".
>
> GOV/COM.24/W.P. 4/Add.2: Belgium: delete "taking into account any constitutional obligations it may have with regard to proprietary rights or searches and seizures".
>
> GOV/COM.24/W.P. 14: Brazil: after "Upon request by the Agency" insert: "and for the sole purpose of resolving significant inconsistencies which cannot be otherwise resolved,".
>
> GOV/COM.24/W.P. 19: Egypt: replace "necessary" with "possible"; add at the end: "Such a request by the Agency shall be made only when there is an inconsistency or a question resulting from information gathered under Article 1.a., and complementary access under Article 3.a."
>
> GOV/COM.24/W.P. 10: Germany: delete "upon request by the Agency,..... shall"; modify the end of paragraph to read: "to provide such access, (State) shall make every effort to satisfy, to the extent possible, Agency requirements through other means;"
>
> GOV/COM.24/W.P. 9: Greece: replace "taking into account any constitutional obligations it may have with regard to proprietary rights or searches and seizures" with "making use of the provisions· of Article 3 of the Safeguards Agreement".
>
> GOV/COM.24/W.P. 2: Republic of Korea: add at the end: "Such a request by the Agency shall be made only when there is an inconsistency or a question resulting from information gathered under Article 1.a and complementary access under Article 3.a."
>
> GOV/COM.24/W.P. 13: Mexico: replace "constitutional" where it first appears with "legal"; replace "necessary otherwise to" with "possible otherwise to try to".
>
> GOV/COM.24/W.P. 1: Spain: replace "taking into account any constitutional obligations it may have with regard to proprietary rights or searches and seizures" with "subject to its constitutional obligations"; replace "shall take such measures as are necessary" with "shall take all possible measures".
>
> GOV/COM.24/OR.11/¶38-39: Germany: replace "provide the greatest degree of access" in 3.b. with "make every reasonable effort to provide access"; a proper explanation would help to overcome the constitutional problem and increase effectiveness by allowing the other party to arrange access and facilitate the inspector's task.

GOV/COM.24/OR.20/¶32-34: Australia (supported by the Netherlands (¶42-44), USA (¶45), France (¶48), Turkey (¶57), New Zealand (¶59) and Greece (¶61)): a clear principle of international law is that treaty obligations prevailed, and states could not subscribe to a treaty and then seek to avoid their responsibilities on grounds of their domestic circumstances as they perceived them. The protocol should follow the approach of the Chemical Weapons Convention, under which the State was explicitly required, in accordance with its constitutional processes, to adopt the necessary measures to implement its obligations under the instrument, wording that provided enough flexibility to allow an individual State to do everything possible in accordance with its constitutional processes and adopt other measures if it had any difficulty in giving direct expression to its commitments.

GOV/COM.24/OR.20/¶35-37: Germany: need to protect the rights of the individual, particularly when protected by the constitution; the Secretariat's approach was unacceptable, because it limited the protection only in respect of complementary access and not in respect of other activities under the protocol.

GOV/COM.24/OR.20/¶56: Brazil: not necessary to refer to constitutional obligations in the protocol because a state could use its best efforts to satisfy safeguards requirements.

GOV/COM.24/OR.20/¶62: Syrian Arab Republic: include a paragraph in the preamble regarding the constitutional obligations of states in order to protect national sovereignty.

GOV/COM.24/OR.20/¶63: Argentina: not necessary to refer to constitutional obligations either in the preamble or in the text proper; if states could not comply exactly with the Agency's requests, then recourse should be had to "best efforts".

GOV/COM.24/OR.20/¶65-67: Spain (supported by Japan (68)): international law prevailed over domestic law, but the draft protocol contained provisions which ran counter to the constitutional rules of countries, including Spain, regarding private property, and which were therefore unacceptable. It was necessary to distinguish between nuclear and non-nuclear activities that were State-controlled and non-nuclear activities not under State control; a strict rule would apply to State-controlled installations and a "best efforts" rule to the rest.

GOV/COM.24/OR.20/¶68: Nigeria: want a protocol without any restrictions imposed by national obligations.

GOV/COM.24/OR.20/¶83-84: UK: no reference to constitutional obligations in INFCIRC/153, and no need for one in the protocol, even if limited to the rights of the individual or to human rights; the "every reasonable effort" approach to the provision of information and access could meet the concerns of delegations which had expressed anxiety regarding constitutional aspects.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
4.{Formerly Article 3.b}c. ..... shall provide the necessary degree of access to the Agency. to any location identified by ..... under Article l.a.(i), Article l.a.(iv).or Article l.b above, other than those referred to in paragraph a. (i) above, provided that if ..... is unable to provide such access, ... shall take all possible measures otherwise to satisfy Agency requirements.

GOV/COM.24/OR.31/¶38 and attachment to GOV/COM.24/OR.29: Germany: replace 4.c. with "..... shall provide to the Agency the necessary degree of access to any location identified by ..... under Article 1.a.(i), Article 1.a.(iv), 1.a.(ix)(b), or Article 1.b. above, other than those referred to in Article 4.a.(i), provided that if ..... is unable to provide such access, ... shall make every reasonable effort to satisfy Agency requirements through other means."

GOV/COM.24/OR.31/¶32: Australia: add "without delay" after "measures"; and retain "all possible measures".

GOV/COM.24/OR.31/¶33 and 45: USA: accept "every reasonable effort", since in legal parlance that phrase carried considerable weight and "without delay" (also Greece (¶41), Netherlands (¶42) and Austria (¶47)).

GOV/COM.24/OR.31/¶36: Islamic Republic of Iran: replace "otherwise to satisfy Agency requirements" by "to fulfill its obligations under this Protocol".

GOV/COM.24/OR.31/¶48: Austria: add a requirement that a State funding a fuel-cycle R&D project in another country require that country to have a safeguards agreement.

GOV/COM.24/OR.31/¶58:_Chairman: summing up on article 4.c., said it seemed to be the Committee's wish to include a reference in line 2 to article 1.a.(ix)(b) and that the term "every reasonable effort" be adopted, as well as "through other means" at the end of the paragraph. The term "every reasonable effort" was recognized as a serious obligation and it was desirable to use it consistently throughout the Protocol. The Committee also favored including the words "without delay" in the article but several delegations had expressed concern on timing, and that question would need to be re-examined in the context of article 9, as well as in connection with the German text tabled at that morning's meeting. Finally, he would need to reflect on whether the phrase "the necessary degree of ..." could be dropped in the light of the wording in the preamble.

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):
5.b. Any location identified by..... under Article 2.a.(i), Article 2.a.(iv), Article 2.a.(ix)(b) or Article 2.b, other than those referred to in paragraph a.(i) above, provided that if ..... is unable to provide such access, ... shall make every reasonable effort to satisfy Agency requirements, without delay, through other means.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997) {Same as Chairman's Rolling Text/Rev.1 (27 January 1997)}

GOV/COM.24/OR.51/¶35: Chairman: no comments by the Committee.

28. Article 5.c (Access to other locations in a State)

INFCIRC/540 (Corrected)

5. ..... shall provide the Agency with access to:
c. Any location specified by the Agency, other than locations referred to in paragraphs a. and b. above, to carry out location-specific environmental sampling, provided that if ..... is unable to provide such access, ... shall make every reasonable effort to satisfy Agency requirements, without delay, at adjacent locations or through other means.

Annex III of the "Discussion Draft" of 21 November 1995
3.b. Upon request by the Agency, ... shall, taking into account any constitutional obligations it may have with regard to proprietary rights or searches and seizures, provide the greatest degree of access to the Agency to any locations other than in those referred to in subparagraphs a.(i) and (ii) of this paragraph for the purpose of environmental sampling.

GOV/OR.885/¶52: UK: with regard to the phrase "taking into account constitutional obligations", would not be happy if states' differing interpretations of "constitutional obligations" resulted in differing access rights for the Agency.

Annex III of the "Discussion Draft II" of 27 February 1996
3. c. Upon request by the Agency, ... shall, taking into account any constitutional obligations it may have with regard to proprietary rights or searches and seizures, provide the greatest degree of access to the Agency to any locations, other than in those referred to in Article 3.a. and b., to carry out environmental sampling.

GOV/OR.888/¶168: Republic of Korea: access to locations without nuclear material should only be sought where there was an inconsistency.

Annex III of GOV/2863, 6 May 1996: {Same as Annex III of the "Discussion Draft II" of 27 February 1996.}

GOV/OR.895/¶28: China: wide-area sampling should not be provided for in the draft protocol since its feasibility and effectiveness had not yet been established and it involved questions of security, confidentiality and cost.

GOV/COM.24/W.P. 12: Argentina: insert "towards individuals" after "obligations"; delete "it may have with regard to proprietary rights or searches and seizures,"; replace "greatest" with "necessary".

GOV/COM.24/W.P. 4/Add.2: Belgium: delete "taking into account any constitutional obligations it may have with regard to proprietary rights or searches and seizures".

GOV/COM.24/W.P. 14: Brazil: replace "provide" with "make every reasonable effort to provide".

GOV/COM.24/W.P. 19: Egypt: replace "the greatest" with "the most possible"; replace "any locations" with "specified locations"; after "environmental sampling", insert "which may be of safeguards relevance"; add at the end of the sub-paragraph: "Such a request by the Agency shall be made only when there is an inconsistency or a question resulting from information gathered under Article 1.a. and complementary access under 3.a."

GOV/COM.24/W.P. 10: Germany: delete "Upon request by the Agency, ... shall" at the beginning of the paragraph.

GOV/COM.24/W.P. 9: Greece: replace "taking into account any constitutional obligations it may have with regard to proprietary rights or searches and seizures" with "making use of the provisions of Article 3 of the Safeguards Agreement".

GOV/COM.24/W.P. 2: Republic of Korea: add at the end of the paragraph: "Such a request by the Agency shall be made only when there is an inconsistency or a question resulting from information gathered under Article 1.a. and complementary access under Article 3.a."

GOV/COM.24/W.P. 1: Spain: replace "taking into account any constitutional obligations it may have with regard to proprietary rights or searches and seizures" with "subject to its constitutional obligations".

GOV/COM.24/OR.12/¶3: Secretariat: could accept replacing "any locations" by "specified locations"; opposed restricting the sources of information used as a basis for requesting environmental sampling since it would exclude open-source information, for example, which was an important source of information for the Agency.

GOV/COM.24/OR.12/¶4: Brazil: adding "make every reasonable effort to provide" would make 3.c. acceptable.

GOV/COM.24/OR.12/¶10: Germany: a distinction should be drawn between wide-area and site-specific environmental sampling.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
4.{Formerly Article 3.c}d. ..... shall provide to the Agency the necessary degree of access to any locations specified by it, other than locations referred to in paragraphs a., b. and c. above, to carry out environmental sampling, provided that if ..... is unable to provide such access, ... shall take all possible measures otherwise to satisfy Agency requirements.

GOV/COM.24/OR.32/¶1 and attachment to GOV/COM.24/OR.29: Germany: replace 4.d. with "..... shall provide to the Agency the necessary degree of access to any location specified by the Agency, other than those locations referred to in Article 4, paragraphs a., b., and c., to carry out directed environmental sampling, provided that if ..... is unable to provide such access it shall make every reasonable effort to satisfy Agency requirements at adjacent locations or through other means.", noting that "directed environmental sampling" meant sampling with methods agreed to by the Board of Governors when approving Part 1 of Programme 93+2.

GOV/COM.24/OR.32/¶2: Algeria: in each case three samples should be taken - one for the Agency, the second for the State (which could, if it so desired, carry out its own

analyses) and the third, a control sample, to be used in the event of inadvertent contamination of one of the other samples or in the event of differing interpretations of the results.

GOV/COM.24/OR.32/¶3-4: Australia: supports the German text; add "without delay" after "Agency requirements"; use "location-specific environmental sampling" instead of "directed environmental sampling".

GOV/COM.24/OR.32/¶6: Japan: cover article 1.c. in article 4.d.

GOV/COM.24/OR.32/¶8: Nigeria: delete "the necessary degree of" since it might create unnecessary problems both for the Agency and for states.

GOV/COM.24/OR.32/¶14: Brazil: delete "at adjacent locations or".

GOV/COM.24/OR.32/¶16: Argentina: omit "without delay", since the Board would judge whether the State had made "every reasonable effort" in the light of, inter alia, the time taken for the Agency's requirements to be met.

GOV/COM.24/OR.32/¶18: Belgium: keep "at adjacent locations or", since it would be useful for the Agency, if not granted access to a particular location, to have access to an adjacent location.

GOV/COM.24/OR.32/¶20-24: Secretariat: proposed definitions for: "*Directed environmental sampling* means the collection of environmental samples (e.g. air, water, vegetation, soil, smears) at, or in the immediate vicinity of, a location specified by the Agency for the purpose of assisting the Agency to draw conclusions about the absence of undeclared nuclear material or nuclear activities at the specified location; "*Undirected environmental sampling* means the collection of environmental samples (e.g. air, water, vegetation, soil, smears) at a set of locations within a State specified by the Agency for the purpose of assisting the Agency to draw conclusions about the absence of undeclared nuclear material or nuclear activities over a wider area within the State."; as regards the Algerian comment concerning the number of samples to be taken, with the current procedure, samples were collected for three purposes: for analysis by the Agency, for analysis by the State and for storage under joint custody in case further analyses were required; with regard to the points where samples were to be collected, the specification of locations in the case of directed environmental sampling might raise problems if the Agency wished to have access, for sampling purposes, to a particular point in a building to which the state did not wish to grant access and no other sampling points would serve as well.

GOV/COM.24/OR.32/¶31-36: Chairman: summing up: the German text had wide support; "the necessary degree of " could be deleted; "make every reasonable effort to" should be retained; the expressions used to describe the two kinds of sampling or monitoring should be defined in the protocol; the phrase "at adjacent locations or" was a useful one; "without delay" after "Agency requirements" should be considered under article 9; need more time to think about the article 1.c. question; not sure whether the question of the number of samples should be dealt with in the protocol or in a technical description of the sampling processes to be employed.

GOV/COM.24/Chairman’s Rolling Text/Rev.1 (27 January 1997):

Article 5.c (Access to other locations in a State)

5.c. Any location specified by the Agency, other than locations referred to in paragraphs a. and b. above, to carry out *location-specific environmental sampling,* provided that if ..... is unable to provide such access, ... shall make every reasonable effort to satisfy Agency requirements, without delay, at adjacent locations or through other means.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997) {Same as in Chairman's Rolling Text/Rev.1 (27 January 1997)}

GOV/COM.24/OR.51/¶35: Chairman: no comments by the Committee.

29. Article 6 (Inspection Measures)

INFCIRC/540 (Corrected)

6. When implementing Article 5, the Agency may carry out the following activities:
a. For access in accordance with Article 5.a.(i) or (iii): visual observation; collection of environmental samples; utilization of radiation detection and measurement devices; application of seals and other identifying and tamper indicating devices specified in Subsidiary Arrangements; and other objective measures which have been demonstrated to be technically feasible and the use of which has been agreed by the Board of Governors (hereinafter referred to as the "Board") and following consultations between the Agency and ..... .
b For access in accordance with Article 5.a.(ii): visual observation; item counting of nuclear material; non-destructive measurements and sampling; utilization of radiation detection and measurement devices; examination of records relevant to the quantities, origin and disposition of the material; collection of environmental samples; and other objective measures which have been demonstrated to be technically feasible and the use of which has been agreed by the Board and following consultations between the Agency and ..... .
c. For access in accordance with Article 5.b.: visual observation; collection of environmental samples; utilization of radiation detection and measurement devices; examination of safeguards relevant production and shipping records; and other objective measures which have been demonstrated to be technically feasible and the use of which has been agreed by the Board and following consultations between the Agency and ..... .
d. For access in accordance with Article 5.c.: collection of environmental samples and, in the event the results do not resolve the question or inconsistency at the location specified by the Agency pursuant to Article 5.c., utilization at that location of visual observation, radiation detection and measurement devices, and, as agreed by ..... and the Agency, other objective measures.

Annex III of the "Discussion Draft" of 21 November 1995
5. At any location to which it has access pursuant to Article 3 or 4, the Agency may carry out visual observation, collect environmental samples, use technical devices such as location-finding equipment and modern measurement devices, as well as any of the activities provided for in [paragraphs 74 and 75 of INFCIRC/153] that are relevant to the location. Such activities shall be kept to the minimum consistent with the effective implementation of this Protocol.

GOV/OR.884/¶76: Brazil: the Agency should present criteria for the application of environmental monitoring associated with the safeguards strategy for each installation and for the country as a whole, as well as criteria for the selection of locations where

sampling was to be carried out and of the samples to be collected. Other issues would also need to be considered such as the possibility of States conducting independent analyses or at least specialists from the country where the samples were collected having access to the analyses conducted at the Agency's laboratories.

Annex III of the "Discussion Draft II" of 27 February 1996

5.a. Within the scope of Article 3 above, the Agency shall be enabled to carry out the following activities:

(i) For access in accordance with Article 3.a.(i), visual observation, collection of environmental samples and other objective technical measures as may be available;

(ii) For access in accordance with Article 3.a.(ii), activities necessary to confirm the decommissioned status of the facility or location in question;

(iii) For access in accordance with Article 3.a.(iii), item counting of nuclear material, non-destructive measurements and sampling to confirm enrichment, records examination when substantial quantities have been consumed or shipped to other users, visual observation, collection of environmental samples and other objective technical measures as may be available;

(iv) For access in accordance with Article 3.b., visual observation, collection of environmental samples, records examination and other objective technical measures as may be available;

(v) For access in accordance with Article 3.c., collection of environmental samples.

{There was no article 5.b in Annex III of the "Discussion Draft II" of 27 February 1996.}

Annex III of GOV/2863, 6 May 1996

5.a. Within the scope of Article 3 above, the Agency shall be enabled to carry out the following activities:

(i) For access in accordance with Article 3.a.(i), visual observation, collection of environmental samples and other objective measures which have been demonstrated to be technically feasible;

(ii) For access in accordance with Article 3.a.(ii), activities necessary to confirm the decommissioned status of the facility or location in question;

(iii) For access in accordance with Article 3.a.(iii), item counting of nuclear material, non-destructive measurements and sampling to confirm enrichment, records examination when substantial quantities have been consumed or shipped to other users, visual observation, collection of environmental samples and other objective measures which have been demonstrated to be technically feasible;

(iv) For access in accordance with Article 3. b., visual observation, collection of environmental samples, records examination and other objective measures which have been demonstrated to be technically feasible;

(v) For access in accordance with Article 3.c., collection of environmental samples.

{There was no article 5.b in Annex III of GOV/2863.}

GOV/COM.24/W.P. 11: Algeria: in (i) add at the end ", reliable and decided by mutual agreement"; in 5.(iii) insert at the end "reliable and decided by mutual agreement"; in (iv) insert at the end ", reliable and decided by mutual agreement".

GOV/COM.24/W.P. 12: Argentina: add at the beginning of the chapeau: "In accordance with the principles for the implementation of safeguards set forth in Articles ... [cite the articles corresponding to paras 4, 5, 6 and 8 of INFCIRC/153] of the Safeguards Agreement with the managed access that may have been arranged for by ..... pursuant to Article 6 of the present Protocol, and"; in (i) replace "in accordance with" with "as foreseen in"; insert "and by mutual agreement" after "visual observation"; in (ii) replace "in accordance with" at the beginning with "as foreseen in"; insert "exclusively the" before "activities"; add at the end: "following procedures established by mutual agreement"; in (iii) replace "in accordance with" with "as foreseen in"; insert before "item counting" "activities necessary to confirm the general quantities, enrichment levels and utilization of the nuclear material in order to confirm the absence of undeclared nuclear activities in connection with this material, such as[*/]; insert "- without such measures attracting the application of safeguards procedures - also" after "users" and insert "and, by mutual agreement," after "visual observation". [*/] This proposed amendment is based on the description of the measures given in para. 66 of document; in (iv) replace "in accordance with" with "as foreseen in"; insert "and by mutual agreement," after "visual observation"; delete "records examination"; in (v) replace "in accordance with" with "as foreseen in"; add at the end "following procedures established by mutual agreement".

GOV/COM.24/W.P. 4/Add.1: Belgium: in (i) add "and have been decided upon by mutual agreement" after "feasible"; in (iii) add after the words "and other objective measures which have been demonstrated to be technically feasible" the words "and have been decided upon by mutual agreement"; in (iv) add "and have been decided upon by mutual agreement" after "feasible".

GOV/COM.24/W.P. 14: Brazil: in (i), (iii) and (iv) delete "and other objective measures which have been demonstrated to be technically feasible"; in (iv) delete "records examination".

GOV/COM.24/W.P. 19: Egypt: in (i) and (iii) add at the end: "and have been mutually agreed upon"; in (ii) replace "confirm" with "verify"; in (iv) add "and have been mutually agreed upon" after "feasible".

GOV/COM.24/W.P. 10: Germany: in (i), (iii) and (iv) add at the end "and approved by the Board of Governors"; in (ii) after "Article 3.a.(ii)" replace with "visual observation, collection of environmental samples and other objective measures which have been demonstrated to be technically feasible and approved by the Board of Governors."; in (iii) replace "records" with "material accounting records"; in (iv) replace "records" with "production and delivery records".

GOV/COM.24/W.P. 9: Greece: in (ii) replace "confirm the" with "verify the declared".

GOV/COM.24/W.P. 3 Corr.1: Japan: in (ii) delete "activities" and insert "visual observation, collection of environmental samples and other objective measures".

GOV/COM.24/OR.3/¶26: Nigeria: in (ii) propose "to verify and confirm".

GOV/COM.24/W.P. 16: Slovakia: in (i) replace "measures which have been demonstrated" by "any other mutually agreed objective measures"; {in (iii) and (iv)} see comment under Article 5(i)}.

GOV/COM.24/W.P. 1: Spain: in (ii) replace "confirm" with "certify"; in (iv) replace "and other objective measures which have been demonstrated to be technically feasible" with "and, by mutual agreement, any other objective measure which has been demonstrated to be technically feasible".

GOV/COM.24/W.P. 18: UK: in (iii) replace "records examination ... other users" with "examination of records relevant to the consumption or shipment of substantial quantities"; in (iv) replace "records examination" with "examination of relevant records".

GOV/COM.24/W.P. 17: USA: replace existing text in article 4 with "Upon request by the Agency, ... shall, taking into account any constitutional obligations it may have with regard to private property rights or searches and seizures, provide the greatest degree of access to the Agency to any locations referred to in Article 3.c in the event that the environmental sampling provided by Article 3.c does not satisfy Agency requirements. If ..... is unable, by reason of such constitutional obligations, to provide such access ..... shall take such measures as are necessary otherwise to satisfy Agency requirements."

GOV//W.P. 14 (5 August 1996): Brazil: add a new paragraph b.: "..... shall be entitled to appoint a representative to follow the analysis of environmental samples taken from its territory."

GOV/COM.24/W.P. 17: USA: add a new paragraph b.: "Within the scope of Article 4 above, the Agency shall be enabled to carry out visual observation and other objectives measures which have been demonstrated to be technically feasible."

GOV/COM.24/OR.12/¶60 & 62: Secretariat: introduction of new measures on the basis of Board approval would ensure much greater uniformity than a system based upon agreement of individual states; questioned feasibility of Brazilian proposal to have a representative of the State follow the analysis of environmental samples taken from its territory.

GOV/COM.24/OR.12/¶63: Belgium: concerned that Board might take a decision on an issue which directly affected Belgium at a time when it was not represented.

GOV/COM.24/OR.12/¶67: Japan: find some mechanism whereby States not represented on the Board could be involved in that decision-making process.

GOV/COM.24/OR.12/¶73-74: Germany: preferred Board approval for new measures; unacceptable for some measures to be implemented in some states but not in others; under Board Rule 50 all states could contribute to the decision-making process; in (ii) use "confirm" to avoid confusion with verification under conventional safeguards.

GOV/COM.24/OR.13/¶1: USA: opposed requirement for mutual agreement or Board approval.

GOV/COM.24/OR.13/¶2: Spain: in (ii) accepted "confirm"; in (iv) include "by mutual agreement".

GOV/COM.24/OR.13/¶4: Austria (and Greece (¶5), New Zealand (¶10), Sweden (¶21), Turkey (¶26) and Denmark (¶36)): oppose "by mutual agreement".

GOV/COM.24/OR.13/¶13: Czech Republic: suggested a new article on the conduct and visits of inspectors between articles 5 and 6 based on paragraphs 87, 88 and 89 of INFCIRC/153.

GOV/COM.24/OR.13/¶25: Egypt (and Slovakia (¶37) and Islamic Republic of Iran (¶39)): include "by mutual agreement".

GOV/COM.24/OR.13/¶52: Secretariat: proposed Board review rather than mutual agreement for (iv) and (v).

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
6.{Formerly Article 5}Within the scope of Article 4 above, the Agency may carry out the following activities:
a. For access in accordance with Article 4.a.(i), visual observation, collection of environmental· samples, and other objective measures which have been demonstrated to be technically feasible [and. the use of which has been reviewed by the Board of Governors (hereinafter referred to as the "Board ") and following consultations between the Agency and .....] [and which have been mutually agreed between the Agency and .....];
b.{Former Article 5(iii)} For access in accordance with Article 4.a.(ii), item counting of nuclear material, non-destructive measurements and sampling to confirm enrichment, examination of [relevant] records, visual observation, collection of environmental samples, and other objective measures which have been demonstrated to be technically feasible [and the use of which has been reviewed by the Board and following consultations between the Agency and .....] [and which have been mutually agreed between the Agency and .....];
c.{Former Article 5(ii)}For access in accordance with Article 4.b, activities necessary to confirm the decommissioned status of the facility or location in question;
d. For access in accordance with Article 4.c, visual observation, collection of environmental samples, examination of [relevant] records, and other objective measures which have been demonstrated to be technically feasible [and the use of which has been ,reviewed by the Board and following consultations between the Agency and .....] [and which have been mutually agreed between the Agency and .....];
e. For access in accordance with Article 4.d, collection of environmental samples.

GOV/COM.24/OR.29 attachment: Germany: replace article 6 with:

When implementing Article 4 above, the Agency may carry out the following activities:

a. For access in accordance with 4.a.(i) or 4.b., visual observation, collection of environmental samples, application of seals and other identifying and tamper indicating devices specified in subsidiary arrangements, utilization of radiation detection and measurement devices, and other objective measures which have been demonstrated to be technically feasible and the use of which has been agreed by the Board.

b. For access in accordance with Article 4.a.(ii), item counting of nuclear material, non-destructive measurements and sampling to confirm enrichment, utilization of radiation detection and measurement devices, examination of records relevant to the quantities, source, and disposition of the material, and other objective measures which

have been demonstrated to be technically feasible and the use of which has been agreed by the Board.

c. For access in accordance with Article 4.c., visual observation, collection of environmental samples, utilization of radiation detection and measurement devices, examination of production and shipping records, and other objective measures which have been demonstrated to be technically feasible and the use of which has been agreed by the Board.

d. For access in accordance with Article 4.d., collection of environmental samples and, in the event the results do not resolve the inconsistency or question at the location specified by the Agency pursuant to Article 4.d., utilization at this location of visual observation, radiation detection and measurement devices, and other objective measures agreed by the (State) and the Agency.

GOV/COM.24/OR.32/¶90: USA: as regards "has been agreed by the Board" in the German version, his understanding was that an absence of objections on the Board's part meant agreement.

GOV/COM.24/OR.32/¶91: Czech Republic: in 6.a., b. and d. of the Rolling Text replace "reviewed" with "accepted" and delete the phrases "and which have been mutually agreed between the Agency and .....".

GOV/COM.24/OR.32/¶92: Belgium: "visual observation" in 6.a. should not be interpreted as including the taking of photographs or the consulting of records.

GOV/COM.24/OR.32/¶94: Australia: regarding visual observation, restriction should not be put on the Secretariat; the taking of photographs was a well-established safeguards technique and any difficulties in connection with the use of that technique at sensitive locations could be resolved through managed access.

GOV/COM.24/OR.32/¶104: Algeria: move "specified in subsidiary arrangements" to the end of the article.

GOV/COM.24/OR.32/¶106-107: Secretariat: visual observation was an activity which might involve the taking of photographs and also, for example, the use of hand-held radiation detection devices, under conditions of managed access if necessary; paragraph 74(e) of INFCIRC/153 envisaged use by the Agency of "other objective methods which have been demonstrated to be technically feasible"; when contemplating the introduction of new measures, the Secretariat clearly had to consult with states about practical arrangements, but there was no requirement that it seek the agreement of the Board or that subsidiary arrangements be modified.

GOV/COM.24/OR.32/¶113: Germany: the Board would agree to the use of a given measure in general and not have to agree to its use in every particular instance; Board agreement was needed because the protocol would be providing for extensive safeguards activities at non-nuclear sites; "agreed" meant "reviewed without objection".

GOV/COM.24/OR.32/¶117: USA: oppose "and which had been mutually agreed between the Agency and ....." as it would lead to non-uniform application of the protocol.

GOV/COM.24/OR.32/¶124: Belgium: as some states were not permanently represented on the Board there should be provision for consultations between the Agency and the state.

GOV/COM.24/OR.32/¶126-128: Chairman, summing up: in paragraph a. include a reference to managed access; broad agreement about the usefulness of mentioning additional activities which the Agency might carry out and about deleting "and which have been mutually agreed between the Agency and ....."; use the phrase "and the use of which has been agreed by the Board"; the reference to subsidiary arrangements probably rendered the phrase "and following consultations between the Agency and ....." superfluous.

GOV/COM.24/OR.33/¶6: Australia: in 6.b. delete "to confirm enrichment", as too restrictive.

GOV/COM.24/OR.33/¶11: USA: in "... examination of records relevant to the quantities, source and disposition of the material ...", replace "source" with "origin" {to avoid confusion with source material}.

GOV/COM.24/OR.33/¶18: Chairman: in 6.b. delete "to confirm enrichment"; little difference between "examination", "checking" and "review" of records, so retain "examination", as it was already used extensively in related documents; use "... the use of which has been agreed by the Board" rather than the two sets of square brackets at the end of paragraph b. in the Rolling Text, noting that some delegations wanted to retain one or both of the phrases contained in square brackets in both 6.a. and b.

GOV/COM.24/OR.33/¶19: Chairman: noted that 6.c. of the Rolling Text had been subsumed into 6.a. in the new German proposal; that 6.d. and e. of the Rolling Text therefore corresponded to 6.c. and d. of the German text; that there were no speakers on 6.c. of the Rolling Text.

GOV/COM.24/OR.33/¶22-23: Brazil: in 6.d. recalled the link with article 1.a.(iv) and the suggestion that reference be made to "orders of magnitude" rather than annual production figures; delete all reference to the examination of records.

GOV/COM.24/OR.33/¶24: Netherlands: use "relevant records" rather than "... production and shipping records ..." which was too specific.

GOV/COM.24/OR.33/¶34: Chairman, summing up on article 6.d. of the Rolling Text: "examination"; "relevant records" rather than "production and shipping records"; "agreed by the Board" in the German text seems to meet most of the concerns expressed.

GOV/COM.24/OR.33/¶35: Republic of Korea: in 6.e. oppose additional measures, even if just as a follow-up to environmental sampling.

GOV/COM.24/OR.33/¶37: USA: follow-up activities to site-specific environmental sampling is crucial, as it was known that some activities of concern to the Agency could not be detected or clarified by means of environmental sampling.

GOV/COM.24/OR.33/¶41: UK: replace "agreed by the (State) and the Agency" with "the use of which has been agreed by the Board" for consistency with the other paragraphs of the same article.

GOV/COM.24/OR.33/¶42 and 45: Germany: important difference between articles 6.a., b. and c. and article 6.d. and agreement of the state would be needed for intrusive measures, or replace "agreed by the (State) and the Agency" with "and other measures as non-intrusive as environmental sampling as agreed by the Board".

GOV/COM.24/OR.33/¶48: Chairman: inclined to retain article 6.d. of the German text without amendment.

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):

6. When implementing Article 5, the Agency may carry out the following activities:

a. For access in accordance with Article 5.a.(i) or (iii), visual observation, collection of environmental samples, application of seals and other identifying and tamper indicating devices specified in Subsidiary Arrangements, utilization of radiation detection and measurement devices, and other objective measures which have been demonstrated to be technically feasible and the use of which has been agreed by the Board of Governors (hereinafter referred to as the "Board") and following consultations between the Agency and ......

b. For access in accordance with Article 5.a.(ii), visual observation, item counting of nuclear material, non-destructive measurements and sampling, utilization of radiation detection and measurement devices, examination of records relevant to the quantities, origin and disposition of the material, collection of environmental samples, and other objective measures which have been demonstrated to be technically feasible and the use of which has been agreed by the Board and following consultations between the Agency and .....;

c. For access in accordance with Article 5. b., visual observation, collection of environmental samples, utilization of radiation detection and measurement devices, examination of relevant records, and other objective measures which have been demonstrated to be technically feasible and the use of which has been agreed by the Board and following consultations between the Agency and .....;

d. For access in accordance with Article 5.c., collection of environmental samples and, in the event the results do not resolve the inconsistency or question at the location specified by the Agency pursuant to Article 5. c., utilization at that location of visual observation, radiation detection and measurement devices, and, as agreed by..... and the Agency, other objective measures.

GOV/COM.24/OR.45/¶88: Belgium: in article 6.a. the phrase "application of seals and other identifying and tamper indicating devices" conveyed the notion of "containment and surveillance", which would not be the purpose of applying such devices during complementary access and, while inspectors should have the right to apply such devices during complementary access, in order, for example, to ensure that a situation remained frozen overnight, their application would not be a normal activity like the other ones referred to in 6.a. and should be made clear through some editorial rearrangement.

GOV/COM.24/OR.45/¶90: Secretariat: during Programme 93+2 field trials there had been cases where the inspector had been granted access to a facility, for example, a closed-down research reactor at Douglas Point, Canada, within the specified period of two hours but had not been able to commence inspection duties immediately and had frozen the situation through the application of seals.

GOV/COM.24/OR.45/¶91: UK: add "examination of relevant records" to provide for the resolution of questions relating to the correctness and completeness of information.

GOV/COM.24/OR.45/¶92 and 94: Germany and Belgium: inspectors would have access to certain records pursuant to the safeguards agreements and the notion of "relevant records" was too vague in the context of article 6.a.

GOV/COM.24/OR.45/¶93: Australia: article 6.a. should provide for the examination of records since records pursuant to existing safeguards agreements might not be relevant in a complementary access situation.

GOV/COM.24/OR.45/¶96: Chairman: no comments on article 6.b.

GOV/COM.24/OR.45/¶97-98: Germany and USA: in article 6.c. change "relevant records" to "production and shipping records".

GOV/COM.24/OR.45/¶99-100: Brazil and Austria: leave the text as it stood.

GOV/COM.24/OR.45/¶102: Australia: "examination of production and shipping records" was too restrictive; for example, the locations covered by 5.b. might include ones where research and development activities related to processing were taking place, so that the Agency would need to examine processing records.

GOV/COM.24/OR.46/¶1: Netherlands: "relevant records" was somewhat vague and "examination of production and shipping records" would restrict the Agency too much, either "checking of records necessary for the objective of this Protocol" or "safeguards relevant production and shipping records".

GOV/COM.24/OR.46/¶2-3: Germany and Australia: could go along with the formulation "safeguards relevant production and shipping records".

GOV/COM.24/OR.46/¶5: Netherlands: strong preference for "checking", as "examination" was suggestive of bookkeeping.

GOV/COM.24/OR.46/¶6: Germany: could live with the word "checking", but it would then be necessary to replace "examination" by "checking" in various parts of the text.

GOV/COM.24/OR.46/¶7: USA: no real difference between "checking" and "examination".

GOV/COM.24/OR.46/¶9: Chairman: agreement on "examination of safeguards relevant production and shipping records".

GOV/COM.24/OR.46/¶10: Republic of Korea: still had reservations about the reference in 6.d. to activities over and above the collection of environmental samples, but could go along with the current formulation on the understanding that the additional activities would be carried out only when the results of environmental sampling proved inconclusive and they would not be more intrusive than the collection of environmental samples.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)

6. When implementing Article 5, the Agency may carry out the following activities:

a. For access in accordance with Article 5.a.(i) or (iii): visual observation; collection of environmental samples; utilization of radiation detection and measurement devices; application

of seals and other identifying and tamper indicating devices specified in Subsidiary Arrangements; and other objective measures which have been demonstrated to be technically feasible and the use of which has been agreed by the Board of Governors (hereinafter referred to as the "Board") and following consultations between the Agency and ......

b. For access in accordance with Article 5.a.(ii): visual observation; item counting of *nuclear material;* non-destructive measurements and sampling; utilization of radiation detection and measurement devices; examination of records relevant to the quantities, origin and disposition of the material; collection of environmental samples; and other objective measures which have been demonstrated to be technically feasible and the use of which has been agreed by the Board and following consultations between the Agency and ......

c. For access in accordance with Article 5.b.: visual observation; collection of environmental samples; utilization of radiation detection and measurement devices; examination of safeguards relevant production and shipping records; and other objective measures which have been demonstrated to be technically feasible and the use of which has been agreed by the Board and following consultations between the Agency and ......

d. For access in accordance with Article 5.c.: collection of environmental samples and, in the event the results do not resolve the question or inconsistency at the location specified by the Agency pursuant to Article 5.c., utilization at that location of visual observation, radiation detection and measurement devices, and, as agreed by ..... and the Agency, other objective measures.

> GOV/COM.24/OR.51/¶37: Belgium: since the application of seals and other identifying and tamper indicating devices was a mode of operation rather than an activity, it would be more appropriate to remove that part of the text from the body of article 6.a. and include it in a separate sentence at the end of the paragraph, as follows: "The Agency may apply seals and other identifying and tamper indicating devices, as specified in Subsidiary Arrangements, when necessary for implementing activities described in the present paragraph or for preserving results of these activities."
>
> GOV/COM.24/OR.51/¶38: Secretariat: the part "when necessary for implementing activities described in the present paragraph or for preserving results of these activities" introduced a new element which could conceivably place a further restriction on the application of the devices concerned whose use was already subject to negotiation in connection with the subsidiary arrangements.
>
> GOV/COM.24/OR.51/¶39-41: USA, Australia, Sweden, Austria and UK: had difficulties with the proposed Belgian amendment on account of the limitations it might impose; prefer the existing text, which had been agreed after much careful examination by the Committee at its January session.
>
> GOV/COM.24/OR.51/¶42: Chairman: took it that the majority of the Committee was in favor of retaining the current wording of article 6.a.

30. Article 7 (Managed Access)

INFCIRC/540 (Corrected)

7.a. Upon request by ....., the Agency and..... shall make arrangements for managed access under this Protocol in order to prevent the dissemination of proliferation sensitive information, to meet safety or physical protection requirements, or to protect proprietary or commercially sensitive information. Such arrangements shall not preclude the Agency from conducting activities necessary to provide credible assurance of the absence of undeclared nuclear material and activities at the location in question, including the resolution of a question relating to the correctness and completeness of the information referred to in Article 2 or of an inconsistency relating to that information.
b ..... may, when providing the information referred to in Article 2, inform the Agency of the places at a site or location at which managed access may be applicable.
c Pending the entry into force of any necessary Subsidiary Arrangements, ... may have recourse to managed access consistent with the provisions of paragraph a. above.

Annex III of the "Discussion Draft" of 21 November 1995 {does not include these provisions. However, paragraph 41 of the covering draft GOV document does state that a state could use managed access to protect commercial, proprietary or national security interests.}

> GOV/OR.885/¶25: South Africa: need a clause on the right of the state to limit access on grounds of safety or commercial confidentiality; requiring the State to specify beforehand limitations of access in respect of each building and facility that might be inspected by the Agency was not practical and inconsistencies might result since it would be almost impossible to provide the Agency with up-to-date information on every location.

Annex III of the "Discussion Draft II" of 27 February 1996
6. ..... may make arrangements with the Agency for managed access under this Protocol due to safety reasons, or to protect proprietary or commercially sensitive information, provided that such arrangements shall not preclude the Agency from conducting activities necessary to determine the absence of undeclared nuclear material and activities at the location in question or otherwise resolve any inconsistency.

> GOV/OR.889/¶110: South Africa: The requirement for a state to give prior indication of the areas where "managed access" would be needed was impractical.

Annex III of GOV/2863, 6 May 1996: {same as Annex III of the "Discussion Draft II" of 27 February 1996.}

GOV/COM.24/W.P. 11: Algeria: replace "..... may" with "..... has the right to"; insert "or otherwise" after "commercially sensitive information".

GOV/COM.24/W.P. 12: Argentina: amend to read "..... may, when supplying the information pursuant to Articles 1 and 2 or at another time, indicate the areas requiring managed access due to safety or physical protection reasons, or to protect proprietary or commercially or technologically sensitive information. In such a case, ... and the Agency shall make the necessary arrangements and employ every effort to ensure that such arrangements shall not preclude the Agency from conducting activities necessary to confirm the absence of undeclared nuclear activities involving nuclear material at the location in question or otherwise to resolve any inconsistency."

GOV/COM.24/W.P. 15: Australia: redraft as follows: "..... may make arrangements with the Agency necessary to ensure safety or to protect confidential information related to proprietary, commercial or national security interests, provided such arrangements do not preclude the Agency from activities necessary to determine the absence of undeclared nuclear material and activities at the location in question or otherwise to resolve any question or inconsistency."

GOV/COM.24/W.P. 6: Austria: add at the end of the Article "or question".

GOV/COM.24/W.P. 4/Add.1: Belgium: after "safety reasons" insert "physical protection reasons, ".

GOV/COM.24/W.P. 14: Brazil: add "or to further non-proliferation objectives" after "commercially sensitive information"; delete "determine the absence of undeclared nuclear material and activities at the location in question or otherwise"; insert "significant" between "any" and "inconsistency" in the last line.

GOV/COM.24/W.P. 19: Egypt: replace "determine" with "assess".

GOV/COM.24/W.P. 10: Germany: amend to read: "Upon request by (State), the Agency shall make arrangements with (State) for managed access under this Protocol on the grounds of security or safety or to protect classified or proprietary or commercially sensitive information, provided that such arrangements shall not preclude achieving the objective of strengthening the Agency's capability to detect undeclared nuclear material and activities and to resolve any inconsistency."

GOV/COM.24/W.P. 9: Greece: replace "determine" with "assure".

GOV/COM.24/0R.3/¶ 39: Greece: use language from the SIR to replace the phrase "activities necessary ... any inconsistency".

GOV/COM.24/W.P. 3 Corr.1: Japan: replace "may make" with "shall be entitled to make".

GOV/COM.24/W.P. 13: Mexico: place brackets against "proprietary or commercially"; insert after "sensitive" the phrase "confidential or restricted"; at the end of the article, insert "in which case the Agency undertakes to guarantee the confidentiality of the protected information".

GOV/COM.24/W.P. 1: Spain: replace in the Spanish version "información delicada por razones comerciales o de propiedad" with "información sensible por razones de caracter comercial o de propiedad industrial".

GOV/COM.24/W.P. 20: Sweden: add at the end: "The completion of such procedures is not required before implementation commences."

GOV/COM.24/W.P. 18: UK: replace "determine" with "provide assurance of" and add at the end "or question".

GOV/COM.24/OR.14/¶17-18: USA: oppose adding reasons for managed access other than physical protection and proliferation sensitivity; add that the Agency should be informed of the areas on a site where access restrictions might apply.

GOV/COM.24/OR.14/¶33: Australia: supported UK proposal to replace the word "determine" with the words "provide assurance of", and suggested that article 6 after the word "necessary" read "for it to fulfill its responsibilities under this Protocol".

GOV/COM.24/OR.14/¶34: Belgium: include "physical protection"; oppose inclusion of "classified", as it gave the state too much room for maneuver.

GOV/COM.24/OR.14/¶36: Japan and Republic of Korea (¶44): include physical protection and national security.

GOV/COM.24/OR.14/¶50: Secretariat: oppose "to enable the Agency to fulfill its obligations under the Protocol" as too vague.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
7.{Formerly Article 6}[a.] shall be entitled to make arrangements with the Agency for managed access under this Protocol due to safety reasons, or to protect proprietary or commercially sensitive information [or information related to national security interests], provided that such arrangements shall not preclude the Agency from conducting activities necessary to provide assurance of the absence of undeclared nuclear materials and activities at the location in question, including the resolution of any inconsistency or question relating to the correctness and completeness of the information referred to in Article 1 above.
[b. To the extent possible, ... shall, when providing the information referred to in Article 1 above, inform the Agency of the places at a site or location in respect of which managed access may be applicable.]

GOV/COM.24/OR.33/¶50 and attachment: Australia: replace 7.a with the following, which includes some additional elements and reflects reservations expressed at the last session of the Committee about the phrase "or information related to national security interests" that was liable to various interpretations: "Upon request by ....., the Agency and ..... shall make arrangements for complementary access to a particular location to be managed in order to meet safety or physical protection requirements, to protect proprietary or commercially sensitive information, or to prevent the dissemination of nuclear weapons proliferation sensitive information. Such arrangements shall not preclude the Agency from conducting activities it deems necessary to provide assurance of the absence of undeclared nuclear materials and activities at the location in question, including the resolution of any inconsistency or question relating to the correctness and completeness of the information referred to in Article 1 above."

GOV/COM.24/OR.33/¶51-3: Germany: the wording "complementary access to a particular location" narrowed the scope of managed access, which should apply to

information as well as locations; welcomed the reference to physical protection and proliferation concerns in place of the national security interests; shorten "nuclear weapons proliferation sensitive information" to "proliferation sensitive information"; have difficulty with the phrase "assurance of the absence of undeclared nuclear material and activities" as it was impossible to provide assurance of the absence of something.

GOV/COM.24/OR.33/¶55: Brazil: agreed with Germany that "access to a particular location" was too limiting; have difficulty with "inconsistency or question relating to the correctness and completeness of the information".

GOV/COM.24/OR.33/¶59: USA: generally agreed with Germany's comments; insert "credible" before "assurance"; retain "it deems necessary" to make clear who made the decision.

GOV/COM.24/OR.33/¶62: South Africa: retain "correctness and completeness", which underscored the primary objective of the Protocol.

GOV/COM.24/OR.33/¶78-9: Chairman: in the light of the discussion, article 7.a. might read: "Upon request by ....., the Agency and ..... shall make arrangements for managed access under this Protocol in order to prevent the dissemination of proliferation sensitive information, to meet safety or physical protection requirements, or to protect proprietary or commercially sensitive information." The second sentence would be as in the Australian draft but with "credible" before "assurance".

GOV/COM.24/OR.33/¶81: Belgium, Germany and Republic of Korea: delete article 7.b.

GOV/COM.24/OR.33/¶82: USA (supported by UK, Chile, Australia, Turkey, Nigeria, Greece and Canada): retain Article 7.b., as it was qualified by the phrase "to the extent possible", so states could request such arrangements at a later stage, if they saw fit.

GOV/COM.24/OR.33/¶91: Secretariat: article 7.b., which had been fully utilized in the field trials, did not require a state to specify the nature of managed access arrangements in the Expanded Declaration but only to give an indication as to where managed access might need to be applied. The measure had proved easy to implement in the field trials and helped avoid unexpected situations.

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):

7.a. Upon request by ....., the Agency and ..... shall make arrangements for managed access under this Protocol in order to prevent the dissemination of proliferation sensitive information, to meet safety or physical protection requirements, or to protect proprietary or commercially sensitive information. Such arrangements shall not preclude the Agency from conducting activities necessary to provide credible assurance of the absence of undeclared nuclear materials and activities at the location in question, including the resolution of a question relating to the correctness and completeness of the information referred to in Article 2 or of an inconsistency relating to that information.

b. ..... may, when providing the information referred to in Article 2, inform the Agency of the places at a site or location in respect of which managed access may be applicable.

c. Pending the entry into force of any necessary Subsidiary Arrangements, ... shall be entitled to manage access under this Protocol.

GOV/COM.24/OR.46/¶11, 13 and 15: Slovakia, Brazil and Chile: replace "proprietary or commercially sensitive information" by "commercial, technological and industrial secrets and other confidential information", to bring article 7.a. into line with article 15.a.

GOV/COM.24/OR.46/¶12: Greece: amend the second sentence to read "... from conducting activities that it (the Agency) deems necessary ..." in order to clarify who would determine what was necessary.

GOV/COM.24/OR.46/¶14, 16 and 17: USA, Germany, Australia, Finland and Turkey: had misgivings about the suggestion by Slovakia given the fundamental difference between the purposes of article 7.a. and article 15.a.

GOV/COM.24/OR.46/¶18 and 20: Secretariat: agreed there was a difference between the purposes of articles 7.a. and 15.a, the former dealing with information which might be withheld from the Agency, and it should therefore be restrictive in its application, whereas the latter was concerned with confidential information, including proprietary information, which the Agency had received, and it should be non-restrictive; hoped the Committee would not make article 7.a. less restrictive.

GOV/COM.24/OR.46/¶21: Chairman: in the light of the discussion, article 7.a. should be left as it stood; with regard to the suggestion by Greece, there was a general understanding that it would be the Agency which determined what was necessary.

GOV/COM.24/OR.46/¶22: Chairman: no comments on article 7.b.

GOV/COM.24/OR.46/¶23-24: USA. Australia and Japan: amend the latter part of article 7.c. to read "... shall be entitled to make use of managed access in a manner consistent with paragraph a. above".

GOV/COM.24/OR.46/¶26-27: Germany: prefer a wording on the lines of "... shall be entitled to make use of the possibility to manage access ..."; there was no contradiction between articles 7.a. and 13.b., as in a way they were complementary, ensuring that neither the state nor the Agency was held hostage by the other pending the entry into force of necessary subsidiary arrangements.

GOV/COM.24/OR.46/¶28: Brazil: amend the latter part of article 7.c. to read "... shall be entitled to have recourse to managed access ...".

GOV/COM.24/OR.46/¶31: Secretariat: article 7.c. needed to be amended along the lines indicated by various representatives.

GOV/COM.24/OR.46/¶32: Chairman: redraft article 7.c. to include a reference to paragraph a.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)

7.a. Upon request by ....., the Agency and ..... shall make arrangements for managed access under this Protocol in order to prevent the dissemination of proliferation sensitive information, to meet safety or physical protection requirements, or to protect proprietary or commercially sensitive information. Such arrangements shall not preclude the Agency from conducting activities necessary to provide credible assurance of the absence of undeclared *nuclear materials* and activities at the location in question, including the resolution of a question relating to the

correctness and completeness of the information referred to in Article 2 or of an inconsistency relating to that information .
b. ..... may, when providing the information referred to in Article 2, inform the Agency of the places at a *site* or location at which managed access may be applicable.
c. Pending the entry into force of any necessary Subsidiary Arrangements, ... may have recourse to managed access consistent with the provisions of paragraph a. above.

GOV/COM.24/OR.51/¶44: Chairman: no comments by the Committee.

31. Article 8 (Additional Access and Verification)

INFCIRC/540 (Corrected)
8. Nothing in this Protocol shall preclude ..... from offering the Agency access to locations in addition to those referred to in Articles 5 and 9 or from requesting the Agency to conduct verification activities at a particular location. The Agency shall, without delay, make every reasonable effort to act upon such a request.

Annex III of the "Discussion Draft" of 21 November 1995
4.b. Upon request by the Agency, ... may provide access to the Agency to any other location in ..... which the Agency considers may be of safeguards relevance.

Annex III of the "Discussion Draft II" of 27 February 1996
4. ..... may at any time offer the Agency access in addition to that described in Article 3 above to any location in ..... which the Agency considers may be of safeguards relevance.
Annex III of GOV/2863, 6 May 1996: {Same as Annex III of the "Discussion Draft II" of 27 February 1996.}

GOV/COM.24/W.P. 11: Algeria: replace "may" at the beginning with "could".

GOV/COM.24/W.P. 12: Argentina: at the beginning, add "Upon request by the Agency" and delete "which the Agency considers may be of safeguards relevance".

GOV/COM.24/W.P. 14: Brazil, Germany (W.P. 10), Slovakia (W.P. 16) and Spain (W.P. 1): delete.

GOV/COM.24/OR.12/¶32: Netherlands: the self-evident nature of article 4 was not a reason to delete it; replace it with "Nothing in this agreement shall preclude a Member State from offering the Agency access to locations in addition to Article 3 above."

GOV/COM.24/OR.12/¶35: Germany: article was unnecessary and should be deleted as the additional protocol could not be regarded as precluding a state offering the Agency additional access.

GOV/COM.24/OR.12/¶41: Czech Republic: withdrew request for deletion of article 4 and supported Netherlands proposal.

GOV/COM.24/OR.12/¶54 and & 57: USA: would support any mechanism for expressing the idea that the Committee strongly recommended the action proposed in article 4 that avoided its inclusion in the operative part of the protocol; would not oppose the inclusion of article 4 if a formulation could be found that allowed it to be included in a bilateral treaty in a manner that did not grant excessive powers to the executive branch of Government.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
5.{Formerly article 4} [Nothing in this Protocol shall preclude ..... from offering the Agency access to locations of safeguards relevance in addition to those referred to in Article 4

above or from requesting the Agency to conduct verification activities at a particular location. The Agency shall make every reasonable effort to act upon such a request.]

GOV/COM.24/OR.32/¶54: Chairman: delete "of safeguards relevance"; delete second sentence.

GOV/COM.24/OR.32/¶56: Germany: keep second sentence and add "without delay" at the end; article 5 should also cover Article X.

GOV/COM.24/OR.32/¶57: Belgium: delete article 5.

GOV/COM.24/OR.32/¶58-59: Netherlands: keep article 5 as it might be useful for states wishing to offer additional access to refute certain allegations; put "of safeguards relevance" at the end of the first sentence to ensure that the Agency, with its limited resources, was not swamped by offers of access to additional locations.

GOV/COM.24/OR.32/¶60: Brazil: delete article 5 as it could be an obstacle to acceptance of the protocol by Congress, which might feel that it gave the executive a blank cheque.

GOV/COM.24/OR.32/¶80-84: Secretariat: State's being able to provide for a greater degree of transparency had proved useful to the Agency in various situations - for example, in South Africa, the Islamic Republic of Iran and (to some extent) the Democratic People's Republic of Korea; regarding Brazil's concern, the executive, before the ratification process, could inform the legislature that it did not intend to avail itself of article 5 or, during the ratification process, the legislature could specify whether and/or how the executive might avail itself of that article; as regards the words "of safeguards relevance", states might wish to offer the Agency access to certain locations precisely in order to demonstrate that they were not of safeguards relevance; as regards the second sentence, the Agency should be able to decide whether taking up a particular offer would contribute to the attainment of its safeguards objectives and then to act accordingly and its retention would mean that the activities for which it provided came within the realm of safeguards and enable to incur costs if it considered that the activities involved in taking up a state's offer were useful within the overall safeguards context.

GOV/COM.24/OR.32/¶85-87: Chairman, summing up: fairly wide support for some version of article 5 in the protocol with the possibility of also covering article X; include "of safeguards relevance" in such a way that the scope of states for offering access to additional locations was not restricted; and support for retaining the second sentence with "without delay".

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):

8. Nothing in this Protocol shall preclude ..... from offering the Agency access to locations in addition to those referred to in Articles 5 and 9 or from requesting the Agency to conduct verification activities at a particular location. The Agency shall, without delay, make every reasonable effort to act upon such a request.

GOV/COM.24/OR.46/¶33: Chairman: no comments on article 8.

Article 8 (Additional Access and Verification)

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997) {Same as in Chairman's Rolling Text/Rev.1 (27 January 1997)}

GOV/COM.24/OR.51/¶45: Chairman: no comments by the Committee.

32. Article 9 (Wide Area Environmental Sampling)

INFCIRC/540 (Corrected)

9. ..... shall provide the Agency with access to locations specified by the Agency to carry out wide-area environmental sampling, provided that if ..... is unable to provide such access it shall make every reasonable effort to satisfy Agency requirements at alternative locations. The Agency shall not seek such access until the use of wide-area environmental sampling and the procedural arrangements therefor have been approved by the Board and following consultations between the Agency and ......

Annex III of the "Discussion Draft" of 21 November 1995 {did not include this provision.}

Annex III of the "Discussion Draft II" of 27 February 1996 {did not include this provision.}

GOV/OR.889/¶27: Mexico: proposal (in paragraph 50 of "Discussion Draft II") for environmental sampling over wide areas was excessive; should only be used when there was full confidence in its effectiveness and that its application would bring savings for the states concerned.

Annex III of GOV/2863, 6 May 1996
5.a.(v) For access in accordance with Article 3.c., collection of environmental samples.
{Wide-area environmental sampling is covered by this article as explained in paragraph 54 of GOV/2863.}

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996): {did not include this provision explicitly but it is covered by article 6.e.}

GOV/COM.24/OR.12/¶15: Secretariat: Re wide-area environmental sampling, in cases where the environmental sampling was carried out at a specific location and the objective of the sampling was related to the activities at that location, the Secretariat had tended to refer to "directed" environmental sampling. In the case of efforts to establish the existence of undeclared activities in a country as a whole, the Secretariat had tended to use the term "undirected" or "wide-area" environmental sampling. While field trials and analyses had proved that directed environmental sampling was cost-effective, it was not yet possible to comment on the cost-effectiveness of wide-area or undirected environmental sampling, which was currently being studied, but would probably remain an open issue for some time to come. Nevertheless, the Secretariat was convinced of the technical effectiveness of such sampling in detecting undeclared reprocessing or reactor operations, although there was some doubt about its technical effectiveness in detecting undeclared enrichment activities.

GOV/COM.24/OR.32/¶20-25: Secretariat read out tentative definitions of "directed environmental sampling" and "undirected environmental sampling":

"Directed environmental sampling means the collection of environmental samples (e.g. air, water, vegetation, soil, smears) at, or in the immediate vicinity of, a location specified by the Agency for the purpose of assisting the Agency to draw conclusions about the absence of undeclared nuclear material or nuclear activities at the specified location.

"Undirected environmental sampling means the collection of environmental samples (e.g. air, water, vegetation, soil, smears) at a set of locations within a State specified by the Agency for the purpose of assisting the Agency to draw conclusions about the absence of undeclared nuclear material or nuclear activities over a wider area within the State."

As regards sample collection methods, the taking of smear samples merely involved wiping an ultraclean material across a surface; the taking of water samples involved the scooping of water out of a water body with a clean container or the pumping of a large volume of water through a filtering system; and the taking of air samples - something which the Agency had not done in the past and which would be primarily an aspect of undirected environmental sampling - would involve large volumes of air and expensive collection apparatus.

Because the objectives of the two kinds of environmental sampling were different, the Secretariat considered that it would be appropriate to deal with them separately in the protocol. Another reason was that the Board had already approved the collection of environmental samples at locations where the Agency had access as a new objective measure which had been shown to be technically feasible.

As regards the comment made by the representative of Algeria concerning the number of samples to be taken, with the current procedure, samples were collected for three purposes: for analysis by the Agency, for analysis by the State and for storage under joint custody in case further analyses were required.

With regard to the points where samples were to be collected, the specification of locations in the case of directed environmental sampling might raise problems if the Agency wished to have access, for sampling purposes, to - say - a particular point in a building to which the State did not wish to grant access and no other sampling points would serve as well. In the case of undirected environmental sampling, problems were less likely since, if the State could not provide access to the location specified by the Agency, a location not far away to which the State could provide access would in most circumstances serve just as well. For example, if the intention was to collect water samples in a river and the point specified by the Agency was for some reason inaccessible, a point downstream would as a rule be equally satisfactory.

With regard to undirected environmental sampling methods, the Secretariat believed that they could be effective but was not yet sure about their cost-effectiveness. To be meaningful, undirected environmental sampling with the currently available methods would require financial resources far beyond those available to the Agency. That was a

problem which was being examined within the framework of the safeguards support programmes being conducted by various Member States.

GOV/COM.24/OR.32/¶47 and attachment to GOV/COM.24/OR.29: Germany: add a new article X: "..... shall provide to the Agency the necessary degree of access to any location specified by the Agency to carry out undirected environmental sampling, provided that if ..... is unable to provide such access it shall make every reasonable effort to satisfy Agency requirements at other locations, and further provided that the Agency shall not seek such access until undirected environmental sampling and the procedural arrangements therefor have been approved by the Board of Governors."

GOV/COM.24/OR.32/¶39 and 48: USA: support new German article; omit references to "feasibility" or "cost-effectiveness".

GOV/COM.24/OR.32/¶41: Sweden: change ending to "until undirected environmental sampling and the procedural arrangements therefor have been declared by the Secretariat to be feasible".

GOV/COM.24/OR.32/¶42: Belgium: should also be cost-effective.

GOV/COM.24/OR.32/¶43: Argentina: feasibility should be determined by the Secretariat and the procedural arrangements approved by the Board.

GOV/COM.24/OR.32/¶52-53: Chairman: for consistency with articles 4.c. and 4.d. delete "the necessary degree of" in article X; references to criteria such as "feasibility" and "cost-effectiveness should not be in the protocol; perhaps the question could be highlighted in the Committee's report to the Board; approval for the introduction of undirected environmental sampling with its associated procedural arrangements should be given by the Board.

GOV/COM.24/Chairman’s Rolling Text/Rev.1 (27 January 1997):
9. ..... shall provide to the Agency access to locations specified by the Agency to carry out *wide-area environmental monitoring*, provided that if ..... is unable to provide such access it shall make every reasonable effort to satisfy Agency requirements at alternative locations. The Agency shall not seek such access until *wide-area environmental monitoring* and the procedural arrangements therefor have been approved by the Board.

GOV/COM.24/OR.46/¶34: Chairman: in article 9 change "monitoring" to "sampling".

GOV/COM.24/OR.46/¶36-37: Japan: could accept the present wording despite the fact that the procedural arrangements to be approved by the Board had not yet been worked out and would have to be very detailed.

GOV/COM.24/OR.46/¶42: Belgium: questioned the propriety of inviting acceptance of a legally binding text which contained provisions whose full implications were as yet unknown.

GOV/COM.24/OR.46/¶43-44: USA: agreed with Japan that the procedural arrangements would have to be very detailed and protect the rights of states and clarify the rights of the Agency; it was not uncommon in legal texts to make provision for future possibilities.

GOV/COM.24/OR.46/¶45: Secretariat: the present wording of the second sentence of article 9 would obviate the need for amendment of the protocol if technological developments warranted the introduction of wide-area environmental sampling

GOV/COM.24/OR.46/¶50: Islamic Republic of Iran: would prefer for the procedural arrangements to be worked out and set down in writing so that States could consider them before signing the protocol.

GOV/COM.24/OR.46/¶51: Belgium: include "... and following consultations between the Agency and ....." as in article 6.

GOV/COM.24/OR.46/¶53: Chairman: insert "the use of" after "until" and add "and following consultations between the Agency and ....." at the end.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)

9. ..... shall provide the Agency with access to locations specified by the Agency to carry out *wide-area environmental sampling,* provided that if ..... is unable to provide such access it shall make every reasonable effort to satisfy Agency requirements at alternative locations. The Agency shall not seek such access until the use of *wide-area environmental sampling* and the procedural arrangements therefore have been approved by the Board and following consultations between the Agency and ......

GOV/COM.24/OR.51/¶47: Belgium: include some provision for co-operation between neighboring states in cases, particularly in Europe where, owing to the close conglomeration of countries, problems could arise with environmental samples being "contaminated" by foreign airborne material.

GOV/COM.24/OR.51/¶48-50: Australia, Germany and USA: the procedural arrangements to be approved by the Board on the subject, as prescribed in article 9, should make appropriate provision for that eventuality, so it would be inopportune to deal with it at the present juncture.

GOV/COM.24/OR.51/¶52: Chairman: in the light of those remarks, took it that the Committee was satisfied with the present arrangements and assured the Belgian representative that her concern would not go unrecorded.

33. Article 10 (Agency to Inform)

INFCIRC/540 (Corrected)

10. The Agency shall inform ..... of:
a. The activities carried out under this Protocol, including those in respect of any questions or inconsistencies the Agency had brought to the attention of ....., within sixty days of the activities being carried out by the Agency.
b. The results of activities in respect of any questions or inconsistencies the Agency had brought to the attention of ....., as soon as possible but in any case within thirty days of the results being established by the Agency.
c. The conclusions it has drawn from its activities under this Protocol. The conclusions shall be provided annually.

Annex III of the "Discussion Draft" of 21 November 1995 {did not include this provision.}

Annex III of the "Discussion Draft II" of 27 February 1996 {did not include this provision.}

Annex III of GOV/2863, 6 May 1996 {did not include this provision.}

GOV/OR.894/¶124: South Africa asked how the results and conclusions of complementary access would be reported to states and whether that needed to be specified in the protocol.

GOV/COM.24/ W.P. 3/Corr.2: Japan: add a new article: The Agency shall inform ..... of
(i) The results of each complementary access carried out pursuant to Article 3 not later than (specific) days after the access; and
(ii) The conclusions it has drawn from its activities including analysis of information available to the Agency and complementary access carried out pursuant to Article 3 annually."

GOV/COM.24/W.P. 17: USA: add a new article: The Agency shall inform ..... of:
A. The results of access carried out under this protocol, including its resolution or other findings in respect of any inconsistencies and questions the Agency had brought to the attention of ....., and
B. Any conclusions it has drawn from its access under the protocol."

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
8.{New} The Agency shall inform ..... of:
a. The results of access carried out under this Protocol, including its resolution or other findings in respect of any inconsistencies and questions the Agency had brought to the attention of .....[, within thirty days of the results being established by the Agency];

b. The conclusions it has drawn from its verification activities, including those associated with complementary access, pursuant to this Protocol. The conclusions shall be provided annually.

GOV/COM.24/OR.33/¶93: Germany: replace "the results of access" with "the results of activities"; clarify meaning of "its".

GOV/COM.24/OR.33/¶94: Japan: include text that is in square brackets; can be flexible on the 30-day deadline; change "verification" to "confirmation".

GOV/COM.24/OR.33/¶99: UK: clarify when the 30-day period began.

GOV/COM.24/OR.33/¶100: Argentina: also provide the analysis on which the conclusions were based.

GOV/COM.24/OR.33/¶102: Brazil: inform the State of the results as soon as possible.

GOV/COM.24/OR.33/¶105: Secretariat: article 8 mirrored paragraph 90 of INFCIRC/153 and the intent was the same. In current practice detailed results of inspection activities were not reported unless a discrepancy or some other problem had occurred.

GOV/COM.24/OR.33/¶106: Chairman: seemed to be general agreement on the article but the language needed some polishing; might replace "access" with "activities"; clarify "its"; need to consider "as soon as possible" and including the analysis; decide between "verification" and "confirmation".

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):

10. The Agency shall inform ..... of:

a. The activities carried out under this Protocol, including those in respect of any inconsistencies and questions the Agency had brought to the attention of ....., within sixty days of the activities being carried out by the Agency;

b. The results of activities in respect of any inconsistencies or questions the Agency had brought to the attention of ....., as soon as possible but in any case within thirty days of the results being established by the Agency;

c. The conclusions it has drawn from its activities under this Protocol. The conclusions shall be provided annually.

GOV/COM.24/OR.46/¶54: Secretariat: the reports provided for in article 10.a. would be analogous to those provided for in paragraph 90(a) of INFCIRC/153, while those provided for in article 10.b. would be analogous to those in paragraph 90(b); article 10.c. provided for a category of reports not provided for in INFCIRC/153.

GOV/COM.24/OR.46/¶55: Chairman: no comments on article 10.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)

10. The Agency shall inform ..... of:

a. The activities carried out under this Protocol, including those in respect of any questions or inconsistencies the Agency had brought to the attention of..... within sixty days of the activities being carried out by the Agency.

b. The results of activities in respect of any questions or inconsistencies the Agency had brought to the attention of ...., as soon as possible but in any case within thirty days of the results being established by the Agency.
c. The conclusions it has drawn from its activities under this Protocol. The conclusions shall be provided annually.

GOV/COM.24/OR.51/¶53: Chairman: no comments by the Committee.

34. Article 11 - Designation of Agency Inspectors

INFCIRC/540 (Corrected)

11.a. (i) The Director General shall notify ..... of the Board's approval of any Agency official as a safeguards inspector. Unless ..... advises the Director General of its rejection of such an official as an inspector for ..... within three months of receipt of notification of the Board's approval, the inspector so notified to ..... shall be considered designated to .....;
(ii) The Director General, acting in response to a request by ..... or on his own initiative, shall immediately inform ..... of the withdrawal of the designation of any official as an inspector for ..... .
b. A notification referred to in paragraph a. above shall be deemed to be received by ..... seven days after the date of the transmission by registered mail of the notification by the Agency to ..... .

Annex III of the "Discussion Draft" of 21 November 1995
7. The Director General shall notify ..... of the Board of Governor's approval of any staff member of the Agency as a safeguards inspector. Unless ..... advises the Director General of its rejection of such a designation within two months of receipt of notification of the Board's approval, the inspector so notified to ..... shall be considered designated to ..... . The Director General, acting in response to a request by ..... or on his own initiative, shall immediately inform ..... of the withdrawal of the designation of any official as an inspector for ....

Annex III of the "Discussion Draft II" of 27 February 1996: {same as Annex III of the "Discussion Draft" of 21 November 1995.}

Annex III of GOV/2863, 6 May 1996: {Article 8 is same as article 7 of Annex III of the "Discussion Draft" of 21 November 1995.}

GOV/COM.24/W.P. 12: Argentina: replace the existing text with: "Inspectors designated in accordance with the procedures established in the Safeguards Agreement shall be authorized to act as such in implementing the provisions of the present Protocol."

GOV/COM.24/W.P. 19: Egypt: sub-divide into sub-paragraphs a. and b. to be introduced by: "Pursuant to paras 85(a), (c), (d) of INFCIRC/153:" a. The Director General ... up to the word "designated" at the end of the second sentence of the present text;

b. The Director General, acting in response ... up to the end of the present text.

GOV/COM.24/W.P. 13: Mexico: the date of Board approval rather than receipt of notification should be the operative date for the purposes of this article.

GOV/COM.24/W.P. 18: UK: rephrase the second sentence as follows: "Unless [STATE] advises the Director General of its rejection of such a designation within two months of receipt of notification of the Board's approval (or, in specific cases, such longer period as

may be agreed between [STATE] and the Agency), the inspectors so notified shall be considered designated to [STATE]."

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
10.{Formerly Article 8}a.(i) The Director General shall notify ..... of the Board's approval of any Agency official as a safeguards inspector. Unless ..... advises the Director General of its rejection of such a designation ,within two [three] months of receipt of notification of the Board's approval, the inspector so notified to ..... shall be considered designated to ..... .
(ii) The Director General, acting in response to a request by ..... or on his own initiative, shall immediately inform ..... of the withdrawal of the designation of any official as an inspector for ..... .
b.{New} A notification referred to in paragraph a. above shall be deemed to be received by ..... seven days after the date of the transmission by registered mail of the notification by the Agency to ..... .
[c.{New} Paragraphs a. and b. above shall also apply in implementation of the provisions of [paragraphs 85(a)-(d) of INFCIRC/153].[5/]]

[5/] This provision may be deleted once the text of Article 17 is finalized.

GOV/COM.24/OR.28/¶5: UK: for article 10.a.(i), propose 3 rather than 2 months (also Brazil (¶6) and USA (¶7)).

GOV/COM.24/OR.28/¶8: Secretariat: accept 3 months.

GOV/COM.24/OR.28/¶9: Australia: propose fax and other more modern means of communication as well as registered mail.

GOV/COM.24/OR.28/¶10: Germany: oppose fax, etc as notifications might contain confidential information.

GOV/COM.24/OR.28/¶11: Secretariat: registered mail important as it provided proof of receipt.

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):
11a.(i) The Director General shall notify ..... of the Board's approval of any Agency official as a safeguards inspector. Unless ..... advises the Director General of its rejection of such an official as an inspector for ..... within three months of receipt of notification of the Board's approval, the inspector so notified to ..... shall be considered designated to ......
(ii) The Director General, acting in response to a request by ..... or on his own initiative, shall immediately inform ..... of the withdrawal of the designation of any official as an inspector for ......
b. A notification referred to in paragraph a. above shall be deemed to be received by ..... seven days after the date of the transmission by registered mail of the notification by the Agency to ......

GOV/COM.24/OR.48/¶42: Chairman: no comments on article 11.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997) {{Same as in Chairman's Rolling Text/Rev.1 (27 January 1997).}

GOV/COM.24/OR.51/¶54: Chairman: no comments by the Committee.

35. Article 12 - Visas

INFCIRC/540 (Corrected)

12. ..... shall, within one month of the receipt of a request therefor, provide the designated inspector specified in the request with appropriate multiple entry/exit and/or transit visas, where required, to enable the inspector to enter and remain on the territory of ..... for the purpose of carrying out his/her functions. Any visas required shall be valid for at least one year and shall be renewed, as required, to cover the duration of the inspector's designation to ..... .

Annex III of the "Discussion Draft" of 21 November 1995 {did not include this provision.}

Annex III of the "Discussion Draft II" of 27 February 1996 {did not include this provision.}

Annex III of GOV/2863, 6 May 1996 {did not include this provision.}

GOV/COM.24/W.P. 15: Australia: add a new paragraph 8.b. as follows: "Unless ..... advises the Director General of its rejection of the designation of an inspector, ... shall, within two months of receipt of notification of the Board's approval of the inspector, provide the inspector with multiple entry/exit and/or transit visas and/or other authority to enable the inspector to enter and to remain on the territory of ..... for the purpose of carrying out activities under the Safeguards Agreement including this Protocol. These documents shall be valid for at least two years, and shall be renewed as required to cover the duration of the inspector's designation to ..... ."

GOV/COM.24/OR.15/¶17: Germany (supported by Greece (¶23), Spain (¶27) and Egypt (¶28)): Australian proposal on multiple-entry visas was too detailed; multiple-entry visas should be an objective to the extent possible, not a requirement.

GOV/COM.24/OR.15/¶22: UK: questioned whether all inspectors accepted by a State needed to have multiple-entry visas.

GOV/COM.24/OR.15/¶31: Secretariat (and Nigeria (¶34) and New Zealand (¶35)): supported Australian proposal on multiple-entry visas.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
11.{New}a. Unless ....., within the time limit specified in Article 10 above, advises the Director General of its rejection of the designation of an inspector, ... shall, within [one] month of the receipt of a request therefore, provide the inspector specified in the request with [appropriate] [multiple entry/exit] [and/or transit] visas, where required, to enable the inspector to enter and remain on the territory of ..... for the purpose of carrying out his/her functions. Any visas required shall be valid for at least [two years] and shall be renewed, as required, to cover the duration of the inspector's designation to ..... .

[b. A request referred to in paragraph a. above shall be deemed to be received by ..... [seven] days after the date of the transmission of the request by the Agency to ..... .]
[c. Paragraphs a. and b. above shall also apply in the implementation of the provisions of [paragraph 86 of INFCIRC/153].[5/]]

5/ This provision may be deleted once the text of Article 17 is finalized.

GOV/COM.24/OR.28/¶16: Australia: remove all the square brackets in the first sentence and amend the second sentence to read "Any such visas shall be renewed, as required, to cover the duration of the inspector's designation to ......" (and Netherlands, noting that it was party to the Schengen arrangements, which did not provide for the granting of two-year visas (¶17), Czech Republic (¶19) and USA (¶20)).

GOV/COM.24/OR.28/¶21: USA: would be prepared to issue transit visas only to inspectors who were designated to the US.

GOV/COM.24/OR.28/¶22: Austria: if many countries took the same position regarding transit visas as the US, the Secretariat might have problems.

GOV/COM.24/OR.28/¶24: Germany: in the first sentence in article 11.a. delete from "Unless ..., within" to "of an inspector," and insert "designated" between "provide the" and "inspector specified" (and Australia (¶26) and Secretariat (¶28)).

GOV/COM.24/OR.28/¶16: Secretariat: States party to the Chemical Weapons Convention had accepted two years and difficult to understand why they could not accept a two-year period in the case of the protocol; both effectiveness and efficiency of safeguards might suffer if long-term visas were not issued to inspectors.

GOV/COM.24/OR.28/¶31: Germany:) have problems with the CWC provision for two-year visas; add to the second sentence in article 11.a. that the state would make "every reasonable effort" to issue visas of long initial duration so as to minimize the need for visa renewals.

GOV/COM.24/OR.28/¶32: USA: proposed that the granting of visas for an initial period of two years be the general rule.

GOV/COM.24/OR.28/¶39: Nigeria and Australia: in article 11.b. 7, days might be too short for visa requests to be received in countries remote from Vienna.

GOV/COM.24/OR.28/¶41: Secretariat: virtually all visa requests were sent to Missions or Embassies nearby.

GOV/COM.24/OR.28/¶42: Germany: delete 10.b. and 11.b.

GOV/COM.24/OR.28/¶43 and 45: Secretariat: need deadlines in both articles.

GOV/COM.24/OR.28/¶46: USA: getting visas for its inspectors was a major practical problem for the Agency and article 11 should be worded in such a way as to minimize the time and effort spent by the Agency in obtaining visas.

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):
12. ..... shall, within one month of the receipt of a request therefore, provide the designated inspector specified in the request with appropriate multiple entry/exit and/or transit visas, where

required, to enable the inspector to enter and remain on the territory of ..... for the purpose of carrying out his/her functions. Any visas required shall be valid for at least one year and shall be renewed, as required, to cover the duration of the inspector's designation to ......

> GOV/COM.24/OR.48/¶43: Syrian Arab Republic: article 12 would cause difficulties for Syria; the entry of inspectors had to be in accordance with the procedures in force.
>
> GOV/COM.24/OR.48/¶45: Islamic Republic of Iran: have regulations and legislation which prohibited multiple-entry and exit visas.
>
> GOV/COM.24/OR.48/¶47-48: USA: it had been clear from the start of negotiations that when states took on the obligations in the Protocol, amendments to their national legislation would be required; states which had ratified the Chemical Weapons Convention had been prepared to grant two-year visas under that Convention, but many of the same countries, as members of the present Committee, now appeared to be according second-class status to the Agency by offering it only one-year visas.
>
> GOV/COM.24/OR.48/¶47-48 and 50-55 : USA, South Africa, Australia, New Zealand and UK: as a negotiated compromise one year might be the best achievable, but the article should certainly not be further weakened.
>
> GOV/COM.24/OR.48/¶56-57: Chairman: the current text represented an attempt to find a compromise on the question of visas; leave article 12 as it stood in the hope that the time between the present session and entry into force would enable countries with difficulties to find a way of handling articles 11 and 12 together and arranging for visas for at least one year.

GOV/COM.24/Chairman’s REVISED TEXT (5 February 1997) {Same as in Chairman’s Rolling Text/Rev.1 (27 January 1997).}

> GOV/COM.24/OR.51/¶55: Chairman: no comments by the Committee.

36. Article 13 – Subsidiary Arrangements

INFCIRC/540 (Corrected)

13.a. Where..... or the Agency indicates that it is necessary to specify in Subsidiary Arrangements how measures laid down in this Protocol are to be applied, ... and the Agency shall agree on such Subsidiary Arrangements within ninety days of the entry into force of this Protocol or, where the indication of the need for such Subsidiary Arrangements is made after the entry into force of this Protocol, within ninety days of the date of such indication.
b. Pending the entry into force of any necessary Subsidiary Arrangements, the Agency shall be entitled to apply the measures laid down in this Protocol.

Annex III of the “Discussion Draft” of 21 November 1995
8. To the extent necessary, any procedures necessary for the implementation of this Protocol shall be included in the Subsidiary Arrangements concluded pursuant to the Safeguards Agreement.

Annex III of the “Discussion Draft II” of 27 February 1996 {Article 9 is same as article 8 of Annex III of the “Discussion Draft” of 21 November 1995.}

Annex III of GOV/2863, 6 May 1996
9. The Agency shall be entitled to apply the procedures laid down in this Protocol upon its entry into force. Procedures to facilitate the implementation of this Protocol may be included in the Subsidiary Arrangements concluded pursuant to the Safeguards Agreement.

GOV/COM.24/W.P. 12: Argentina: delete the first sentence; replace "may" with "shall".

GOV/COM.24/W.P. 19: Egypt: replace the second sentence with: "Upon request by the Agency, and in cooperation with ....., each facility shall have its subsidiary arrangements, which may be a modification to the subsidiary arrangements concluded pursuant to the Safeguards Agreement. Until then, the ad hoc system of implementation may be applied."

GOV/COM.24/W.P. 10: Germany: delete the first sentence and amend the second sentence to read: "Procedures to facilitate the implementation of this Protocol including provisions for managed access under Article 6 above shall, upon request by (State) or the Agency, be included into the Subsidiary Arrangement(s) concluded pursuant to the Safeguards Agreement(s) or in additional subsidiary arrangements and should be agreed upon not later than the entry into force of this Protocol."

GOV/COM.24/W.P. 3 Corr.1: Japan: after the word "Agreement" insert, at the end of the second sentence, "in which the Agency and ..... may make a site-specific Attachment which shall specify the details of complementary access."

GOV/COM.24/W.P. 13: Mexico: replace "may" in the second sentence with "must".

GOV/COM.24/W.P. 20: Sweden: add at the end: "Paragraph 39 of INFCIRC/153 does (shall) apply to (all) installation(s) listed in the Expanded Declaration information, also where they do not, or are not intended to, contain nuclear materials."

GOV/COM.24/OR.15/¶49: Austria, Brazil (¶54) and Sweden (¶55): delete first sentence.

GOV/COM.24/OR.15/¶57: Greece: retain first sentence; amend second sentence to read: "Detailed procedures to facilitate the implementation of this Protocol shall be included in the Subsidiary Arrangements concluded pursuant to the Safeguards Agreement or in additional Subsidiary Arrangements and shall enter into force at the same time as, or as soon as possible after, the entry into force of this Protocol".

GOV/COM.24/OR.15/¶60: USA: ensure protocol entry into force as quickly as possible at locations for which neither side had requested a subsidiary arrangement and allow 90 days after protocol entry into force for subsidiary arrangements to come into force.

GOV/COM.24/OR.15/¶63: Japan: delete the first sentence.

GOV/COM.24/OR.15/¶66: Algeria: oppose all proposed amendments.

GOV/COM.24/OR.15/¶71: Germany: if there were a request for subsidiary arrangements and the Agency were seeking complementary access to the location in question, alternative means should be sought to satisfy the Agency's requirements, i.e. back to the "every reasonable effort" idea.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
12.{Formerly Article 9}a. Where ..... indicates that it is necessary to specify in Subsidiary Arrangements how the procedures laid down in this Protocol are to be applied, ... and the Agency shall agree on such Subsidiary Arrangements prior to the entry into force of this Protocol, or, at the latest, within ninety days of such entry into force. [Where the Subsidiary Arrangements do not enter into force at the time of the entry into force of this Protocol, the Agency shall, pending their entry into force, be entitled to apply the procedures laid down in this Protocol.]
b. Where ..... indicates that it is not necessary to specify how the procedures laid down in this Protocol are to be applied with respect to a particular location, the Agency shall be entitled to apply the procedures laid down in this Protocol.

GOV/COM.24/OR.34/¶49: USA: subsidiary arrangements were particularly important in connection with managed access and, to ensure that the state and the Agency both had an incentive to conclude whatever subsidiary arrangements were considered necessary by either, proposed replacing article 12.a. with: "Where ..... or the Agency indicates that it is necessary to specify in Subsidiary Arrangements how the procedures to be laid down in this Protocol are to be applied, ... and the Agency shall agree on such Subsidiary Arrangements within ninety days after entry into force of the Protocol. Pending the entry into force of the Subsidiary Arrangements, the Agency shall be entitled to apply the procedures laid down in this Protocol and ..... shall be entitled to manage Agency access at the sites and locations to which Article 7 applies."

GOV/COM.24/OR.34/¶50: Germany: article 12.b. was unnecessary.

GOV/COM.24/OR.34/¶53: Chile: prefer the version in the Rolling Text without the square brackets as it was consistent with paragraph 40 of INFCIRC/153.

GOV/COM.24/OR.34/¶54: Australia (supported by Belgium and Austria): the US text singled out one of the rights which the State should have on an ad hoc basis (the right to manage Agency access ...) if the protocol entered into force before the Subsidiary Arrangements, implying that the State would not have the other rights which it should have in such a situation; accordingly, prefer the article 12.a. in the Rolling Text without the square brackets and with some amendment of the phrase "prior to the entry into force of this Protocol, or, at the latest, within ninety days of such entry into force".

GOV/COM.24/OR.35/¶1: Spain: provide for amending the subsidiary arrangements.

GOV/COM.24/OR.35/¶10: Secretariat: INFCIRC/153 provided for subsidiary arrangements to be amended, article 17 of the Protocol provided that the Protocol should be an integral part of the safeguards agreement, and it could therefore be assumed that the subsidiary arrangements arising out of the Protocol could be modified.

GOV/COM.24/OR.35/¶12: Germany: need provision for subsidiary arrangements becoming necessary after the Protocol's entry into force, so add: "Where the State or the Agency indicates the need for Subsidiary Arrangements, they shall conclude such Arrangements within 90 days of entry into force of the Protocol, or, if the need for Subsidiary Arrangements arises at a later date, within 90 days of either Party requesting such Arrangements".

GOV/COM.24/OR.35/¶15-16: Chairman: there appeared to be agreement on article 12.a., as amended by the first sentence of the US proposal, and also that something on the lines of the second sentence of the US proposal be incorporated in the article on managed access; amendment procedures could best be dealt with by the state and the Agency under the subsidiary arrangements themselves.

GOV/COM.24/OR.35/¶20-22: Belgium, USA and Finland: would have no objection to the deletion of paragraph b.

GOV/COM.24/OR.35/¶30: Chairman: In the light of the views expressed, he would delete paragraph b.

GOV/COM.24/Chairman’s Rolling Text/Rev.1 (27 January 1997):

13.a. Where ..... or the Agency indicates that it is necessary to specify in Subsidiary Arrangements how measures laid down in this Protocol are to be applied, ... and the Agency shall agree on such Subsidiary Arrangements within ninety days of the entry into force of this Protocol or, where the indication of the need for such Subsidiary Arrangements is made after the entry into force of this Protocol, within ninety days of the date of such indication.

b. Pending the entry into force of any necessary Subsidiary Arrangements, the Agency shall be entitled to apply the measures laid down in this Protocol.

GOV/COM.24/OR.48/¶58: Chairman: no comments on article 13.

GOV/COM.24/Chairman’s REVISED TEXT (5 February 1997) {Same as in Chairman’s Rolling Text/Rev.1 (27 January 1997).}

GOV/COM.24/OR.51/¶56: Chairman: no comments by the Committee.

37. Article 14 – Communications Systems

INFCIRC/540 (Corrected)

14.a ..... shall permit and protect free communications by the Agency for official purposes between Agency inspectors in ..... and Agency Headquarters and/or Regional Offices, including attended and unattended transmission of information generated by Agency containment and/or surveillance or measurement devices. The Agency shall have, in consultation with ....., the right to make use of internationally established systems of direct communications, including satellite systems and other forms of telecommunication, not in use in ..... . At the request of ..... or the Agency, details of the implementation of this paragraph with respect to the attended or unattended transmission of information generated by Agency containment and/or surveillance or measurement devices shall be specified in the Subsidiary Arrangements.
b. Communication and transmission of information as provided for in paragraph a. above shall take due account of the need to protect proprietary or commercially sensitive information or design information which ..... regards as being of particular sensitivity.

Annex III of the "Discussion Draft" of 21 November 1995
9. The Stare shall facilitate the establishment of direct communications (including satellite systems and other forms of telecommunication) , and the installation of any equipment therefor, between Agency inspectors in the State and Agency Headquarters and/or Regional Offices, including attended and unattended transmission of information generated by Agency containment and/or surveillance devices.

> GOV/OR.885/¶26: South Africa: some states have laws which would allow Agency inspectors to communicate directly with Headquarters only through the national communications network; states should have the right to encrypt information before transmission, so that only the Agency received the information transmitted via public communication networks.

Annex III of the "Discussion Draft II" of 27 February 1996
10. a. ..... shall facilitate the establishment of direct communications (including satellite systems and other forms of telecommunication), and the installation of any equipment therefor, between Agency inspectors in ..... and Agency Headquarters and/or Regional Offices, including attended and unattended transmission of information generated by Agency containment and/or surveillance devices.
b. The Agency shall have the right to install and use its own systems of direct communications (including satellite systems and other forms of telecommunication) between Agency inspectors in ..... and Agency Headquarters and/or Regional offices, including attended and unattended transmission of information generated by Agency containment and/or surveillance devices.

Annex III of GOV/2863, 6 May 1996: {Same as Annex III of the "Discussion Draft II" of 27 February 1996.}

> GOV/COM.24/W.P. 12: Argentina: in 10.a. insert after "shall" the phrase "make every effort to"; add after "surveillance devices" the following: "whose installation has been agreed in accordance with subparagraphs (i), (ii), (iii) and (iv) of Article 5."; in 10.b. replace "the Agency shall have the right to" with: "..... and the Agency shall make arrangements to enable the Agency"; add after "surveillance devices" the following: "whose installation has been agreed in accordance with subparagraphs (i), (ii), (iii) and (iv) of Article 5."
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> GOV/COM.24/W.P. 14: Brazil: insert at the end "in accordance with internationally agreed regulations".
>
> GOV/COM.24/W.P. 19: Egypt: delete whole article.
>
> GOV/COM.24/W.P. 10: Germany: add at the end of 10.a.: ", provided that (State) and the operator of the installation concerned shall receive such information simultaneously."; delete 10.b.
>
> GOV/COM.24/W.P. 13: Mexico: insert after "The Agency shall" ", in accordance with the provisions of the Convention on the Privileges and Immunities of the UN or the Convention on the Privileges and Immunities of the Specialized Agencies,"
>
> GOV/COM.24/W.P. 18: UK: add a new paragraph "c" as follows: "Communication and transmission of information as provided for in Articles 10.a. and b. above shall take due account of the need to protect proprietary or commercially sensitive information or design information which the State regards as being of particular sensitivity."
>
> GOV/COM.24/OR.15/¶80: Egypt: installation of communications equipment should be subject to the agreement of the state.
>
> GOV/COM.24/OR.15/¶86: USA: unattended transmission of information should include more than C/S information; questioned whether a state should be simultaneously informed of breakdowns in Agency C/S devices, since it would then have a clear opportunity to exploit that situation (also UK (¶98)); supported a qualifying phrase that communications equipment could only be used in accordance with international regulations; supported UK proposal for protection of state's proprietary, commercially sensitive or design information during transmission.
>
> GOV/COM.24/OR.15/¶93: Islamic Republic of Iran and Belgium (¶94): delete.
>
> GOV/COM.24/OR.15/¶106: Secretariat: authentication elements in transmitted information should not be revealed to the state.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
13.{Formerly Article 10}[a. ..... shall permit and protect free communications by the Agency for official purposes between Agency inspectors in ..... and Agency Headquarters and/or Regional Offices, including attended and unattended transmission of information generated by Agency containment and/or surveillance or measurement devices. [The details of implementation of this paragraph shall be specified in the Subsidiary Arrangements.]

b. The Agency may, with the agreement of ....., establish and operate in ..... its own systems of direct communications (including satellite systems and other forms of telecommunication) for official purposes as described in paragraph a. above.
[c. Article IV, Sections 10 and 11, of the Agency's Privileges and Immunities Agreement shall apply in the implementation of this Article.[5/]]

> GOV/COM.24/OR.28/¶49: Netherlands: remove the square brackets from article 13.a.; change "shall be specified in the Subsidiary Arrangements" in the last sentence to "may be specified in a Subsidiary Arrangement" (and Belgium (¶50) and France (¶55)).
>
> GOV/COM.24/OR.28/¶51: Germany: change last sentence of article 13.a. to "Upon request by the Agency or ....., the details of implementation of this paragraph shall be specified in the Subsidiary Arrangements." (and France (¶55) and Spain (¶56)); question whether data generated by Agency equipment should be passed on without the knowledge of the operator (also Egypt (¶52)).
>
> GOV/COM.24/OR.28/¶53: Secretariat: the detailed results of safeguards measurements were not usually provided to the State unless they were needed to resolve a particular problem.
>
> GOV/COM.24/OR.28/¶54: Brazil: reference to Agency equipment in paragraph a. is too restrictive and should be made more general, in line with the wording used in article 6.
>
> GOV/COM.24/OR.28/¶57: Belgium: transmitted data should be encrypted.
>
> GOV/COM.24/OR.28/¶54 and 66: Australia: delete "with the agreement of ....." in article 13.b. and add "in accordance with internationally recognized telecommunications standards, or otherwise as authorized by ....." at the end; the Agency should be free to use any existing communications systems, and the agreement of the state should not be necessary as long as the Agency's systems complied with established technical standards; proposed a new paragraph as follows: "Communication and transmission of information as provided for in Articles ..... above shall take due account of the need to protect proprietary or commercially sensitive information or design information which the State regards as being of particular sensitivity." (and Belgium, Germany and Japan (¶3)).

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):
14.a. ..... shall permit and protect free communications by the Agency for official purposes between Agency inspectors in ..... and Agency Headquarters and/ or Regional Offices, including attended and unattended transmission of information generated by Agency containment and/or surveillance or measurement devices. The Agency shall have, in consultation with ....., the right to make use of internationally established systems of direct communications, including satellite systems and other forms of telecommunication, not in use in ...... At the request of ..... or the Agency, details of the implementation of this paragraph with respect to the attended or unattended transmission of information generated by Agency containment and/or surveillance or measurement devices shall be specified in the Subsidiary Arrangements.
b. Communication and transmission of information as provided for in paragraph a. above shall take due account of the need to protect proprietary or commercially sensitive information or design information which ..... regards as being of particular sensitivity.

GOV/COM.24/OR.48/¶59: Syrian Arab Republic: amend the first part of paragraph a. to read: "..... shall permit and protect communications by the Agency, in accordance with its national legislation, for official purposes between Agency inspectors ..."; delete "not in use in ...... " in the second sentence; add a new paragraph c. giving the state the right to peruse the information to be communicated so as to ensure its accuracy.

GOV/COM.24/OR.48/¶61-62: Algeria: the exact details of how the provision would be applied would need to be agreed directly between the state and the Agency and incorporated in the subsidiary arrangements; insert "in accordance with its national legislation" after "shall" at the beginning of paragraph a.; delete "and protect ... communications"; add "a State should receive data transmitted in real time".

GOV/COM.24/OR.48/¶64: Australia: need to ensure that reference to "national legislation" was being made purely for compliance with technical standards, with no intention to restrict the Agency's right to free communication; "consultation" had been introduced to ensure that technical requirements could be taken into account.

GOV/COM.24/OR.48/¶69: Islamic Republic of Iran: all states were entitled to know what data were being transmitted from their territory to external sources, be it during or after inspections.

GOV/COM.24/OR.48/¶71: Australia: "not in use in ..... " in paragraph a. could be read as meaning that the Agency only had the right to make use of such systems if no state entity was using similar equipment; need to ensure the Agency's right to use systems of direct communication whether or not they were in use in the state concerned.

GOV/COM.24/OR.48/¶72-73: Secretariat: The article on communications systems was of fundamental importance to the Agency's ability to achieve the objective of a strengthened and more cost-effective safeguards system, as mandated by the Board of Governors. A whole new generation of safeguards equipment was being introduced and tested which could substantially reduce the need for inspectors to be present. However, without the communications systems listed in Article 14 the remote transmission of properly authenticated and encrypted data would not be possible. Thus, for reasons of effectiveness and efficiency, access to such communications systems was of fundamental importance.

States have the right to know what kind of information was being transmitted and to be sure the data were protected through appropriate encryption; as part of the Agency's increasing co-operation with SSACs, there could also be arrangements for certain kinds of data sharing, but as a general rule the detailed safeguards information itself was not made available to states; the various new ways of gathering information from unattended devices would mostly be implemented in facilities and thus be reflected in facility attachments and the present article contained nothing to change the well-established procedure for the negotiation and description of safeguards approaches and for the delineation of such approaches in facility attachments.

GOV/COM.24/OR.48/¶74: Algeria: "in accordance with its national legislation" had been proposed to ensure the proper distribution of transmission frequencies on the basis of national technical data; the underlying notion that a country receive real-time data transmissions had been that of data sharing, as explained by the Secretariat.

GOV/COM.24/OR.48/¶75-77: Chairman: it might not be wise to insert the phrase "in accordance with its national legislation" in the first sentence of article 14 since that sentence had been taken, almost word for word, from article 27 of the Vienna Convention on Diplomatic Relations; "not in use in ....." had been intended to cover the situation where a particular form of communication was not in use in an individual state, but it might be better either to delete the phrase or to amend it to read "whether or not in use in ....."; the suggested addition of a third paragraph on the question of access to data or information sharing should be discussed in greater detail and the third sentence of paragraph a. left it up to the Agency or the state whether or not to include details regarding the transmission of information in the subsidiary arrangements; the necessary checks and balances built into article 14 provided states with the necessary access to information, but did not constrain the Agency in an inefficient or unreasonable manner.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997) {Same as in Chairman's Rolling Text/Rev.1 (27 January 1997).}

GOV/COM.24/OR.51/¶57: Chairman: no comments by the Committee.

38. Article 15 – Protection of Confidential Information

INFCIRC/540 (Corrected)

15.a. The Agency shall maintain a stringent regime to ensure effective protection against disclosure of commercial, technological and industrial secrets and other confidential information coming to its knowledge, including such information coming to the Agency's knowledge in the implementation of this Protocol.
b. The regime referred to in paragraph a. above shall include, among others, provisions relating to:
(i) General principles and associated measures for the handling of confidential information;
(ii) Conditions of staff employment relating to the protection of confidential information;
(iii) Procedures in cases of breaches or alleged breaches of confidentiality.
c. The regime referred to in paragraph a. above shall be approved and periodically reviewed by the Board.

Annex III of the “Discussion Draft” of 21 November 1995 {did not include this provision.}

Annex III of the “Discussion Draft II” of 27 February 1996 {did not include this provision.}

GOV/OR.889/¶22: Mexico: protocol should state the Agency’s obligation to protect the confidentiality of the information accruing to the Agency.

Annex III of GOV/2863, 6 May 1996
11. The Agency shall maintain a stringent regime governing the handling of commercial and industrial secrets and other confidential information coming to its knowledge in the implementation of the Protocol.

GOV/COM.24/W.P. 11: Algeria: paragraph 8 of INFCIRC/153 and the relevant measures in the last sentence of paragraph 9 of that document should apply to this Protocol and should be referred to in the Protocol.

GOV/COM.24/W.P. 12: Argentina: add a new paragraph "a " as follows: "The measures applied by the Agency under the present Protocol shall be implemented in such a way as to permit the protection of technological, industrial and commercial secrets."

GOV/COM.24/W.P. 4/Add.1: Belgium: replace at the beginning "shall maintain" with "undertakes to maintain"; add: "The provisions of document INFCIRC/153 relating to the protection of confidentiality, and particularly paragraph 8 and the relevant provisions of paragraph 9, shall apply to this Protocol."

GOV/COM.24/W.P. 14: Brazil: add at the end: "In case ..... has reason to believe that information coming to the knowledge of the Agency by means of the implementation of

this Protocol has been disclosed to a third party, the Agency and ..... shall have recourse to all available means with a view to taking action against the person or persons involved."

GOV/COM.24/W.P. 10: Germany: replace "governing the handling of" with "for ensuring the effective protection against disclosure of"; add at the end of the article "such regime providing for each Member State to treat a breach of the Agency's confidentiality obligations by an Agency employee as a violation of its own laws and regulations on the protection of classified or commercially or otherwise sensitive information".

GOV/COM.24/W.P. 9: Greece: retain current text as paragraph "a." and add:

"b. The Agency will ensure that all commercial and industrial secrets and other confidential information coming to its knowledge in the implementation of the Protocol, including information prepared by it, is protected to the fullest extent possible.

"c. The Agency will in any given case grant access to information derived from implementation of the Protocol only to those members of the Secretariat whose official duties require access to that information."

GOV/COM.24/W.P. 3 Corr.1: Japan: add a second sentence: "This regime shall include general principles for the handling of confidential information, conditions of staff employment, measures to protect confidentiality and procedures in case of breaches or alleged breaches of confidentiality." Present text of article 11 with the addition of the new sentence becomes paragraph "a."; add "b. The regime provided for in paragraph a. of this Article shall be approved by [the Board of Governors] and the implementation of this regime shall be reported annually to [the Board of Governors]."

GOV/COM.24/OR.3/¶83: Nigeria: use the Agency's "Oath".

GOV/COM.24/W.P. 1: Spain: provide for possible failure by the Agency to maintain the required level of confidentiality, spelling out its responsibility in such an event.

GOV/COM.24/OR.16/¶28: Republic of Korea: proposed an independent commission of a small number of states to ensure effective enforcement of the regime, monitor the regime and check that inspectors closely followed existing rules and regulations.

GOV/COM.24/OR.16/¶30: Brazil: given the difficulties of prosecuting inspectors who violated confidentiality after leaving the Agency, limit the information given the Agency, as in Brazil's proposed article 1.c. in GOV/COM.24/W.P. 14.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
14.{Formerly Article 11}a. The Agency shall maintain a stringent regime [designed to ensure effective protection against disclosure] of commercial and industrial secrets and other confidential information coming to its knowledge, including such information coming to the Agency's knowledge in the implementation of this Protocol.

[b. The regime referred to in paragraph a. above shall include provisions relating to:

(i) General principles and associated measures for the handling of confidential information;

(ii) Conditions of staff employment relating to the protection of confidential information, including procedures in cases of breaches or alleged breaches of confidentiality.]

c. The regime referred to in paragraph a. above shall be approved and periodically reviewed by the Board.

GOV/COM.24/OR.35/¶32: Japan, Belgium, Republic of Korea, USA, Algeria and Czech Republic: support the Rolling Text, including the bracketed part.

GOV/COM.24/OR.35/¶37: UK: supported 14.a. with deletion of the square brackets; in the interest of simplification, delete "including such information coming to the Agency's knowledge", since the intention was to ensure protection of information which came to the Agency's knowledge in connection with the implementation of the Protocol.

GOV/COM.24/OR.35/¶41: Germany (and Iran): opposed the UK proposal, since the proposed deletion would mean that information coming to the Agency's knowledge under the provisions of the Protocol would be subject to a different regime to that coming from other sources.

GOV/COM.24/OR.35/¶42: Argentina: support 14.a. minus the brackets; proposed adding "technological" to "commercial and industrial", since there could also be technological advances needing to be protected.

GOV/COM.24/OR.35/¶45: USA (and Turkey and Nigeria): retain the last two lines to ensure that all information, whether originating from INFCIRC/153 agreements or the future Protocol, was subject to the same rigorously applied system of confidentiality.

GOV/COM.24/OR.35/¶47: Chairman: took it that the Committee could agree to retain article 14.a. as it stood with the square brackets removed and the simplified wording "... a stringent regime to ensure ...".

GOV/COM.24/OR.35/¶48: Germany: remove the square brackets from 14.b.; divide paragraph b.(ii) into two parts, so that procedures in cases of breaches or alleged breaches of confidentiality were a separate item; current staff employment conditions were insufficient in that regard since, once an employee had left the Agency, no real sanctions could be applied; recalled Germany's previous proposal to include a provision whereby Member States should also investigate cases of breaches of confidentiality and where necessary take legal action; the Agency's practice needed to be brought into line with that of the European Union which currently provided more effective safeguards and sanctions; it had to be made clear that in the case of alleged breaches, procedures were not limited to staff employment conditions.

GOV/COM.24/OR.35/¶49-50: Australia, Republic of Korea, Turkey, USA, Greece, Mexico and Japan: support the German proposal.

GOV/COM.24/OR.35/¶51:Belgium: endorsed the German proposal; insert "among others" in article 14.b. between the words "include" and "provisions".

GOV/COM.24/OR.35/¶52: Chairman: took it that the Committee was agreed on paragraph 14.b., as amended.

GOV/COM.24/OR.35/¶53: Chairman: as there were no comments, assumed that paragraph 14.c. was acceptable.

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):
15.a. The Agency shall maintain a stringent regime to ensure effective protection against disclosure of commercial, technological and industrial secrets and other confidential information coming to its knowledge, including such information coming to the Agency's knowledge in the

implementation of this Protocol.

b. The regime referred to in paragraph a. above shall include, among others, provisions relating to:

(i) General principles and associated measures for the handling of confidential information;

(ii) Conditions of staff employment relating to the protection of confidential information;

(iii) Procedures in cases of breaches or alleged breaches of confidentiality.

c. The regime referred to in paragraph a. above shall be approved and periodically reviewed by the Board.

GOV/COM.24/OR.48/¶78: Chairman: general agreement with article 15.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997) {Same as in Chairman's Rolling Text/Rev.1 (27 January 1997).}

GOV/COM.24/OR.51/¶58: Chairman: no comments by the Committee.

39. Article 16 - ANNEXES

INFCIRC/540 (Corrected)

16.a. The Annexes to this Protocol shall be an integral part thereof. Except for the purposes of amendment of the Annexes, the term "Protocol" as used in this instrument means the Protocol and the Annexes together.
b. The list of activities specified in Annex I, and the list of equipment and material specified in Annex II, may be amended by the Board upon the advice of an open-ended working group of experts established by the Board. Any such amendment shall take effect four months after its adoption by the Board.

Annex III of the “Discussion Draft” of 21 November 1995 {did not include a separate article, but see articles 15.a., d. and e.}

Annex III of the “Discussion Draft II” of 27 February 1996 {did not include a separate article, but see articles 15.a., d. and e.}

Annex III of GOV/2863, 6 May 1996 {did not include a separate article, but see articles 16.a and d. and comments thereon.}

GOV/COM.24/Chairman’s W.P.2 Rolling Text (18 October 1996):
[16.{New} The Annexes to this Protocol shall be an integral part thereof. Except for the purposes of amendment of the Annexes, the term "Protocol" as used in this instrument means the Protocol and the Annexes together.]

> GOV/COM.24/OR.36/¶66: Chairman: during the redrafting of article 17, he would give careful consideration to what should happen with article 16.

GOV/COM.24/Chairman’s Rolling Text/Rev.1 (27 January 1997):
16.a. The Annexes to this Protocol shall be an integral part thereof. Except for the purposes of amendment of the Annexes, the term "Protocol" as used in this instrument means the Protocol and the Annexes together.
b. The list of activities specified in Annex I, and the list of equipment and material specified in Annex II, may be amended by the Board upon the advice of an open-ended working group of experts established by the Board. ..... shall give effect to any such amendment within three months of its adoption by the Board.

> GOV/COM.24/OR.48/¶79: Japan: the second sentence seemed to allow different states to give effect to amendments at different times, up to a limit of three months. In the interests of uniform application of the annexes, it might be prudent to replace it by something along the lines of "any such amendment shall take effect three months after its adoption by the Board".

GOV/COM.24/OR.48/¶80-81: USA and Germany: the Japanese proposal was not sufficiently clear.

GOV/COM.24/OR.48/¶82: Chairman: the amended wording was quite clear and would constitute a reasonable provision.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)
16.a. The Annexes to this Protocol shall be an integral part thereof. Except for the purposes of amendment of the Annexes, the term "Protocol" as used in this instrument means the Protocol and the Annexes together.
b. The list of activities specified in Annex I, and the list of equipment and material specified in Annex II, may be amended by the Board upon the advice of an open-ended working group of experts established by the Board. Any such amendment shall take effect three months after its adoption by the Board.

GOV/COM.24/OR.51/¶60: Switzerland: amendments of the Annexes would be determined by the Board on the advice of an expert group; decision-making by that group should follow the general practice of the Board and be based on consensus and that should be explicitly mentioned in the Committee's final report to the Board.

GOV/COM.24/OR.51/¶61: Germany: had a problem with article 16 in that the 3-month period specified therein for an amendment to take effect was barely sufficient for it to pass through parliamentary processes in his country and appealed for a longer period.

GOV/COM.24/OR.51/¶62-63: Secretariat: the expert group, like all subsidiary bodies of the Board, would adhere to the Board's Rules of Procedure and usual working practices, which could be assumed to include decisions by consensus; the time could possibly be extended to four months if the rest of the Committee were agreeable.

GOV/COM.24/OR.51/¶64: Egypt: wondered whether, in providing for the introduction of amendments, reference should not be made to ratification procedures in states.

GOV/COM.24/OR.51/¶65: Secretariat: the present text gave states two options: either they could regard acceptance of the Protocol as including a priori approval of the amendment procedures specified in article 16.b., such that amendments to the annexes would come into effect automatically without additional ratification, or they could pursue the customary domestic ratification procedure for every amendment; amendment procedures were built into many treaties, as was the case with the extension of the NPT, so that, once extension had been adopted by the majority, ratification procedures were not called for.

GOV/COM.24/OR.51/¶66-67: Chairman: it would go on record that the expert group established by the Board to consider amendments of the Annexes would follow the usual Board procedures, with an appropriate statement to that effect being included in the Committee's final report; regarding the time when amendments should come into effect, he assumed, as there had been no objections, that the Committee could agree to four months rather than the present three mentioned in paragraph b.

40. Article 17- ENTRY INTO FORCE

INFCIRC/540 (Corrected)

17.a. This Protocol shall enter into force
on the date on which the Agency receives from ..... written notification that .....'s statutory and/or constitutional requirements for entry into force have been met.
OR[3]
upon signature by the representatives of ..... and the Agency.
b ..... may, at any date before this Protocol enters into force, declare that it will apply this Protocol provisionally.
c. The Director General shall promptly inform all Member States of the Agency of any declaration of provisional application of, and of the entry into force of, this Protocol.

[3] The choice of alternative depends on the preference of the State concerned according to its internal legal requirements.

Annex III of the "Discussion Draft" of 21 November 1995
11. This Protocol shall enter into force
Alternative A on the date upon which the Agency receives from ..... written notification that .....,'s legal requirements for entry into force have been met. [..... may, upon signature or at any later date before this Protocol enters into force for it, declare that it will apply this Protocol provisionally.]
Alternative B upon signature by the representatives of ..... and the Agency.
The Director General shall promptly inform all Member States of the Agency of the entry into force of this Agreement.
12. This Protocol shall remain in force as long the Safeguards Agreement remains in force.

Annex III of the "Discussion Draft II" of 27 February 1996
12. {Same as article 11 of Annex III of the "Discussion Draft" of 21 November 1995.}
13. {Same as article 12 of Annex III of the "Discussion Draft" of 21 November 1995.}

Annex III of GOV/2863, 6 May 1996
13. {Same as article 11 of Annex III of the "Discussion Draft" of 21 November 1995.}
14. {Same as article 12 of Annex III of the "Discussion Draft" of 21 November 1995.}

GOV/COM.24/W.P. 11: Algeria: prefer Alternative A for all signatory states and propose deletion of the text within brackets.

GOV/COM.24/W.P. 6: Austria: insert a new footnote on Alternatives A and B to read as follows: "The choice of alternative depends upon the preference of the State concerned according to its internal legal requirements."

GOV/COM.24/W.P. 4/Add.2: Belgium: propose following reformulation of Article 13:

"A. The measures provided for by this protocol shall be applicable within the territory of each State which has ratified, accepted or approved it when .. X .. notifications of ratification, acceptance or approval have been received by the Agency, including .. Y .. notifications of ratification, acceptance or approval from States not exempted from the application of safeguards pursuant to document INFCIRCI153 or States subject to INFCIRC/66-type or other safeguards agreements.

B. Without prejudice to provision 13A, any State may decide that the protocol shall enter into force within its territory:

Variant A: on the date upon which the Agency receives written notification that the legal requirements for entry into force have been met;

Variant B: upon the signing of the protocol by its representatives and the Agency;

C. Upon signature or at a subsequent date preceding the entry into force of the protocol, the State may declare that it will apply this protocol on a provisional basis.

D. The Director General shall promptly inform all Member States of the Agency of the entry into force of this protocol."

GOV/COM.24/W.P. 14: Brazil: replace Alternative A and Alternative B with: "180 days after the Agency receives from 55 States written notification that their legal requirements for entry into force have been met."

GOV/COM.24/W.P. 10: Germany: delete article 14.

GOV/COM.24/W.P. 3 Corr.1: Japan: replace "legal" in Alternative A with "statutory and constitutional".

GOV/COM.24/OR.4/¶61: Mexico: amend to permit the protocol to be concluded also in languages other than English.

GOV/COM.24/W.P. 13: Mexico: prefer Alternative A.

GOV/COM.24/OR.4/¶17: Philippines: delete Alternative B and delete parentheses in Alternative A.

GOV/COM.24/W.P. 1: Spain: only Alternative A is valid; replace "legal" with "constitutional" in Alternative A.

GOV/COM.24/OR.18/¶17: Islamic Republic of Iran: add a new article to read: "This protocol shall enter into force for (State) ninety days after the date upon which the Agency receives from sixty States, including (State), written notifications that their legal requirements for entry into force of this protocol have been met."

GOV/COM.24/OR.18/¶21: Belgium: in the Belgian proposal in COM.24/W.P. 4/Add.2) replace "X" with "60" and "Y" with "20".

GOV/COM.24/OR.18/¶26: Austria, Australia (¶28), USA (¶29), Pakistan (¶32), Czech Republic (¶36), UK (¶39), New Zealand (¶42), Netherlands (¶43), Slovakia (¶45), Philippines (¶54), France (¶59), Sweden (¶60), Tunisia (¶66) and Denmark (¶68): opposed a minimum ratification requirement for entry into force.

GOV/COM.24/OR.18/¶46: Islamic Republic of Iran: delete references to types of safeguards agreements in Belgian proposal.

GOV/COM.24/OR.18/¶65: Spain: leave the text as it stood which allowed each State to decide for itself on the basis of the number of signatory States whether or not to accept the protocol.

GOV/COM.24/OR.18/¶85: Islamic Republic of Iran; delete articles 14 and 15.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
18. {Formerly Article 13} [This Protocol shall enter into force:

Alternative A[6/] a. on the date on which the Agency receives from ..... written notification that .....'s statutory and constitutional requirements for entry into force have been met. ..... may, upon signature or at any later date before this Protocol enters into force, declare that it will apply this Protocol provisionally.

Alternative B[6/] a. upon signature by the representatives of ..... and the Agency.
The Director General shall promptly inform all Member States of the Agency of any declaration of provisional application and of the entry into force of this Protocol.]

[6/] The choice of alternative depends on the preference of the State concerned according to its (b) nuclear material in a facility in peaceful nuclear activities within their territory or under their jurisdiction or control anywhere.

b. Notwithstanding that the provisions of paragraph a.(ii) above have not been met, ... may, at or subsequent to the time it meets the requirement specified in paragraph a.(i) above, declare that this Protocol has entered into force for it as from the date specified in that declaration.

c. Notwithstanding the provisions of paragraph a. above, ... may, upon signature or at a later date before this Protocol enters into force, declare that it will apply this Protocol provisionally.

d. The Director General shall promptly inform all Member States of the Agency of any declaration made pursuant to paragraph b. or c. above and of the entry into force of this Protocol.]

[19.{Formerly Article 14} This Protocol shall remain in force as long as the Safeguards Agreement remains in force.]
internal legal requirements.
OR
[a. This Protocol shall enter into force when:
 (i) Alternative A[6/] the Agency has received from ..... written notification that .....'s statutory and constitutional requirements for entry into force have been met.
 Alternative B[6/] the Protocol has been signed by the representatives of ..... and the Agency.
 (ii) Protocols containing the measures provided for in this Protocol nave been concluded by [X] States, including [Y] States which have:
  (a) nuclear material in quantities exceeding the limits stated, for the type of material in question, in [paragraph 37 of INFCIRC/153][3/]; or

GOV/COM.24/OR.36/¶67-68: USA and Germany: whatever happened with article 17, it should result in the deletion of article 19.

GOV/COM.24/OR.36/¶69: Chairman: he would consider what to do with article 19 during the redrafting of article 17.
GOV/COM.24/OR.36/¶71, 73, 76, 86, 89 and 92 : USA, Greece, Australia, Czech Republic, Sweden, Syria, Nigeria, Japan and Russia: preferred the first option; the other one would create too many impediments to implementation of the Protocol.

GOV/COM.24/OR.36/¶74: Brazil: preferred the second option, which included an important provision in its subparagraph a.(ii).

GOV/COM.24/OR.36/¶76-77, 78 and 80: Australia, New Zealand, Denmark and Austria: support the first option; subparagraph a.(ii) of the second option was not appropriate to a bilateral agreement, which was what the Protocol would be; states would be free to decide when to conclude the Protocol and, if they wished, they could wait until other States had done so.

GOV/COM.24/OR.36/¶79 and 90: Spain and Chile: support the first option; replace "statutory and constitutional" in alternative A with "statutory or constitutional".

GOV/COM.24/OR.36/¶82-83 and 85: Germany and France: it would be very difficult to assign numbers to "X" and "Y" in subparagraph a.(ii); preferred first option.

GOV/COM.24/OR.36/¶87 and 88: Algeria and Mexico: could go along with the first option but change Alternative A to read something like "... on the date on which the Agency receives from ..... written notification that it has been approved in accordance with .....'s internal legislation" or change "statutory and constitutional requirements" to "statutory and/or constitutional requirements".

GOV/COM.24/OR.36/¶93: Chairman: a clear majority in favor of the first option; probably a good idea to change "statutory and constitutional requirements" to "statutory and/or constitutional requirements".

GOV/COM.24/Chairman's Rolling Text/Rev.1 (27 January 1997):
17. This Protocol shall enter into force on the date on which the Agency receives from ..... written notification that .....' s statutory and/or constitutional requirements for entry into force have been met.
OR[6]
upon signature by the representatives of ..... and the Agency...... may, at any date before this Protocol enters into force, declare that it will apply this Protocol provisionally.
The Director General shall promptly inform all Member States of the Agency of any declaration of provisional application of, and of the entry into force of, this Protocol.

GOV/COM.24/OR.48/¶83: Germany: the sentence "......may, at any date before this Protocol enters into force, declare that it will apply this Protocol provisionally" in the second alternative seemed to apply only to the first alternative, since a State could not provisionally put the Protocol into force before having signed it.

[6] The choice of alternative depends on the preference of the State concerned according to its internal legal requirements.

GOV/COM.24/OR.48/¶84: Secretariat: the reference to a signature in the second alternative referred to a signature by which a State expressed its consent to be bound by the Protocol and under the Vienna Convention on the Law of Treaties, it was customary to provide different alternatives by which a State might express its consent to be bound by a treaty in accordance with its constitutional procedures and thus, the sentence to which the representative of Germany had referred in fact applied to both options.

GOV/COM.24/OR.48/¶85: Chairman: on the basis of that explanation, the Committee might prefer to leave the text unchanged.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997) {Same as in Chairman's Rolling Text/Rev.1 (27 January 1997).}

GOV/COM.24/OR.51/¶68: Syrian Arab Republic: as article 17 was closely related to article 1, it might be preferable to defer consideration thereof until the Committee had finalized the text of article 1.

GOV/COM.24/OR.51/¶69: Chairman: he believed that the Committee had already concluded its consideration of article 1.

41. Article 18 - DEFINITIONS

INFCIRC/540 (Corrected)

18. For the purpose of this Protocol:
a. Nuclear fuel cycle-related research and development activities means those activities which are specifically related to any process or system development aspect of any of the following:
- conversion of nuclear material,
- enrichment of nuclear material,
- nuclear fuel fabrication,
- reactors,
- critical facilities,
- reprocessing of nuclear fuel,
- processing (not including repackaging or conditioning not involving the separation of elements, for storage or disposal) of intermediate or high-level waste containing plutonium, high enriched uranium or uranium-233,

but do not include activities related to theoretical or basic scientific research or to research and development on industrial radioisotope applications, medical, hydrological and agricultural applications, health and environmental effects and improved maintenance.
b. Site means that area delimited by ..... in the relevant design information for a facility, including a closed-down facility, and in the relevant information on a location outside facilities where nuclear material is customarily used, including a closed-down location outside facilities where nuclear material was customarily used (this is limited to locations with hot cells or where activities related to conversion, enrichment, fuel fabrication or reprocessing were carried out). It shall also include all installations, co-located with the facility or location, for the provision or use of essential services, including: hot cells for processing irradiated materials not containing nuclear material; installations for the treatment, storage and disposal of waste; and buildings associated with specified activities identified by ..... under Article 2.a.(iv) above.
c. Decommissioned facility or decommissioned location outside facilities means an installation or location at which residual structures and equipment essential for its use have been removed or rendered inoperable so that it is not used to store and can no longer be used to handle, process or utilize nuclear material.
d. Closed-down facility or closed-down location outside facilities means an installation or location where operations have been stopped and the nuclear material removed but which has not been decommissioned.
e. High enriched uranium means uranium containing 20 percent or more of the isotope uranium-235.

f. Location-specific environmental sampling means the collection of environmental samples (e.g., air, water, vegetation, soil, smears) at, and in the immediate vicinity of, a location specified by the Agency for the purpose of assisting the Agency to draw conclusions about the absence of undeclared nuclear material or nuclear activities at the specified location.
g. Wide-area environmental sampling means the collection of environmental samples (e.g., air, water, vegetation, soil, smears) at a set of locations specified by the Agency for the purpose of assisting the Agency to draw conclusions about the absence of undeclared nuclear material or nuclear activities over a wide area.
h. Nuclear material means any source or any special fissionable material as defined in Article XX of the Statute. The term source material shall not be interpreted as applying to ore or ore residue. Any determination by the Board under Article XX of the Statute of the Agency after the entry into force of this Protocol which adds to the materials considered to be source material or special fissionable material shall have effect under this Protocol only upon acceptance by ..... .
i. Facility means:
(i) A reactor, a critical facility, a conversion plant, a fabrication plant, a reprocessing plant, an isotope separation plant or a separate storage installation; or
(ii) Any location where nuclear material in amounts greater than one effective kilogram is customarily used.
j. Location outside facilities means any installation or location, which is not a facility, where nuclear material is customarily used in amounts of one effective kilogram or less.

Annex III of the "Discussion Draft" of 21 November 1995
15. b. nuclear fuel cycle-related research and development activities means those activities directly related to the present or planned nuclear fuel cycle.
c. Site means that area delineated by ..... in the relevant design information for a facility, and the relevant information on a location outside facilities where nuclear material is customarily used, provided pursuant to the Safeguards Agreement, and as agreed by the Agency.

Annex III of the "Discussion Draft II" of 27 February 1996: {same as articles 15.b. and c. of Annex III of the "Discussion Draft" of 21 November 1995.}

Annex III of GOV/2863, 6 May 1996
16.b. Nuclear fuel cycle-related research and development activities means those activities which are specifically related to conversion, enrichment, fuel fabrication, power or research reactors, critical assemblies, accelerators capable of producing a continuous neutron source sufficient for annual production of gram quantities of fissile isotopes, reprocessing of nuclear fuel and treatment of waste containing nuclear material.
c. Site means that area delineated by ..... in the relevant design information for a facility, and the relevant information on a location outside facilities where nuclear material is customarily used, provided pursuant to the Safeguards Agreement, and as agreed by the Agency. It shall also include all installations co-located with the facility or location for the provision or use of

essential services, including: hot cells for processing irradiated materials not containing nuclear material; radioactive waste treatment, storage and disposal facilities; and buildings associated with specified items identified by ..... under Article 1.a.(iv) above.

GOV/Com.24/W.P. 1: Spain: add a new sub-paragraph 1.a.(i)(c): "Not included is information relating to theoretical or basic scientific research and R&D on medical or agricultural applications, health and environmental effects and improved maintenance."

GOV/COM.24/W.P. 11: Algeria: in b. replace "power or research reactors, critical assemblies" with "power reactors, high-flux research reactors specifically designed and constructed for nuclear materials testing"; in c. insert "and whose perimeter should be defined by or correspond closely to the security fence if there is one" after "facility" where it first appears; in the second sentence, insert "of safeguards importance" after "all installations"; insert "nuclear material-containing" before "radioactive waste treatment".

GOV/COM.24/W.P. 12: Argentina: rephrase paragraph b. to read: *"Nuclear fuel cycle-related research and development activities* means those activities which are specifically related to: (i) conversion, enrichment, fuel fabrication; (ii) power or research reactors; (iii) critical assemblies; (iv) accelerators capable of producing a continuous neutron source sufficient for annual production of gram quantities of fissile isotopes; (v) reprocessing of nuclear fuel and treatment of waste containing nuclear material when they have reached a stage where they can: (a) manufacture or use *specified items,* or (b) produce nuclear material in quantities not less than ..... [specific quantities]. Information relating to theoretical and basic scientific research and to research and development on medical or agricultural applications and on impacts on health or the environment shall remain excluded." in c. replace "delineated" by "delimited".

GOV/COM.24/W.P. 6: Austria: in b. delete "power or research" before "reactors" and replace "assemblies" with "facilities". in c. delete the phrase "and as agreed by the Agency" at the end of the first sentence.

GOV/COM.24/W.P. 14: Brazil: in b. add "and directly applied" after "specifically related".

GOV/COM.24/W.P. 19: Egypt: in b. insert "actual process development aspects" after "specifically related to"; add "theoretical and basic scientific research is not included" at the end of the paragraph.

GOV/COM.24/W.P. 10: Germany: in b. replace the word "enrichment" with "uranium or plutonium enrichment"; delete all the words beginning "specifically related to conversion" to the end of paragraph (b) and replace with: "Specifically related to any process development aspect of conversion, uranium or plutonium enrichment, fuel fabrication power or research reactors, critical assemblies, accelerators capable of producing a continuous source sufficient for annual production of gram quantities of fissile isotopes, reprocessing of nuclear fuel and recovery of nuclear material from waste; this does, however, not include theoretical or basic scientific research or any research or development on medical or agricultural applications , health or environmental effects, or improved maintenance."; in c. in the first sentence replace "provided pursuant ... the Agency" with "and including all installations colocated ..... under Article 1.a.(iv) above, provided pursuant to the Safeguards Agreement(s)."

GOV/COM.24/W.P. 3 Corr.2: Japan: in b. replace the current text with "Nuclear fuel cycle-related research and development activities means those activities: (i) which are specifically related to conversion, enrichment, fuel fabrication, power or research reactors, critical assemblies, accelerators capable of producing a continuous neutron source sufficient for annual production of gram quantities of fissile isotopes, reprocessing of nuclear fuel and radio-chemical processing of waste containing nuclear material, (ii) which are specifically related to development on essential components of nuclear fuel cycle facilities, (iii) which have the capability for practical application, and (iv) which do not include theoretical or basic scientific research and research and development on medical or agricultural applications, health and environmental effects, safety and improved maintenance or operation."

GOV/COM.24/OR.4/¶59: Philippines: delete "and as agreed by the Agency".

GOV/COM.24/W.P. 1: Spain: in b. delete "accelerators ... nuclear material". in c. replace "agreed" with "verified".

GOV/COM.24/W.P. 12: Argentina: add new paragraphs: *"Other locations where nuclear material is customarily used* shall mean those so defined in the Safeguards Agreement and in which some safeguards-relevant process is carried out."; "*Decommissioned facilities* shall mean those which were included in the definition of "facility" under the Safeguards Agreement and where all nuclear material has been removed and all equipment needed to function as a facility has been removed or taken out of service."; "*Other decommissioned locations where nuclear material was customarily used* shall mean those which were included in the definition of paragraph e. above and where all nuclear material has been removed and all equipment necessary for the processes carried out there has been removed or taken out of service."; "*Closed down facilities* shall mean those which ..."; "*Other closed down locations where nuclear material was customarily used* shall ...."

GOV/COM.24/W.P. 6: Austria: add new paragraphs: "Decommissioned facility or decommissioned location outside facilities where nuclear material was customarily used means, for the purposes of the Protocol an installation at which residual structures and equipment essential for its operation have been removed or rendered inoperable so that it is not used to store and can no longer be used to handle, process or utilize nuclear material."; "Closed down facility or closed down location outside facilities where nuclear material was customarily used means, for the purposes of the Protocol, an installation where operations have been stopped and the nuclear material removed, but which has not been decommissioned."

GOV/COM.24/W.P. 1: Spain: add a new paragraph: "Decommissioned facility means any facility or previous LOF which has contained nuclear material and which the Agency has classified as decommissioned after verifying, at the request of ..... , that the residual structures and equipment essential for its operation have been removed or rendered inoperable so that it is not used to store and can no longer be used to handle, process or utilize nuclear material."

GOV/COM.24/OR.7/¶28: Secretariat: agreed with Spanish amendment (W.P. 1 (2 July 1996)) for the explicit exclusion of basic scientific research and R&D in the fields of medicine, agriculture and the environment.

GOV/COM.24/OR.19/¶78: Secretariat: in 16.b. delete "accelerators capable of producing a continuous neutron source sufficient for annual production of gram quantities of fissile isotopes", on account of the scarcity and extremely large size of such equipment; oppose Brazilian addition of "and directly applied" after "specifically related" since it would run counter to article 1.a.(i)(a) and mean that there would be no obligation to report on the research and development activities in question until they were being conducted within the nuclear fuel cycle.

GOV/COM.24/OR.19/¶99: Secretariat: in 16.c. oppose Algeria's proposal for insertion of "of safeguards importance" and "nuclear material-containing".

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
20.{Formerly Article 16; Article 16.a. is now dealt with solely in Annex I.}
a.{Former Article 16.b.} *Nuclear fuel cycle-related research and development activities* means those activities which are specifically related to any process development aspect of any of the following:

- conversion,
- enrichment,
- fuel fabrication,
- reactors,
- critical and sub-critical facilities,
- reprocessing of nuclear fuel,
- treatment of intermediate or high-level waste containing plutonium, highly enriched uranium or uranium-233,

but do not include activities related to theoretical or basic research or development relating to medical or agricultural applications, health and environmental effects or improved maintenance.
b.{Former Article 16.c]} *Site* means that area delimited by ..... in design information for a facility, and the relevant information on a location outside facilities where nuclear material is customarily used, provided pursuant to the Safeguards Agreement. It shall also include all installations co-located with the facility or location for the provision or use of essential services, including: hot cells for processing irradiated materials not containing nuclear material; [installations for the treatment, storage and disposal of waste containing nuclear material]; and buildings associated with specified items identified by..... under Article l.a.(iv) above. [In the context of this definition it is noted that the boundaries of a site will often be marked by, or run close to, an outer security barrier. The size and complexity of sites will vary considerably. Some will be quite large and include more than one nuclear facility together with a full complement of support and related services. Others may consist of a single building, or even a single room in a building, and have no co-located services.]
c.{Former Article 16.d} *Specified equipment and non-nuclear material* means equipment and non-nuclear material listed in Annex II to this Protocol as that list may be amended by the Board. Any such amendment by the Board shall have effect upon its adoption by the Board and confirmation by the General Conference.
d.{New} *Decommissioned facility or decommissioned location outside facilities where nuclear material was customarily used* means an installation at which residual structures and

equipment essential for its use have been removed or rendered inoperable so that it is not used to store and can no longer be used to handle, process or utilize nuclear material.
e.{New} *Closed-down facility and closed-down location outside facilities where nuclear material was customarily used* means an installation where operations have been stopped and the nuclear material removed but which has not been decommissioned.]

GOV/COM.24/OR.25/¶1: Secretariat: amend 20.b. to read "*Site* means that area delimited by ..... in the relevant design information for a facility including a closed-down facility, and the relevant information on a location outside facilities where nuclear material is customarily used, including a closed-down location outside facilities where nuclear material was customarily used, ...", followed by some wording limiting closed-down locations outside facilities to locations with hot cells or where activities related to conversion, enrichment, fuel fabrication or reprocessing were carried out - "provided pursuant to the Safeguards Agreement."

GOV/COM.24/OR.25/¶2: Australia, Germany (¶4), USA (¶5) and UK and France (¶6): supported the Secretariat's new definition of *site*.

GOV/COM.24/OR.37/¶1: Germany: replace article 20 with:
a. *Nuclear fuel cycle-related research and development activities* means those activities that are specifically related to any process development aspect of any of the following:

- conversion,
- enrichment,
- fuel fabrication,
- reactors,
- critical and sub-critical facilities,
- reprocessing of nuclear fuel,
- treatment (not including repackaging or further conditioning for storage or disposal) of *intermediate or high-level waste* containing plutonium, high enriched uranium, or uranium-233.

but do not include activities related to theoretical or basic scientific research or research and development on medical or agricultural applications, health and environmental effects, and improved maintenance.
b. *Site* means that area delimited by (State) in the relevant design information for a facility, including a *closed-down facility*, and in the relevant information on a location outside facilities where nuclear material is customarily used, including a *closed-down location outside facilities* where nuclear material was customarily used. It shall also include all installations co-located with the facility or location for the provision or use of essential services, including: hot cells for processing irradiated materials not containing nuclear material; installations for the treatment, storage and disposal of radioactive waste; and buildings associated with specified items identified by (State) under Article 1.a.(iv) above.

c. *Specified equipment and non-nuclear material* means equipment and non-nuclear material listed in Annex II to this Protocol as that list may be amended by the Board. Any such amendment by the Board shall have effect upon its adoption by the Board.

d. *Decommissioned facility or decommissioned location outside facilities* means an installation at which residual structures and equipment essential for its use have been removed or rendered inoperable so that it is not used to store and can no longer be used to handle, process or utilize nuclear material.

e. *Closed-down facility* and *closed-down location outside facilities* means an installation where operations have been stopped and the nuclear material removed but that has not been decommissioned.

f. *Highly enriched uranium* means uranium containing 20 per cent or more of the uranium-235 isotope.

g. *High or intermediate level waste* means waste ... .

h. *Directed environmental sampling [location-specific environmental sampling]* means the collection of environmental samples (e.g., air, water, vegetation, soil, smears) at, and in the immediate vicinity of, a location specified by the Agency for the purpose of assisting the Agency to draw conclusions about the absence of undeclared nuclear material or nuclear activities at the specified location.

i. *Undirected environmental sampling [wide-area environmental monitoring]* means the collection of environmental samples (e.g., air, water, vegetation, soil, smears) at a set of locations within a State specified by the Agency for the purpose of assisting the Agency to draw conclusions about the absence of undeclared nuclear material or nuclear activities over a wide area within the State.

GOV/COM.24/OR.37/¶4: Algeria: amend article 20 as follows:

"*Nuclear fuel cycle-related research and development activities*" means those activities which are specifically related to any process development aspect of any of the following:

- conversion of <u>uranium</u>, <u>plutonium</u> and <u>thorium</u>
- <u>uranium</u> enrichment
- fabrication of <u>nuclear</u> fuel
- reactors and critical facilities
- reprocessing of nuclear fuel
- treatment of intermediate or high-level waste containing plutonium, highly enriched uranium or uranium-233

but do not include activities related to theoretical or basic research or <u>research</u> and development relating to medical, agricultural or <u>industrial</u> applications, health and environmental effects or improved maintenance.

* paragraphs b, c, d and e remain as they are in the Rolling Text, including what is indicated in square brackets.

* Add 7 definitions for the following terms:

f) nuclear material (as referred to in paragraph 112 of INFCIRC/153 or, as defined in Article XX of the Statute)

g) facility (as defined in paragraph 106 of INFCIRC/153)

h) location outside facilities (as referred to in paragraph 49 of INFCIRC/153)

i) highly enriched uranium (means uranium containing 20% or more of the uranium-235 isotope)

j) high or intermediate activity waste (definition and activity thresholds to be proposed by the Secretariat)
k) directed environmental sampling (as defined by the Secretariat, including what is indicated in square brackets)
l) undirected environmental sampling (as defined by the Secretariat, including what is indicated in square brackets)
GOV/COM.24/OR.37/¶4: Algeria: delete "sub-critical facilities" in subparagraph a. because such facilities could not be used for nuclear fuel cycle-related research and development activities and were not included in the definition of "facility" in paragraph 106 of INFCIRC/153 or in document INFCIRC/193 or "Principal nuclear facility" and "Research and development facility" in INFCIRC/66/Rev.2.

GOV/COM.24/OR.37/¶7: Secretariat: accept the deletion of "sub-critical facilities".

GOV/COM.24/OR.37/¶8: UK: "insert or system" between "process" and "development" on the grounds that reactors and critical and sub-critical facilities were systems rather than processes.

GOV/COM.24/OR.37/¶10: Japan: attached great importance to the phrase "the capability to generate nuclear material".

GOV/COM.24/OR.37/¶12: Secretariat: paragraph a. of Article 20 referred to "conversion", "fuel fabrication" and "critical ... facilities" for the sake of greater consistency with the definition of "Facility" given in paragraph 106 of document INFCIRC/153. The ultimate aim, however, was to catch at an early stage those process development activities which could result in processes capable of generating weapons-usable nuclear material.
GOV/COM.24/OR.37/¶13: USA, Australia, Austria, Netherlands and France expressed misgivings about the Algerian proposal to qualify "conversion" and "enrichment".

GOV/COM.24/OR.37/¶16: Secretariat: have no trouble with "conversion of nuclear material" and "enrichment of nuclear material".

GOV/COM.24/OR.37/¶18-19: Japan: support for the German proposal to add "(not including repackaging or further conditioning for storage or disposal)" in the entry starting "treatment of *intermediate or high-level waste*"; replace ."treatment" by "processing" to conform with article 1.a.(viii).

GOV/COM.24/OR.37/¶22-24 and 27: France, Australia, Greece and UK: replace "plutonium, highly enriched uranium or uranium-233" with "nuclear material".

GOV/COM.24/OR.37/¶25-26: Belgium, Egypt and Turkey: oppose replacing "plutonium, highly enriched uranium or uranium-233" with "nuclear material".

GOV/COM.24/OR.37/¶28-29: Secretariat: accept either "treatment" or "processing"; need to qualify "conditioning" in the bracketed phrase proposed by Germany so as not to exclude all forms of conditioning.

GOV/COM.24/OR.37/¶32: USA: qualify "conditioning" with the words "not involving the separation of elements".

GOV/COM.24/OR.37/¶34: Chairman: would replace "treatment" with "processing" and qualify "conditioning" by "not involving the separation of elements".

GOV/COM.24/OR.37/¶36: Egypt: support "industrial applications" as a category to be exempted from reporting obligations, it being understood that the words referred to applications of isotopes in industry.

GOV/COM.24/OR.37/¶2: Germany: in subparagraph b. delete "the relevant information on a location outside facilities where nuclear material is customarily used" and delete the square-bracketed sentences at the end of paragraph b. in the Rolling Text, because they added nothing of significance.

GOV/COM.24/OR.37/¶46: Secretariat: welcomed the addition of *closed-down locations outside facilities* where nuclear material was customarily used" in the text proposed by Germany; insert the following parenthetical wording immediately after that phrase: "(this is limited to locations with hot cells or where activities related to conversion, enrichment, fuel fabrication or reprocessing were carried out)", so that states would not have to report on closed-down locations outside facilities which were no longer of any interest, such as those associated with hospitals.

GOV/COM.24/OR.37/¶48, 51, 52, 60, 61: Spain: referring to article 20.c., amendments to annexes I and II should be subject to confirmation by the General Conference (supported by Algeria, Nigeria, Mexico) or the Committee should recommend to the Board that, when considering amendments to either of those lists, it establish an ad hoc, open-ended committee of governmental experts to provide advice (supported by Argentina).

GOV/COM.24/OR.37/¶49-50, 53, 56, 62: Australia, USA, Germany, Belgium: oppose General Conference confirmation, which might unduly delay the entry into effect of amendments; provisions for amending annexes I and II should be in a "substantive" article of the protocol and not in those annexes or in an article on definitions.

GOV/COM.24/OR.37/¶62: Belgium: amend subparagraph c. to read "Specified equipment and non-nuclear material especially designed or prepared for nuclear uses".

GOV/COM.24/OR.37/¶66, 69, 70: UK, Canada and Sweden: oppose requiring confirmation by the General Conference, since all Member States would have the right to comment on amendment proposals during meetings of the Board.

GOV/COM.24/OR.37/¶71: France: oppose requiring confirmation by the General Conference: the General Conference was not an appropriate forum for dealing with such technical matters.

GOV/COM.24/OR.37/¶74: Austria: restricting membership of the envisaged committee to those countries which had become parties to the Protocol would be inconsistent with the practice whereby any Board member could participate in discussions on a safeguards agreement even if that country had itself not concluded an agreement of that type with the Agency.

GOV/COM.24/OR.37/¶77: Secretariat: all proposals for amending the lists contained in annexes I and II should be considered thoroughly from a technical point of view and all parties to the protocol should have an opportunity to participate in the technical discussions; that could best be achieved through Board approval of any amendments in

the light of advice provided by an open-ended group of experts at whose meetings all Member States could put forward their views; subsequent confirmation by the General Conference would not be the right approach.

GOV/COM.24/OR.37/¶78-79: Chairman: there appeared to be broad agreement that the list amendment provisions should be in a "substantive" article of the protocol and that any proposed amendments to the lists contained in annexes I and II would have to be adopted by the Board; as regards the question of how to involve Member States which were not Board members in the amendment process, he was inclined to favor the open-ended committee approach.

GOV/COM.24/OR.38/¶1: Chairman: regarding articles 20.d. and 20.e., noted that the German text did not include "*where nuclear material was customarily used*".

GOV/COM.24/OR.38/¶2:USA: the phrase was unnecessary in both articles.

GOV/COM.24/OR.38/¶4-5: UK: replace "installation" by "facility or location outside facilities, whether closed down or not," in paragraph d. and by "facility" in paragraph e.; replace "handle" in paragraph d. by a more suitable word or, delete it.

GOV/COM.24/OR.38/¶6-8: Secretariat: do not replace "installation" by a phrase containing the word "facility" in paragraph d., as a decommissioned facility was not regarded as a "facility" for safeguards purposes; in paragraph e., "facility" would be a better word than "installation" for use in defining "closed-down facility" but perhaps not for use in defining "closed-down location outside facilities"; "handle" had been used to cover a broad range of possible activities involving nuclear material, but "handle" could be deleted, if the Committee considered that "process or utilize" was broad enough.

GOV/COM.24/OR.38/¶9-10: Germany and USA: do not delete "handle.

GOV/COM.24/OR.38/¶14-17: Chairman: retain "handle" in paragraph d; need to reflect further about the word "installation" in paragraphs d. and e.; noting there were no comments regarding *Highly enriched uranium* (paragraph f. of the German text and paragraph i) of the Algerian text), assumed that the definition "uranium containing 20 per cent or more of the uranium-235 isotope" was acceptable; regarding *Directed environmental sampling* (paragraph h. of the German text and paragraph k) of the Algerian text) and *Undirected environmental sampling* (paragraph i. of the German text and paragraph l of the Algerian text), the Secretariat's tentative definitions (in GOV/COM.24/OR.32/¶20) of "directed environmental sampling" and "undirected environmental sampling" appeared to be acceptable to both the Algerian and the German delegation, but he preferred the square-bracketed terms "*location-specific environmental sampling*" and "*wide-area environmental monitoring*" in the German text.

GOV/COM.24/OR.38/¶18: Korea: understand that the Agency would carry out location-specific environmental sampling only at locations where, according to the State, nuclear material was not present, to resolve questions or inconsistencies relating to the correctness and completeness of information provided pursuant to article 1, so replace "to draw conclusions about the absence of undeclared nuclear material or nuclear activities" in paragraph h. of the German text by a phrase about the resolution of questions or inconsistencies.

GOV/COM.24/OR.38/¶19: USA: oppose replacing "to draw conclusions ... or nuclear activities", since, if a state declared that nuclear material was not present at a particular location, location-specific environmental sampling could indicate whether that declaration was correct.

GOV/COM.24/OR.38/¶20: Secretariat: at locations where the state had declared nuclear material to be present and to be undergoing some form of processing, environmental sampling could provide assurance that only the declared material was present and that it was being processed only in the manner declared and at locations where, according to the State, no nuclear material was present and to which the Agency would seek access only if an inconsistency or question arose, environmental sampling could again provide assurance of the absence of undeclared nuclear material.

GOV/COM.24/OR.38/¶21-22: China, Brazil, Austria Japan and Algeria: for consistency, change "wide-area environmental monitoring" to "wide-area environmental sampling".

GOV/COM.24/OR.38/¶23: Germany: accepted "wide-area environmental sampling"; the important thing was that the modalities for the activity in question would be determined - at a much later stage - by the Board.

GOV/COM.24/OR.38/¶24: USA: agreed with Germany and the present discussion should not prejudge the outcome of the Board's deliberations.

GOV/COM.24/OR.38/¶25: Chairman: agreed with the USA; assumed that there was general agreement on paragraphs h. and i. of the German text, which would begin with the terms "*Location-specific environmental sampling*" and "*Wide-area environmental sampling*" respectively.

GOV/COM.24/OR.38/¶27: Chairman: questioned the need for a definition of "*high or intermediate level waste*" (paragraph g. of the German text or - in the Algerian text - "high or intermediate activity waste").

GOV/COM.24/OR.38/¶28: Germany: German experts had experienced difficulty in formulating a definition and that his delegation would not press the matter.

GOV/COM.24/OR.38/¶29: Chairman: regarding *Nuclear material*, *Facility* and *Location outside facilities* (paragraphs f, g and h of the Algerian text), questioned the need to include definitions of terms that were defined in INFCIRC/153.

GOV/COM.24/OR.38/¶31: Germany: a State that had concluded an INFCIRC/153-type safeguards agreement would not need a definition of the terms "nuclear material" and "facility".

GOV/COM.24/OR.38/¶32: Chairman: in the light of comments by Germany, Australia, Algeria and the USA, he would think about how to make reading and interpreting the protocol easier, especially for persons who were not experts in safeguards matters and might conclude it best to include definitions of "nuclear material", "facility" and "location outside facilities".

GOV/COM.24 ROLLING TEXT/REV.1/ADD.1 (28 January 1997)

18. For the purpose of this Protocol:

Article 18 – Definitions

a. *Nuclear fuel cycle-related research and development activities* means those activities which are specifically related to any process or system development aspect of any of the following:

- conversion of nuclear material,
- enrichment of nuclear material,
- fuel fabrication,
- reactors,
- critical facilities ,
- reprocessing of nuclear fuel,
- processing (not including repackaging, or conditioning not involving the separation of elements, for storage or disposal) of intermediate or high-level waste containing plutonium, high enriched uranium or uranium-233,

but do not include activities related to theoretical or basic scientific research or research and development on medical, agricultural and industrial isotope applications, health and environmental effects and improved maintenance.

b. *Site* means that area delimited by..... in the relevant design information for a facility, including a *closed-down facility*, and in the relevant information on a *location outside facilities* where nuclear material is customarily used, including a *closed-down location outside facilities* where nuclear material was customarily used (this is limited to locations with hot cells or where activities related to conversion, enrichment, fuel fabrication or reprocessing were carried out). It shall also include all installations, co-located with the facility or location, for the provision or use of essential services, including: hot cells for processing irradiated materials not containing nuclear material; installations for the treatment, storage and disposal of waste; and buildings associated with specified items identified by ..... under Article 2.a.(iv) above.

> *[The following material would be included in the guidance that the Secretariat will provide to the States to facilitate their completion of the Declaration: In the context of this definition it is noted that the boundaries of a site will often be marked by, or run close to, an outer security barrier. The size and complexity of sites will vary considerably. Some will be quite large and include more than one nuclear facility together with a full complement of support and related services. Others may consist of a single building, or even a single room in a building, and have no co-located services.]*

c. *Specified equipment and non-nuclear material* means equipment and non-nuclear material listed in Annex II to this Protocol.

d. *Decommissioned facility* or *decommissioned location outside facilities* means an installation or location at which residual structures and equipment essential for its use have been removed or rendered inoperable so that it is not used to store and can no longer be used to handle, process or utilize nuclear material.

e. *Closed-down facility* or *closed-down location outside facilities* means an installation or location where operations have been stopped and the nuclear material removed but which has not been decommissioned.

f. *High enriched uranium* means uranium containing 20 percent or more of the uranium-235 isotope.

g. *Location-specific environmental sampling* means the collection of environmental samples (e.g. air, water, vegetation, soil, smears) at, and in the immediate vicinity of, a location specified

by the Agency for the purpose of assisting the Agency to draw conclusions about absence of undeclared nuclear material or nuclear activities the specified location.

h. *Wide-area environmental sampling* means the collection of environmental samples (e.g., air, water, vegetation, soil, smears) at a set of locations within a State specified by the Agency for the purpose of assisting the Agency to draw conclusions about the absence of undeclared nuclear material or nuclear activities over a wide area within the State.

i. *Nuclear material* means any source or any special fissionable material as defined in Article XX of the Statute. The term source material shall not be interpreted as applying to ore or ore residue.

j. *Facility* means:

(i) A reactor, a critical facility, a conversion plant, a fabrication plant, a reprocessing plant, an isotope separation plant or a separate storage installation; or

(ii) Any location where *nuclear material* in amounts greater than one effective kilogram is customarily used.

k. *Location outside facilities* means any installation or location, which is not a facility, where nuclear material is customarily used in amounts of one effective kilogram or less.

GOV/COM.24/OR.48/¶86: Chairman: the text, after paragraph b., incorporating clarifications with respect to the definition of "*site*", would be included in the guidance provided to States by the Secretariat.

GOV/COM.24/OR.48/¶87: Secretariat: to make clear that the word "isotope" in article 18.a. applied only to industrial applications and not to medical or agricultural applications change text to read "medical and agricultural applications, and industrial isotope applications".

GOV/COM.24/OR.48/¶88: Chairman: no comments on article 18.b.

GOV/COM.24/OR.48/¶89: Finland: the definition in article 18.c. of specified equipment and non-nuclear material could be transferred to the substantive part of the Protocol since the term was used in only one place.

GOV/COM.24/OR.48/¶90: Chairman: no comments on articles 18.d. and e.

GOV/COM.24/OR.48/¶91:Netherlands: asked why the reference to uranium-233 had been omitted from the definition in article 18.f. and was this in conflict with paragraph 105 of INFCIRC/153.

GOV/COM.24/OR.48/¶93: Secretariat: the definition in paragraph 105 of INFCIRC/153 concerned the term "enrichment", whereas the definition of high enriched uranium was as set down in the present article 18.f. and was not in conflict with INFCIRC/153, and it would be inappropriate to add a reference to uranium-233.

GOV/COM.24/OR.48/¶95, 97 and 107: Republic of Korea: there appeared to be an inconsistency between the purpose of location-specific environmental sampling in article 18.g., "... for the purpose of assisting the Agency to draw conclusions about the absence of undeclared nuclear material or nuclear activities at the specified location", on the one hand, and the purpose of "location-specific environmental sampling" in article 4.a.(ii), for resolving "a question relating to the correctness and completeness of the information provided pursuant to article 2 or to resolve an inconsistency relating to that information". His delegation was uncomfortable with that apparent inconsistency and wondered

whether the Secretariat thought it might give rise to any problems of implementation in the future, but if the Committee was comfortable with the definition, his delegation would not insist on changing the wording and go along with it, on the understanding that if any problems of interpretation arose in the future, the definition would be interpreted narrowly in accordance with article 4.a. (ii).

GOV/COM.24/OR.48/¶108: Chairman: recommended that the existing text be retained.

GOV/COM.24/OR.48/¶109: Chairman: commas needed to be added to the English text of article 18.h. in the second line, the first after "locations" and the second after "State".

GOV/COM.24/OR.48/¶110: Islamic Republic of Iran: asked whether the term "within a State" and the term "within the State" which had just been placed between commas at the end of the paragraph referred to the State as a geographical concept or whether they meant any territory under the jurisdiction of a State.

GOV/COM.24/OR.48/¶111: Germany: the words to which Iran had drawn attention might not be necessary and could be deleted.

GOV/COM.24/OR.49/¶1: Chairman: suggest deletion of "within a State" and "within the State" on the understanding that the point in question would be covered by the paragraphs in safeguards agreements which were based on paragraph 2 of INFCIRC/153.

GOV/COM.24/OR.49/¶2: Chairman: article 18.i. was identical with the first two sentences of paragraph 112 of INFCIRC/153 and suggested it be expanded to encompass all of paragraph 112.

GOV/COM.24/OR.49/¶4: Chairman: no comments on article 18.k; the Committee had completed its discussion of article 18.

GOV/COM.24/Chairman’s REVISED TEXT (5 February 1997)

18. For the purpose of this Protocol:

a. *Nuclear fuel cycle-rela1ed research and development activities* means those activities which are specifically related to any process or system development aspect of any of the following:

- conversion of *nuclear material,*
- enrichment of *nuclear ma1erial,*
- fuel fabrication,
- reactors,
- critical facilities,
- reprocessing of nuclear fuel,
- processing (not including repackaging or conditioning not involving the separation of elements, for storage or disposal) of intermediate or high-level waste containing plutonium, *high enriched uranium* or uranium-233,

but do not include activities related to theoretical or basic scientific research or to research and development on industrial isotope applications, medical and agricultural applications, health and environmental effects and improved maintenance.

b. *Site* means that area delimited by..... in the relevant design information for a *facility,* including a *closed-down facility,* and in the relevant information on a *location outside facilities* where *nuclear material* is customarily used, including a *closed-down location outside facilities*

where *nuclear material* was customarily used (this is limited to locations with hot cells or where activities related to conversion, enrichment, fuel fabrication or reprocessing were carried out). It shall also include all installations, co-located with the *facility* or location, for the provision or use of essential services, including: hot cells for processing irradiated materials not containing *nuclear material;* installations for the treatment, storage and disposal of waste; and buildings associated with specified items identified by ..... under Article 2.a.(iv) above.

c. *Specified equipment and non-nuclear material* means equipment and non-nuclear material listed in Annex II to this Protocol.

d. *Decommissioned facility* or *decommissioned location outside facilities* means an installation or location at which residual structures and equipment essential for its use have been removed or rendered inoperable so that it is not used to store and can no longer be used to handle, process or utilize *nuclear material.*

e. *Closed-down facility* or *closed-down location outside facilities* means an installation or location where operations have been stopped and the *nuclear material* removed but which has not been decommissioned.

f. *High enriched uranium* means uranium containing 20 percent or more of the isotope uranium-235.

g. *Location-specific environmental sampling* means the collection of environmental samples (e.g., air, water, vegetation, soil, smears) at, and in the immediate vicinity of, a location specified by the Agency for the purpose of assisting the Agency to draw conclusions about the absence of undeclared *nuclear material* or nuclear activities at the specified location.

h. *Wide-area environmental sampling* means the collection of environmental samples (e.g., air, water, vegetation, soil, smears) at a set of locations specified by the Agency for the purpose of assisting the Agency to draw conclusions about the absence of undeclared *nuclear material* or nuclear activities over a wide area.

i. *Nuclear material* means any source or any special fissionable material as defined in Article XX of the Statute. The term source material shall not be interpreted as applying to ore or ore residue. Any determination by the Board under Article XX of the Statute of the Agency after the entry into force of this Protocol which adds to the materials considered to be source material or special fissionable material shall have effect under this Protocol only upon acceptance by......

j. *Facility* means:

(i) A reactor, a critical facility, a conversion plant, a fabrication plant, a reprocessing plant, an isotope separation plant or a separate storage installation; or

(ii) Any location where *nuclear material* in amounts greater than one effective kilogram is customarily used.

k. *Location outside facilities* means any installation or location, which is not a *facility,* where *nuclear material* is customarily used in amounts of one effective kilogram or less.

> GOV/COM.24/OR.51/¶22: Secretariat: annex II contained a list of single-use items related to the implementation of a given nuclear technology; states bound by the protocol should simply inform the Agency when they exported any of the items in question to another state; the system had nothing to do whatever with the state's decision to undertake such an export.

GOV/COM.24/OR.51/¶23: Chairman: took it that there was no objection to amendment of article 2.a.(ix), as proposed by the Belgian delegation, with the consequent deletion of article 18.c.

GOV/COM.24/OR.51/¶70: Algeria: add "nuclear" before "fuel fabrication" in line with "reprocessing of nuclear fuel".

GOV/COM.24/OR.51/¶71: Germany: articles 18.i. and j. were only really relevant if those definitions had not already been included in a safeguards agreement based on INFCIRC/153.

GOV/COM.24/OR.51/¶73: Algeria: insert "hydrological" after "medical" in 18.a..

GOV/COM.24/OR.51/¶74: Brazil: use "radioisotope" instead of "isotope" between the words "industrial" and "applications" in article 18.a.

GOV/COM.24/OR.51/¶75: Secretariat: the Algerian and Brazilian suggestions were useful.

GOV/COM.24/OR.51/¶76: Chairman: took it that the Committee was agreeable to inserting "nuclear" before "fuel fabrication" and "hydrological" after "medical", and to use "radioisotope" instead of "isotope" in article 18.a.

42. Annex I- List of Activities Referred to in Article 2.a.(iv) of the Protocol

INFCIRC/540 (Corrected)

(i) The manufacture of centrifuge rotor tubes or the assembly of gas centrifuges.
Centrifuge rotor tubes means thin-walled cylinders as described in entry 5.1.1(b) of Annex II.
Gas centrifuges means centrifuges as described in the Introductory Note to entry 5.1 of Annex II.
(ii) The manufacture of diffusion barriers.
Diffusion barriers mean thin, porous filters as described in entry 5.3.1(a) of Annex II.
(iii) The manufacture or assembly of laser-based systems.
Laser-based systems means systems incorporating those items as described in entry 5.7 of Annex II.
(iv) The manufacture or assembly of electromagnetic isotope separators.
Electromagnetic isotope separators means those items referred to in entry 5.9.1 of Annex II containing ion sources as described in 5.9.1(a) of Annex II.
(v) The manufacture or assembly of columns or extraction equipment.
Columns or extraction equipment means those items as described in entries 5.6.1, 5.6.2, 5.6.3, 5.6.5, 5.6.6, 5.6.7 and 5.6.8 of Annex II.
(vi) The manufacture of aerodynamic separation nozzles or vortex tubes.
Aerodynamic separation nozzles or vortex tubes means separation nozzles and vortex tubes as described respectively in entries 5.5.1 and 5.5.2 of Annex II.
(vii) The manufacture or assembly of uranium plasma generation systems.
Uranium plasma generation systems means systems for the generation of uranium plasma as described in entry 5.8.3 of Annex II.
(viii) The manufacture of zirconium tubes.
Zirconium tubes means tubes as described in entry 1.6 of Annex II.
(ix) The manufacture or upgrading of heavy water or deuterium.
Heavy water or deuterium means deuterium, heavy water (deuterium oxide) and any other deuterium compound in which the ratio of deuterium to hydrogen atoms exceeds 1:5000.
(x) The manufacture of nuclear grade graphite.
Nuclear grade graphite means graphite having a purity level better than 5 parts per million boron equivalent and with a density greater than 1.50 g/cm^3.
(xi) The manufacture of flasks for irradiated fuel.
A flask for irradiated fuel means a vessel for the transportation and/or storage of irradiated fuel which provides chemical, thermal and radiological protection, and dissipates decay heat during handling, transportation and storage.
(xii) The manufacture of reactor control rods.

Reactor control rods means rods as described in entry 1.4 of Annex II.

(xiii) The manufacture of criticality safe tanks and vessels.

Criticality safe tanks and vessels means those items as described in entries 3.2 and 3.4 of Annex II.

(xiv) The manufacture of irradiated fuel element chopping machines.

Irradiated fuel element chopping machines means equipment as described in entry 3.1 of Annex II.

(xv) The construction of hot cells.

Hot cells means a cell or interconnected cells totaling at least 6 m^3 in volume with shielding equal to or greater than the equivalent of 0.5 m of concrete, with a density of3.2 g/cm^3 or greater, outfitted with equipment for remote operations.

Annex III of the "Discussion Draft" of 21 November 1995

15.a Location directly related to the operation of facilities, of locations outside facilities where nuclear material is customarily used or of other locations where nuclear fuel cycle-related research and development activities means any location in ..... of auxiliary undertaking which provide certain services functionally required for the operation of facilities, locations outside facilities where nuclear material is customarily used or nuclear fuel cycle-related research and development activities. Such locations do not include facilities, locations outside facilities where nuclear material is customarily used or other locations where nuclear fuel cycle-related research and development are carried out. They include the following locations, as well as those identified by the Agency Secretariat and approved by the Board of Governors from time to time:

(i) Locations related to enrichment:
- (a) uranium enrichment centrifuge rotor tube manufacture and centrifuge assembly workshops
- (b) diffusion membrane production
- (c) assembly and maintenance of copper vapor and other laser systems for enrichment
- (d) electromagnetic separator manufacturing and maintenance
- (e) manufacturing and maintenance of columns and extraction equipment for chemical or ion exchange enrichment
- (f) manufacturing and maintenance of separation nozzles or vortex rubes for aerodynamic separation
- (g) manufacturing and maintenance of uranium plasma generation systems;

(ii) Locations related to fuel fabrication
- (a) zirca]oy tube production

(iii) Locations related to reactors
- (a) beryllium production
- (b) boron-l0 enrichment
- (c) lithium enrichment
- (d) tritium extraction
- (e) hot cells for processing irradiated materials
- (f) heavy water and deuterium production and upgrading
- (g) manufacture and maintenance of flasks for irradiated fuel

(h) neutron absorbing control rod production
(i) nuclear grade graphite production and machining

(iv) Locations related to reprocessing:
(a) radioactive waste handling, treatment, storage and disposal.

Annex III of the "Discussion Draft II" of 27 February 1996

15.a. Activities directly related to the operation of facilities. or of locations outside facilities where nuclear material is customarily used or of other locations where nuclear fuel cycle-related research and development activities means any auxiliary undertaking in ..... which provides certain services functionally required for the operation of facilities, locations outside facilities where nuclear material is customarily used or nuclear fuel cycle-related research and development activities. Such activities do not include facilities, locations outside facilities where nuclear material is customarily used or other locations where nuclear fuel cycle-related research and development are carried out. They include the following activities, as well as those identified by the Agency Secretariat and approved by the Board of Governors from time to time:

(i) Activities related to enrichment:
(a) uranium enrichment centrifuge rotor tube manufacture and gas centrifuge assembly workshops;
(b) diffusion membrane production;
(c) assembly and maintenance of copper vapor and other laser systems for enrichment;
(d) electromagnetic separator manufacturing and maintenance;
(e) manufacturing and maintenance of columns and extraction equipment for chemical or ion exchange enrichment;
(f) manufacturing and maintenance of separation nozzles or vortex tubes for aerodynamic separation; and
(g) manufacturing and maintenance of uranium plasma generation systems;

(ii) Activities related to fuel fabrication:
(a) zircaloy tube production;

(iii) Activities related to reactors:
(a) beryllium production;
(b) boron-10 isotope separation;
(c) lithium enrichment;
(d) tritium extraction;
(e) hot cells for processing irradiated materials;
(f) heavy water and deuterium production and upgrading;
(g) manufacture and maintenance of flasks for irradiated fuel;
(h) neutron absorbing control rod production; and
(i) nuclear grade graphite production and machining

(iv) Activities related to reprocessing:
(a) radioactive waste handling, treatment, storage and disposal.

Annex III of GOV/2863, 6 May 1996

16. a. Manufacture, assembly or maintenance of specified items directly related to the operation of facilities. or of locations outside facilities where nuclear material is customarily used or of other locations where nuclear fuel cycle-related research and development activities means the following, as well as such other items as are specified by the Board of Governors of the Agency from time to time acting by a two-thirds majority of the Members present and voting. Any such modification by the Board of Governors after entry into force of this Protocol shall have effect upon its adoption by the Board of Governors.

(i) uranium enrichment centrifuge rotor tubes (manufacture) and gas centrifuges (assembly);
(ii) diffusion membrane for enrichment (manufacture);
(iii) copper vapor and other laser systems for enrichment (assembly and maintenance);
(iv) electromagnetic separators (manufacture and maintenance);
(v) columns and extraction equipment for chemical or ion exchange enrichment (manufacture and maintenance);
(vi) separation nozzles or vortex tubes for aerodynamic separation (manufacture and maintenance) ;
(vii) uranium plasma generation systems (manufacture and maintenance);
(viii) zircaloy tube (manufacture);
(ix) beryllium (manufacture);
(x) boron-10 isotope (manufacture);
(xi) enriched lithium (manufacture);
(xii) tritium (manufacture);
(xiii) heavy water and deuterium (manufacture and upgrading);
(xiv) flasks for irradiated fuel (manufacture and maintenance);
(xv) neutron absorbing control rods (manufacture); and
(xvi) nuclear grade graphite (manufacture and machining).

GOV/COM.24/W.P. 11: Algeria: first part of paragraph a. should be included in the body of the article which refer to them; move the list in the second part of paragraph a. to an annex; any modification to the list should be regarded as an amendment to the protocol and be made in accordance with the amendment procedure; in sub-paragraph (iv), the electromagnetic separators referred to should be "operational and capable of achieving an annual production of significant quantities of fissile isotopes"; merge sub-paragraphs (x) and (xv) into a single sub-paragraph to read: "boron-10 and neutron absorbing control rods (manufacture)".

GOV/COM.24/W.P. 12: Argentina: delete the two sentences of the paragraph and replace with "Specified items means:" In (ii), insert "uranium" before "enrichment"; add after (xvi) the following: "directly related to the operation of facilities, or of locations outside facilities where nuclear material is customarily used and where the activities mentioned in paragraph b of the present Article are carried out."

GOV/COM.24/W.P. 6: Austria: amend Article 16.a. to read: "Manufacture, assembly or maintenance of items specified in Annex 1 that are directly related to the operation of (a) facilities, (b) locations outside facilities where nuclear material is customarily used or (c) nuclear fuel cycle-related research and development activities. The list in Annex 1 may be amended by the addition of other items as are specified by the Board of Governors of

the Agency from time to time acting by a two-thirds majority of the Members present and voting. Any such modification by the Board of Governors after entry into force of this Protocol shall have effect upon its adoption by the Board of Governors." Make the following changes to the sub-paragraphs, which would go in a new Annex 1: In (i) delete "uranium"; in (iv) insert "for enrichment capable of providing a total ion beam current of 50 mA or greater" after "separators"; in (vi) insert "aerodynamic" before "separation nozzles" and replace "aerodynamic separation" with "enrichment"; in (xi) delete (and renumber the following sub-paragraphs); in (xii) replace "manufacture" with "facilities for recovery"; in (xiii) replace "maintenance" with "decontamination"; (xv) delete "and" at the end; in (xvi) insert "for nuclear reactor use" after "graphite" and add "and" at the end; and add the following new sub-paragraph to read: "irradiated nuclear fuel chopping or shearing machines (manufacture)". Include list of items in 16.a. as modified by Austria in an Annex 1 to this Protocol, a chapeau or title thereof to read: "Definition list of specified items according to Article 16.a. directly related to the operation of: (a) facilities, (b) locations outside facilities where nuclear material is customarily used or, (c) nuclear fuel cycle related research and development activities".

GOV/COM.24/W.P. 4/Add.1: Belgium: The procedure for updating the lists should be in line with the procedure for amending the Protocol.

GOV/COM.24/W.P. 19: Egypt: add at the end "and approval by ....."; insert "for uranium enrichment" after "separators" in (iv); in (vi) add at the end "for the purpose of uranium enrichment".

GOV/COM.24/W.P. 5: Finland: delete from the definitions and move modified text to a new Annex. Proposed the following as Annex A to the Additional Protocol: "Definitions relevant to Article 1.a.(iv) and Article 1.a.(ix) and provisions for modifying these definitions

1. Manufacture, assembly or maintenance of specified items directly related to the operation of facilities ..... means the following, as well as such other items as are specified by the Board of Governors of the Agency from time to time acting by a two-thirds majority of the Members present and voting.

(i) uranium enrichment ...

(xvi) graphite (manufacture and machining)

Any such modification by the Board of Governors after entry into force of this Protocol shall have effect after 90 days of its adoption by the Board of Governors unless ..... as the other Party to the Safeguards Agreement notifies the Agency of a reservation to apply the modification or a given part of it. {The remainder of this comment is included under Annex II.}

GOV/COM.24/W.P. 10: Germany: delete "or maintenance" at the beginning of paragraph a. and the words "and maintenance" in a.(iii) to (vii) and (xiv); either delete "other locations where" or add "are carried out" after "development activities". Add at the end of the paragraph "and its acceptance by (State)". Delete the words "from time to time ... voting" in paragraph a. Replace "enrichment" in (ii), (iii) and (v) by "uranium or

plutonium enrichment"; add "for uranium or plutonium enrichment" in (iv) and (vi); delete in (xvi) "and machining".

GOV/COM.24/W.P. 3 Corr.1: Japan: delete (xi) and (xii); in (xvi), insert "for use in a nuclear reactor" after "graphite".

GOV/COM.24/W.P. 16: Slovakia: include 16.a. and 16.d. in an annex which would be an integral part of the Protocol. See also under article 1.a.(iv) and article 1.a.(ix).

GOV/COM.24/W.P. 1: Spain: this should become article 1 of the protocol; the list of activities (i) - (xvi) should become annex 1; delete "maintenance" in the first line and the list of activities; replace "means the following" with "has the meanings indicated in Annex 1", the list of activities that appears later in that paragraph being transferred to Annex 1; replace "such other items as are specified by the Board of Governors of the Agency ... its adoption by the Board of Governors" with "such other items as are approved by the Board of Governors and endorsed by the General Conference. Any such modification made after entry into force of this Protocol shall have effect upon its approval by the. Board of Governors and the General Conference".

GOV/COM.24/OR.19/¶2-3: Secretariat: With regard to the words "Manufacture, assembly or maintenance" in Article 16.a., he emphasized that they represented alternatives: States reporting on - say - the manufacture of certain items would not be required to report on their assembly or on their maintenance. With regard to items (i)-(xvi) listed in Article 16.a., they now appeared as Annex I in the Rolling Text, with a few modifications (for example, the replacement of "tritium (manufacture)" by "Facilities for recovery of tritium").

GOV/COM.24/OR.19/¶4-7: USA: in (i) delete "uranium"; oppose insertion of "uranium or plutonium" before "enrichment" in (ii), (iii) and (v) and "for uranium or plutonium enrichment" in (iv) and (vi), in order to "capture" equipment being used in the enrichment of light isotopes that could be adapted for use in uranium or plutonium enrichment; add "(xvii) hot cells capable of handling irradiated nuclear material (assembly and maintenance)"; put articles 16.a. and 16.d. in annexes; modifications should not necessitate amendments to the protocol.

GOV/COM.24/OR.19/¶26: Czech Republic: amend the last sentence of 16.a. to read "Any such modification by the Board of Governors after entry into force of this Protocol shall have effect under this Protocol only upon its adoption by the Board of Governors and acceptance by the State" (supported by Syrian Arab Republic (69)).

GOV/COM.24/OR.19/¶28: Egypt: include references to uranium and plutonium as proposed by Germany.

GOV/COM.24/OR.19/¶42: Belgium, supported by Spain (¶46), USA (¶48), Austria with committee appointed by the Director General (¶52), Germany with committee established by Board (¶55), Japan with Board approval of the committee's recommendations being subsequently confirmed by the General Conference (¶57), UK (¶67), Greece (¶70), Nigeria and France (¶72)]: suggested the Board establish an open-ended committee of experts to review the lists, reporting to the Board with recommendations within a

specified time to avoid a situation where some States were taking decisions on behalf of all.

GOV/COM.24/OR.19/¶49: China: modifications to article 16.a. should be adopted by consensus decisions of the Board.

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
LIST OF ACTIVITIES REFERRED TO IN ARTICLE 1.a.(iv) OF THE PROTOCOL

(i) The manufacture of centrifuge rotor tubes or the assembly of gas centrifuges [capable of] [for] enriching nuclear material.
(ii) The manufacture of diffusion membranes [capable of] [for] enriching nuclear material.
(iii) The manufacture or assembly of copper vapor or other laser systems [capable of] [for] enriching nuclear material.
(iv) The manufacture or assembly of electromagnetic separators providing a total ion beam current of 50mA or greater [and capable of] [for] enriching nuclear material.
(v) The manufacture or assembly of columns or extraction equipment [capable of] [for] chemical or ion exchange enrichment of nuclear material.
(vi) The manufacture of aerodynamic separation nozzles or vortex tubes [capable of] [for] enriching nuclear material.
(vii) The manufacture or assembly of uranium plasma generation systems.
(viii) The manufacture of zircalloy tubes.
(ix) The manufacture of beryllium.
(x) The manufacture of boron-10 isotope.
(xi) Facilities for recovery of tritium.
(xii) The manufacturing or upgrading of heavy water or deuterium.
(xiii) The manufacture or decontamination of flasks for irradiated fuel.
(xiv) The manufacture of neutron absorbing control rods.
(xv) The manufacture or machining of nuclear grade graphite for nuclear reactor use.
(xvi) The manufacture of irradiated nuclear fuel chopping or shearing machines.

[The above list may be amended by the Board. Any such amendment by the Board shall have effect upon its adoption by the Board and confirmation by the General Conference.]

GOV/COM.24/OR.36/¶61-63 and attachment and OR.38¶34: Canada: proposed the following new text intended to provide the Agency with an overview of the infrastructure directly supporting a State's nuclear fuel cycle so that the Agency would be able to provide assurance that the activities in question were being pursued exclusively in connection with the state's declared nuclear program; all of the items in the new text were directly related to the operation of reactors, enrichment, fuel fabrication and reprocessing; the new text provided greater technical specificity through references to annex II; in cases where an item appeared in both annexes I and II.

"Annex I

(i) The manufacture of *centrifuge rotor tubes* or the assembly of *gas centrifuges*.

Centrifuge rotor tubes means thin-walled cylinders as described in entry 5.1.1(b) of Annex II.

Gas centrifuges means centrifuges as described in the introductory note to entry 5.1 of Annex II.

(ii) The manufacture of *diffusion membranes*.

Diffusion membranes mean thin, porous filters as described in entry 5.3.1(a) of Annex II.

(iii) The manufacture or assembly of *laser based systems*.

Laser based systems means those items as described in entry 5.7 of Annex II.

(iv) The manufacture or assembly of electromagnetic separators providing a total ion beam current of 50 mA or greater.

(v) The manufacture or assembly of *columns or extraction equipment*.

Columns or extraction equipment means those items described in entries 5.6.1, 5.6.2, 5.6.3, 5.6.5, 5.6.6, 5.6.7, and 5.6.8 of Annex II.

(vi) The manufacture of *aerodynamic separation nozzles* or *vortex tubes.*

Aerodynamic separation nozzles or *vortex tubes* means separation nozzles and vortex tubes as described respectively in entries 5.5.1 and 5.5.2 of Annex II.

(vii) The manufacture or assembly of *uranium plasma generation systems*.

Uranium plasma generation systems means systems for the generation of uranium plasma as described in entry 5.8.3 of Annex II.

(viii) The manufacture of *zirconium tubes*.

Zirconium tubes means tubes or assemblies of tubes as described in entry 1.6 of Annex II.

(ix) The manufacture or upgrading of *heavy water or deuterium* for nuclear reactor use.

Heavy water or deuterium means deuterium, heavy water (deuterium oxide) and any other deuterium compound in which the ratio of deuterium to hydrogen atoms exceeds 1:5000 (as described in entry 2.1 of Annex II).

(x) The manufacture or decontamination of *flasks for irradiated fuel*.

A flask for irradiated fuel means a vessel for the transportation and/or storage of irradiated fuel which provides chemical, thermal, and radiological protection, and dissipates decay heat during handling, transportation, and storage.

(xi) The manufacture of *neutron absorbing control rods*.

Neutron absorbing control rods means rods as described in entry 1.4 of Annex II.

(xii) The manufacture or machining of *nuclear grade graphite* for nuclear reactor use.

Nuclear grade graphite means graphite having a purity level better than 5 parts per million boron equivalents and with a density greater than 1.50 g/cm^3 (as described in entry 2.2 of Annex II).

(xiii) The manufacture of *criticality safe tanks*.

Criticality safe tanks means tanks as described in entries 3.2 and 3.4 of Annex II.

(xiv) The manufacture of *irradiated nuclear fuel chopping or shearing machines*.

Irradiated nuclear fuel chopping or shearing machines means equipment as described in entry 3.1 of Annex II.

(xv) The manufacture of *hot cells*.

Hot cells means a cell or a series of cells totaling at least 6 m^3 in volume with shielding equal to or greater than the equivalent of 0.5 meter of conventional concrete outfitted with equipment for remote operations."

GOV/COM.24/OR.38¶42: Argentina: for item (i) preferred the Canadian text.

GOV/COM.24/OR.38¶43: Chairman: no comments on item (ii).

GOV/COM.24/OR.38¶44: Germany: following a discussion involving Canada, the Secretariat and the Chairman, "*laser based systems*" in item (iii) should read "*laser systems*" (as in the Rolling Text) and "entry 5.7" should read "entry 5.7.13".

GOV/COM.24/OR.38¶46: Germany: in item (iv) add a reference to entry 5.9.1.

GOV/COM.24/OR.38¶47: Chairman: no comments on items (v), (vi) and (vii).

GOV/COM.24/OR.38¶49: Secretariat: in item (viii) "zirconium tubes" was preferable to "zircalloy tubes".

GOV/COM.24/OR.38¶52: Germany: add "for nuclear use" in item (viii) after "zirconium tubes" as was already in items (ix) and (xii).

GOV/COM.24/OR.38¶55: Algeria: change to "tubes of zirconium alloy".

GOV/COM.24/OR.38¶56: Germany: since entry 1.6 of Annex II referred to "Zirconium metal and alloys ...", "tubes of zirconium alloy" would not be a better formulation.

GOV/COM.24/OR.38¶57: Chairman: amend item (viii) only by addition of "for nuclear reactor use".

GOV/COM.24/OR.38¶58, 59, 60, 65 and 69: Australia, Austria, Greece and France: in item (ix) delete "for nuclear reactor use", to avoid a situation where a state operating a CANDU reactor and a heavy water manufacturing plant was required to submit information about the heavy water manufacturing plant while a state without a CANDU reactor but operating such a plant was, on the grounds that there was no ostensible nuclear use for the heavy water, not required to submit information.

GOV/COM.24/OR.38¶62: Secretariat: such information might be useful in assessing how important parts of a country's infrastructure correlated with the requirements of the national fuel cycle.

GOV/COM.24/OR.38¶67, 68, 70: Germany, Sweden, USA and Mexico: retain "for nuclear reactor use" in item (ix).

GOV/COM.24/OR.38¶73: Chairman: the Committee was currently not in a position to resolve the question of the phrase "for nuclear reactor use" in items (viii), (ix) and (xii) and postponed further discussion of those items.

GOV/COM.24/OR.38¶74: Germany and Switzerland: re item (x) doubted the practicability and advisability of including the decontamination of flasks for irradiated fuel.

GOV/COM.24/OR.38¶75: USA: retain item (x) as it stood.

GOV/COM.24/OR.38¶76 and 78: Secretariat: many countries which did not manufacture flasks for irradiated fuel made use of such flasks, which had to be decontaminated after use, usually at nuclear sites, and information on decontamination infrastructures and decontamination activities could be useful.

GOV/COM.24/OR.38¶79: Chairman: will look into whether the reference to "decontamination" could be deleted.

GOV/COM.24/OR.38¶80: Germany: in (xi) replace "*neutron absorbing control rods*" by "*reactor control rods*" for the sake of consistency with entry 1.4 of Annex II.

GOV/COM.24/OR.38¶82: Germany: amend item (xiii) to read "... criticality safe tanks and vessels", since entry 3.4 of Annex II used the word "vessels".

GOV/COM.24/OR.38¶84: Germany: change item (xiv) to be in line with entry 3.1 of Annex II, which referred to "Irradiated fuel element chopping machines".

GOV/COM.24/OR.38¶81, 83 and 85: Chairman said that, if members of the Committee had no objections, that amendment would be made to items (xi), (xiii) and (xiv).

GOV/COM.24/OR.39¶2-5: USA, supported by Germany, Algeria and the Secretariat: in item (xv) replace "conventional concrete" with "concrete with a density of 3.2 g/cm^3 or greater”

GOV/COM.24/OR.39¶3: Germany: in item (xv) change "manufacture of hot cells" to "construction of hot cells".

GOV/COM.24/OR.39¶7: Austria: in item (xii) in the Canadian text omit "for nuclear reactor use" and leave it to the Agency to decide on the intended use.

GOV/COM.24/OR.39¶8: Chairman: item (xii) seems generally satisfactory, except for the phrase "for nuclear reactor use" which would be duly taken into account.

> GOV/COM.24/OR.39¶9, 11, 12, 17: Greece, Sweden, Austria and Finland: beryllium (item (ix) in the Rolling Text) should be included in annex I, since it was an indicator of the manufacturing infrastructure of a state, and also it could be used for increasing the neutron flux of research reactors in order to produce materials of strategic importance.

GOV/COM.24/OR.39¶10, 13, 15: Algeria, Japan, USA: omit beryllium because it already existed in nature as beryllium oxide so, if beryllium was to be included at all, the manufacture of a particular form such as metallic beryllium would need to be specified and water could also be used as a reflector in a reactor, so water might just as well be added to the list.

GOV/COM.24/OR.39¶19: Secretariat: while the power of a research reactor could be raised with the aid of a beryllium reflector, the same effect could be achieved with any material that was a good reflector in combination with an enhanced way of removing heat, thus, beryllium was not a key element in the nuclear fuel cycle; the same applied to boron and tritium, for which alternatives were available, but there was an argument in favor of including tritium on the list irrespective of its relation to the fuel cycle, since the presence of tritium was indicative of the presence of nuclear material somewhere.

GOV/COM.24/OR.39¶21: Algeria: omit boron-10 (item (x) in the Rolling Text), since the text contained an item on neutron-absorbing control rods which would cover the manufacture of boron and other absorbing elements.

GOV/COM.24/OR.39¶22: Chairman: took it the Committee was agreeable to the deletion of item (x), the manufacture of boron-10 isotope, from the original list.

GOV/COM.24/OR.39¶23-26: Australia, Algeria and New Zealand: facilities for extracting and recovering tritium should be on the list, since tritium was an essential component of thermonuclear weapons, and an important ingredient of boosted fission weapons, which were within the reach of a reasonably competent first-time weapon developing state.

GOV/COM.24/OR.39¶27: Japan: omit tritium.

GOV/COM.24/OR.39¶28-29: Canada: omit tritium, as it did not need to be present to have a nuclear weapon.

GOV/COM.24/OR.39¶30: UK: the list should focus on enrichment and reprocessing, and items (ix), (x) and (xi) in the old list were of lesser importance.

GOV/COM.24/OR.39¶32: Austria: include tritium since it was in the "physical model" covering each nuclear activity involved in the fuel cycle from source material acquisition to the production of weapons-useable nuclear material and then beyond to weaponization.

GOV/COM.24/OR.39¶33: France: omit tritium, since it did not determine access to nuclear explosive devices.

GOV/COM.24/OR.39¶36: Secretariat: the underlying aim had been to list not merely all nuclear fuel cycle activities but all known processes by which nuclear material could be obtained, and to identify and describe indicators of the existence of those processes. Such indicators fell into two groups, those which were necessary and sufficient conditions for the presence of a process producing nuclear material, and those which were only indicative of such a process. Beryllium metal, for instance, fell into the latter category, as it was possible to achieve the same effects without using beryllium. Boron-10 was used to manufacture control rods for reactors but was even more important from a safeguards point of view as a means of criticality control; however, it was a dual-use material and did not necessarily imply any non-peaceful activity. The case of tritium was different: although its primary use was as a component of sophisticated weapons, its existence, in itself, indicated the presence of nuclear material somewhere. In the physical model, the weaponization component was generally limited to the production of alpha-emitting radionuclides, such as polonium, and the production of tritium from - for example - lithium enriched in the isotope lithium-6.

GOV/COM.24/OR.39¶39: Chairman: there was significant support for much of the Canadian text, but there had been some concerns regarding items (iii), (viii), (ix), (x) and (xii) and on the omission of beryllium, boron and tritium; he would accordingly attempt to find a route towards consensus by engaging in consultations over the next day or two on these items.

GOV/COM.24/Chairman's Rolling Text/Rev.1/Add.3 (27 January 1997):
ANNEX I
LIST OF ACTIVITIES REFERRED TO IN ARTICLE 2.a.(iv) OF THE PROTOCOL

(i) The manufacture of *centrifuge rotor tubes* or the assembly of *gas centrifuges* .
Centrifuge rotor tubes means thin-walled cylinders as described in entry 5.1.1(b) of Annex II.
Gas centrifuges means centrifuges as described in the Introductory Note to entry 5.1 of Annex II. .

(ii) The manufacture of *diffusion barriers*.
Diffusion barriers means thin, porous filters as described in entry 5.3.1 (a) of Annex II.

(iii) The manufacture or assembly of *laser-based systems*.
Laser-based systems means those items as described in entry 5.7 of Annex II .

(iv) The manufacture or assembly of *electromagnetic isotope separators*.
Electromagnetic isotope separators means those items referred to in entry 5.9.1(a) of Annex II containing ion sources as described in 5.9.1(a) of Annex II.

(v) The manufacture or assembly of *columns* or *extraction equipment.*
Columns or *extraction equipment* means those items as described in entries 5.6.1, 5.6.2, 5.6.3, 5.6.5, 5.6.6, 5.6.7 and 5.6.8 of Annex II.

(vi) The manufacture of *aerodynamic separation nozzles* or *vortex tubes*.
Aerodynamic separation nozzles or *vortex tubes* means separation nozzles and vortex tubes as described respectively in entries 5.5.1 and 5.5.2 of Annex II.

(vii) The manufacture or assembly of *uranium plasma generation systems.*

Uranium plasma generation systems means systems for the generation of uranium plasma as described in entry 5.8.3 of Annex II.

(viii) The manufacture of *zirconium tubes*.
Zirconium tubes means tubes as described in entry 1.6 of Annex II.

(ix) The manufacture or upgrading of *heavy water or deuterium.*
Heavy water or deuterium means deuterium, heavy water (deuterium oxide) and any other deuterium compound in which the ratio of deuterium to hydrogen atoms exceeds 1:5000.

(x) The manufacture of *nuclear grade graphite*.
Nuclear grade graphite means graphite having a purity level better than 5 parts per million boron equivalent and with a density greater than 1.50 g/cm^3.

(xi) The manufacture of *flasks for irradiated fuel.*
A *flask .for irradiated fuel* means a vessel for the transportation and/or storage of irradiated fuel which provides chemical, thermal and radiological protection, and dissipates decay heat during handling, transportation and storage.

(xii) The manufacture of *reactor control rods*.
Reactor control rods means rods as described in entry 1.4 of Annex II.

(xiii) The manufacture of *criticality safe tanks and vessels*.
Criticality safe tanks and vessels means those items as described in entries 3.2 and 3.4 of Annex II.

(xiv) The manufacture of *irradiated fuel element chopping machines.*
Irradiated fuel element chopping machines means equipment as described in entry 3.1 of Annex II.

(xv) The construction of *hot cells*.
Hot cells means a cell or a series of cells totalling at least 6 m^3 in volume with shielding equal to or greater than the equivalent of 0.5 m of concrete, with a density of 3.2 g/cm^3 or greater, outfitted with equipment for remote operations.

GOV/COM.24/OR.44¶1: Chairman: the redrafted version of annex I was the product of extensive consultations and agreement had been reached on all but items (iii) and (viii)-(xi); still had to consider three items from annex I of the original Rolling Text whose omission had been proposed, namely items (ix), (x) and (xi) - relating to beryllium, boron-10 and tritium.

GOV/COM.24/OR.44¶2-10: Secretariat described the background to Annex I, observing that there had been frequent discussions on the need for guidelines - in the style of the "Annotated Outline of Proposed Expanded Declaration" in Annex II to document GOV/2863 - that would clarify for States the reporting requirements arising out of Article 2 of the protocol. Such guidelines would need to deal item by item with the content of Annex I, account being taken of the ideas emerging from the present discussions.

Turning to the first of the five items remaining to be settled - item (iii), "The manufacture or assembly of laser-based systems - he recalled the suggestion that "laser-based systems" be amended to read "laser systems" and the reference to "entry 5.7" be amended to read "entry 5.7.13". Speaking out against those amendments, he said that the guidelines he had just mentioned would make it clear that what the Secretariat was interested in was

not just laser systems per se but all the components necessary for employing lasers in the enrichment of nuclear material. Accordingly, from the standpoint of the Secretariat's needs the formulation "laser-based systems" and the reference to entry 5.7 were preferable.

With regard to item viii, "The manufacture of zirconium tubes", he said that, since the only use of "tubes as described in entry 1.6 of Annex II" was in nuclear reactors, the phrase "for nuclear reactor use" had not been added.

As regards items (ix) and (x), "The manufacture or upgrading of heavy water or deuterium" and "The manufacture of nuclear grade graphite", he said that the guidelines would probably call for at least approximate total production figures for heavy water/deuterium and nuclear grade graphite along with an indication of the distribution of the totals between nuclear and non-nuclear uses.

With regard to item (xi), "The manufacture of flasks for irradiated fuel", he pointed out that the words "or decontamination" had been deleted and said that the Agency would be seeking indications of the extent to which such flasks were used in individual States. In the case of States which did not manufacture such flasks, the Secretariat had felt that decontamination would be a useful indicator. However, as facilities for decontamination were virtually always located on nuclear sites, that activity was covered by another article and need not be referred to in Annex I.

Turning to the three items deleted from the list in the original Rolling Text - relating to beryllium, boron-10 and tritium - he said one might well ask why those particular dual-use non-nuclear materials and not others had been included in the list in the first place: various aluminium alloys, 350-grade maraging steel, titanium alloys and some fibrous or filamentary materials were useful in the manufacture of centrifuge rotors; high-purity bismuth could be used in breeding polonium; high-purity calcium and magnesium could be used as reducing agents in the production of metallic uranium and metallic plutonium; chlorine trifluoride was a dual-use item used in the production of uranium hexafluoride; hafnium could be used in control rods for nuclear reactors; lithium enriched in the isotope lithium-6 were used in breeding tritium; radium-226 could be used as an initiator - just like polonium - in nuclear explosive devices, and so on.

Perhaps the reasons for the inclusion of beryllium had been the fact that metallic beryllium was very difficult to make and an isolated case on record where beryllium had been used as a reflector in a small research reactor to increase its plutonium production potential. As for boron-10, it was widely used for criticality control and in the manufacture of control rods, but it was not unique in that respect. Tritium was an indicator of the presence of nuclear materials, but there was no functional relationship between tritium and the nuclear fuel cycle; it enjoyed a high profile because it was an important component of thermonuclear weapons, but once a State had reached the thermonuclear weapon manufacturing stage one could say that safeguards had failed as far as that State was concerned, because it took a fission device - implying the presence of weapons-usable material - to ignite the tritium. Consequently, the Secretariat did not think it essential that those three non-nuclear materials be covered in Annex I.

The redrafted version of Annex I was in the Secretariat's view an improvement on earlier versions as regards the essential elements related to enrichment and reprocessing.

GOV/COM.24/OR.44¶4: Secretariat: in item (iii) oppose the earlier suggestion that "*laser-based systems*" be amended to read "*laser systems*" and the reference to "entry 5.7" be amended to read "entry 5.7.13", because the Secretariat was interested in not just laser systems per se but all the components necessary for employing lasers in the enrichment of nuclear material.

GOV/COM.24/OR.44¶17: Germany: the formulation "*laser-based systems* means those items as described ..." should read "*laser-based systems* means those systems as described ...".

GOV/COM.24/OR.44¶18: Chairman: after a brief discussion involving Austria, Germany, USA, Egypt, Canada, UK and the Secretariat said he would use the wording: "*Laser-based systems* means systems incorporating those items as described in entry 5.7. of Annex II."

GOV/COM.24/OR.44¶5: Secretariat: regarding item (viii), since the only use of "tubes as described in entry 1.6 of Annex II" was in nuclear reactors, the phrase "for nuclear reactor use" had not been added.

GOV/COM.24/OR.44¶19: Chairman: as there were no comments, the item would remain unchanged.

GOV/COM.24/OR.44¶6: Secretariat: regarding items (ix) and (x), will want at least approximate total production figures for heavy water/deuterium and nuclear grade graphite along with an indication of the distribution of the totals between nuclear and non-nuclear uses.

GOV/COM.24/OR.44¶21: Germany: accept these items on the understanding that *heavy water or deuterium* and *nuclear grade graphite* meant what was stated in entries 2.1 and 2.2 respectively of annex II.

GOV/COM.24/OR.44¶22: Australia: entries 2.1 and 2.2 of annex II contained the phrase "for use in a nuclear reactor" but he understood that the Agency would be seeking information on the manufacture or upgrading of heavy water or deuterium and the manufacture of nuclear grade graphite for all purposes - not just nuclear ones.

GOV/COM.24/OR.44¶23: Germany: in efforts to reach consensus it was sometimes helpful not to be very explicit on points of detail.

GOV/COM.24/OR.44¶25: USA and UK: shared the Australian understanding.

GOV/COM.24/OR.44¶7: Secretariat: regarding item (xi), the words "or decontamination" had been deleted, because facilities for decontamination were virtually always located on nuclear sites and that activity was covered by another article and need not be referred to in annex I.

GOV/COM.24/OR.44¶26: USA: in a spirit of compromise would go along with the proposed formulation, but information on decontamination would be useful to the Agency, and the USA would look into how the Agency might obtain such information.

GOV/COM.24/OR.44¶28: Chairman: assumed there was agreement on item (xi).

GOV/COM.24/OR.44¶8-9: Secretariat: in addition to items (ix), (x) and (xi) in annex I to the Rolling Text of 18 October 1996 (beryllium, boron-10 and tritium), many other dual-use non-nuclear materials had not been included in the list, e.g., various aluminium alloys, 350-grade maraging steel, titanium alloys and some fibrous or filamentary materials useful in the manufacture of centrifuge rotors; high-purity bismuth could be used in breeding polonium; high-purity calcium and magnesium could be used as reducing agents in the production of metallic uranium and metallic plutonium; chlorine trifluoride was used in the production of uranium hexafluoride; hafnium could be used in control rods for nuclear reactors; lithium enriched in the isotope lithium-6 was used in breeding tritium; radium-226 could be used as an initiator - just like polonium - in nuclear explosive devices, and so on. Beryllium had been used in an isolated case as a reflector in a small research reactor to increase its plutonium production potential; boron-10 was widely used for criticality control and in the manufacture of control rods, but it was not unique in that respect; and tritium enjoyed a high profile because it was an important component of thermonuclear weapons, but once a state had reached the thermonuclear weapon manufacturing stage one could say that safeguards had failed as far as that state was concerned, because it took a fission device to ignite the tritium. Consequently, the Secretariat did not think it essential that those three non-nuclear materials be covered in annex I.

GOV/COM.24/OR.44¶11: Chairman: read out the following statement: "Some delegations have argued strongly for the inclusion in the reporting requirements for Annex I of this Protocol of a number of non-nuclear materials and items relevant to nuclear non-proliferation, such as tritium, beryllium and boron-10. My sense of the negotiations at this stage is that this does not attract sufficient support from the Committee. In putting the revised Annex I to you for approval, I believe that greater transparency concerning these and other items will contribute to the fulfillment of the objective of strengthening the efficiency and effectiveness of safeguards. I would therefore strongly encourage States to keep in mind the value of providing such nuclear non-proliferation relevant information to the Secretariat additional to that spelt out in the Protocol and its Annexes. Items such as tritium, beryllium and boron-10 fit into this category. As you know, the implementation of safeguards is not a static process. The current negotiations on the Protocol alone attest to this. We have already ensured that the Protocol maintains a dynamic character through amendment provisions. For Annexes I and II, we have agreed on a simplified amendment procedure, as it is understood that there will be a more frequent need to review their content than other parts of the Safeguards Agreement, including the Protocol."

GOV/COM.24/OR.44¶12-14: Greece, Japan and Austria: could go along with the redrafted version of annex I provided that the statement just read out by the Chairman was included in the record of the meeting.

GOV/COM.24/OR.44¶29: Chairman: assumed, in the light of the statement which he had read out earlier in the meeting, the Committee agreed to the omission in ROLLING TEXT/REV.1/ADD.3 of items (ix), (x) and (xi) - "The manufacture of beryllium", "The manufacture of boron-10 isotope" and "Facilities for recovery of tritium" - in Annex I to the Rolling Text circulated on 18 October 1996.

GOV/COM.24/OR.44¶30: USA: attached great importance to the statement read by the Chairman and hoped that in due course it would be possible to revisit the issues underlying the omission of those entries.

GOV/COM.24/OR.44¶31: Chairman: there appeared to be agreement on annex I as reproduced in ROLLING TEXT/REV.1/ADD.3, which would be reissued soon with item (iii) modified to read "... means systems incorporating those items as described ..." and with the deletion of "(a)" in the first place where it appeared in item (iv).[7]

GOV/COM.24/Chairman's Rolling Text Revised Version of Rolling Text/Rev.1/Add.3 (30 January 1997):

ANNEX I

LIST OF ACTIVITIES REFERRED TO IN ARTICLE 2.a.(iv) OF THE PROTOCOL

(i) The manufacture of *centrifuge rotor tubes* or the assembly of *gas centrifuges.*
Centrifuge rotor tubes means thin-walled cylinders as described in entry 5.1.1(b) of Annex II.
Gas centrifuges means centrifuges as described in the Introductory Note to entry 5.1 of Annex II. .

(ii) The manufacture of *diffusion barriers*.
Diffusion barriers mean thin, porous filters as described in entry 5.3.1 (a) of Annex II.

(iii) The manufacture or assembly of *laser-based systems*.
Laser-based systems means systems incorporating those items as described in entry 5.7 of Annex II .

(iv) The manufacture or assembly of *electromagnetic isotope separators*.
Electromagnetic isotope separators means those items referred to in entry 5.9.1 of Annex II containing ion sources as described in 5.9.1(a) of Annex II.

(v) The manufacture or assembly of *columns* or *extraction equipment.*
Columns or *extraction equipment* means those items as described in entries 5.6.1, 5.6.2, 5.6.3, 5.6.5, 5.6.6, 5.6.7 and 5.6.8 of Annex II.

(vi) The manufacture of *aerodynamic separation nozzles* or *vortex tubes*.
Aerodynamic separation nozzles or *vortex tubes* means separation nozzles and vortex tubes as described respectively in entries 5.5.1 and 5.5.2 of Annex II.

(vii) The manufacture or assembly of *uranium plasma generation systems.*
Uranium plasma generation systems means systems for the generation of uranium plasma as described in entry 5.8.3 of Annex II.

(viii) The manufacture of *zirconium tubes*.
Zirconium tubes means tubes as described in entry 1.6 of Annex II.

(ix) The manufacture or upgrading of *heavy water or deuterium.*
Heavy water or deuterium means deuterium, heavy water (deuterium oxide) and any other deuterium compound in which the ratio of deuterium to hydrogen atoms exceeds 1:5000.

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[7] ROLLING TEXT/REV.1/ADD.3 was reissued as "REVISED VERSION OF ROLLING TEXT/REV.1/ADD.3", dated 30 January 1997.

(x) The manufacture of *nuclear grade graphite*.
Nuclear grade graphite means graphite having a purity level better than 5 parts per million boron equivalent and with a density greater than 1.50 g/cm^3.

(xi) The manufacture of *flasks for irradiated fuel.*
A *flask .for irradiated fuel* means a vessel for the transportation and/or storage of irradiated fuel which provides chemical, thermal and radiological protection, and dissipates decay heat during handling, transportation and storage.

(xii) The manufacture of *reactor control rods*.
Reactor control rods means rods as described in entry 1.4 of Annex II.

(xiii) The manufacture of *criticality safe tanks and vessels*.
Criticality safe tanks and vessels mean those items as described in entries 3.2 and 3.4 of Annex II.

(xiv) The manufacture of *irradiated fuel element chopping machines.*
Irradiated fuel element chopping machines means equipment as described in entry 3.1 of Annex II.

(xv) The construction of *hot cells*.
Hot cells means a cell or a series of cells totaling at least 6 m^3 in volume with shielding equal to or greater than the equivalent of 0.5 m of concrete, with a density of 3.2 g/cm^3 or greater, outfitted with equipment for remote operations.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997) {Same as in Chairman's Rolling Text Revised Version of Rolling Text/Rev.1/Add.3 (30 January 1997).}

GOV/COM.24/OR.51/¶77: Algeria: queried the inclusion of "a series of cells" in item (xv) which might result in very small cells, such as those used in the production of radioisotopes for medical purposes becoming subject to reporting requirements - something it had been agreed should be avoided.

GOV/COM.24/OR.51/¶78 and OR.52/¶1: Secretariat: the same effect could be achieved with one large cell or several smaller ones; amend the phrase "a series of cells" to read "interconnected cells".

GOV/COM.24/OR.52/¶2-3: Chairman: the amendment appeared to be acceptable to Algeria and to the Committee as a whole.

*43. Annex II - List of Specified Equipment and Non-Nuclear Material for the Reporting of Exports and Imports according to Article 2.a.(ix)**

INFCIRC/540 (Corrected)

**This is the list which the Board agreed at its meeting on 24 February 1993 would be used for the purpose of the voluntary reporting scheme. as subsequently amended by the Board.*

Annex III of the "Discussion Draft" of 21 November 1995
15.d. Specified nuclear equipment and non-nuclear material means equipment and non-nuclear material identified in GOV/INF/2629, as modified from time to time by the Board of Governors. Any modification by the Board of Governors after entry into force of this Protocol which adds to the items included under this definition shall have effect upon adoption of the modification by the Board of Governors.
e. Specified nuclear-related dual use equipment and material means such equipment and material as may be specified by the Board of Governors. Any such item specified by the Board of Governors under this definition after entry into force of this Protocol shall have effect under this Protocol upon specification by the Board of Governors.

Annex III of the "Discussion Draft II" of 27 February 1996
15.d. and e. {Same as articles 15.d. and e. of Annex III of the "Discussion Draft" of 21 November 1995.}

Annex III of GOV/2863, 6 May 1996
16. d. Specified equipment and non-nuclear material means:
(i) equipment and non-nuclear material identified in GOV/2629, as modified from time to time by the Board of Governors of the Agency acting by a two-thirds majority of the Members present and voting. Any such modification by the Board of Governors after entry into force of this Protocol shall have effect upon its adoption by the Board of Governors; and
(ii) such other equipment and non-nuclear material as may be specified by the Board of Governors acting by a two-thirds majority of the Members present and voting. Any such modification by the Board of Governors after entry into force of this Protocol shall have effect under this Protocol upon its adoption by the Board of Governors.

GOV/COM.24/W.P. 11: Algeria: paragraph d. should be included in the body of the Articles that refer to them; delete d.(ii).

GOV/COM.24/W.P. 12: Argentina: insert in d.(i) after "identified in" the following: "the ANNEX to the present Protocol, which forms an integral part thereof,"; delete the reference to GOV/2629; in d.(i) and d.(ii) replace "adoption by the Board of Governors" with "acceptance by ......"

GOV/COM.24/W.P. 6: Austria: replace 16.d. with: "Specified equipment and non-nuclear material means equipment and non-nuclear material identified in Annex 2 hereto, as modified from time to time by the Board of Governors of the Agency acting by a two-thirds majority of the Members present and voting. Any such modification by the Board of Governors after entry into force of this Protocol shall have effect upon its adoption by the Board of Governors." Include list of items in 16.d. in an Annex 2 to the Protocol. A chapeau or title thereof to read as follows: "List of specified equipment and material for the reporting of exports and imports according to Article 16.d"

GOV/COM.24/W.P. 4/Add. 1: Belgium: delete reference in d.(i) to GOV/2629 and reproduce the list of items in full; delete d.(ii).

GOV/COM.24/W.P. 19: Egypt: after "Governors" in d.(i) add in the last line "and approved by ....."; after "Governors" in d.(ii) add in the last line "and approved by ....."; include list of specified equipment and non-nuclear material in an Annex. See also under Article 1.a.(ix).

GOV/COM.24/W.P. 5: Finland: delete d. and transfer to new Annex A; replace text with: "2. Specific equipment and non-nuclear material means; a. the following equipment and non-nuclear material: (Add in extenso the description of items approved for reporting purposes only by the Board of Governors and listed in IAEA document GOV/2629 and amendments approved by the Board before the adoption of the Additional Protocol). This definition of equipment and non-nuclear material may be modified by the Board of Governors of the Agency acting by a two-thirds majority of the Members present and voting. Any such modification by the Board of Governors after entry into force of this Protocol shall have effect after 90 days of its adoption by the Board of Governors unless .... as the other Party to the Safeguards Agreement notifies the Agency of a reservation to apply the modification or a given part of it.

b. such other equipment and non-nuclear material as may be specified by the Board of Governors acting by a two-thirds majority of the Members present and voting. Any such modification by the Board of Governors after the entry into force of this Protocol shall have effect after 90 days of its adoption by the Board of Governors unless ... as the other Party to the Safeguards Agreement notifies the Agency of a reservation to apply the modification or a given part of it."

GOV/COM.24/W.P. 10: Germany: replace "GOV/2629" in d.(i) by "INFCIRC/254/Rev.2/Part 1"; merge 16.d.(i) and (ii) to read: "Specified equipment and non-nuclear material means ... equipment and non-nuclear material identified in INFCIRC/254/Rev.2/Part.1 as may be amended by the Board of Governors .... Any such modification ... after entry into force of this Protocol shall have effect under this Protocol upon its adoption by the Board of Governors and its acceptance by (State)."

GOV/COM.24/OR.4/¶58: Philippines: convert GOV/2629 into an INFCIRC to widen its distribution to all Member States and attach to the Protocol.

GOV/COM.24/W.P. 1: Spain: replace with: "(i) the equipment and material especially designed or prepared for the processing, use or production of special fissionable material listed in Annex 2, with the modifications which are from time to time made by the Board

of Governors and endorsed by the General Conference. Any such modification made after entry into force of this Protocol shall have effect upon its approval by the Board of Governors and the General Conference; and (ii) such other equipment and non-nuclear material as may be specified by the Board of Governors and endorsed by the General Conference. Any such modification made after entry into force of this protocol shall have effect under this protocol upon its approval by the Board of Governors and the General Conference". List of equipment and non-nuclear material in existing sub-paragraphs d.(i) and d.(ii) should appear in an Annex to the Protocol. See also comment under Article 1 .a.(iv).

GOV/COM.24/W.P. 7: Switzerland: replace "identified in GOV/2629" in d.(i) with "as per the list included in document INFCIRC/254/Rev.1/Part 1".

GOV/COM.24/Chairman's W.P.2 Rolling Text (18 October 1996):
{Not included, but see article 20.c.}

GOV/COM.24/OR.39¶40: Germany: annex II should be accepted as it stood, without detailed discussion, except that some proof-reading should be done to ensure that the text had been correctly reproduced.

GOV/COM.24/OR.39¶41 and 46: Austria: the list in annex II had been approved by the Board of Governors in 1993 for the voluntary reporting scheme, and should be kept unchanged except for the removal of the word "voluntary"; the need for such a list had been created by Article III.2 of the NPT and work on the list had started in 1972, when a committee, later known as the Zangger Committee, had been established by the exporters of the items in question with a view to facilitating trade in those items while protecting general security interests; the list had over the years received much endorsement at various NPT Review Conferences, especially at the latest one in 1995, but any country not satisfied with the list could address itself to the Board of Governors, which could update the list if it wished.

GOV/COM.24/OR.39¶42: Slovakia: "non-nuclear" should be inserted before "material" in the title of annex II in order to make it consistent with article 20.c.

GOV/COM.24/OR.39¶44: Secretariat: the list was based on the so-called "trigger list" of the Nuclear Suppliers Group and that he could not imagine any list that had been discussed at greater length and in greater detail by more experts than the trigger list.

GOV/COM.24/OR.39¶49: Chairman: would proceed on the assumption that annex II could be accepted without change except for the amendment in its title.

GOV/COM.24/Chairman's REVISED TEXT (5 February 1997)
ANNEX II

LIST OF SPECIFIED EQUIPMENT AND NON-NUCLEAR MATERIAL FOR THE REPORTING OF EXPORTS AND IMPORTS ACCORDING TO ARTICLE 2.a.(ix)•

GOV/COM.24/OR.51/¶79: Egypt: asked that his concern about the ability of the legislative procedures in his country to implement any Board decision on amendment within the four-month time limit be reflected in the Committee's report to the Board of Governors.

GOV/COM.24/OR.51/¶80: Chairman: there being no further comments, took it that the Committee was satisfied with annex II.

• This is the list which the Board agreed at its meeting on 24 February 1993 would be used for the purpose of the voluntary reporting scheme, as subsequently agreed by the Board.

44. Other proposed articles

INFCIRC/540 (Corrected) does not include the following provisions.

Annex III of the "Discussion Draft" of 21 November 1995
14. The implementation of Articles 3 through 6 of this Protocol shall be held in abeyance until such time ..... has, in peaceful nuclear activities within its territory or under its jurisdiction or control anywhere,
(a) Nuclear material in quantities exceeding the limits stated, for the type of material in question [paragraph 36 of INFClRC/153], or
(b) Nuclear material in a facility.

{Annex III of the "Discussion Draft II" of 27 February 1996 and subsequent drafts did not include this provision.}

GOV/COM.24/OR.20 Attachment: Proposal Submitted in Writing by The Islamic Republic of Iran
(a) For the purpose of implementing the provisions of this protocol, nothing contained in this protocol shall limit, or shall be construed as limiting, the inalienable right of (State) to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with the spirit of the Non-Proliferation Treaty.
(b) The (State) undertakes to facilitate the fullest possible co-operation in exchange of equipment, material, scientific and technological information for peaceful uses of nuclear energy with other States which have concluded this protocol with the Agency.

GOV/COM.24/OR.20/¶6: Syrian Arab Republic: supported new article along the lines proposed by Iran.
GOV/COM.24/OR.20/¶7: USA and Canada (¶16): Iranian article was unnecessary as it was already covered by paragraph 4(a) of INFCIRC/153 and Article IV of the NPT.
GOV/COM.24/OR.20/¶21: Spain: opposed paragraph b.
GOV/COM.24/OR.20/¶8: Brazil, Germany (not needed for NPT states but useful for non-NPT states signing the protocol) (¶9), China (¶10), Greece (put in preamble and not in operative part) (¶11-12), Australia (¶13), Nigeria (¶14), Turkey (¶15) and Algeria (¶22): supported new Iranian article.

{This proposal did not appear in any draft of the Additional Protocol, although some aspects of it are included in the preamble.}