

Board of Governors

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Request by the Russian Federation regarding its Initiative to Establish a Reserve of Low Enriched Uranium (LEU) for the Supply of LEU to the IAEA for its Member States

A. Introduction

1. Following the Board's consideration in June 2009 of the Report of the Director General on "The Russian Federation Initiative to Establish a Reserve of Low Enriched Uranium (LEU) for the Supply of LEU to the IAEA for its Member States", GOV/2009/31, the Russian Federation continued consultations with the Secretariat and prepared a draft Agreement to be concluded between the Russian Federation and the Agency in this regard (Attachment 1). Also, as described in GOV/2009/31, the draft of a Model Agreement to be concluded between the Agency and a Member State requesting the supply of LEU by the IAEA from the above-mentioned reserve of LEU has been completed (Attachment 2). The proposed Agreements generically follow the Agency's project and supply agreements.

2. In a letter of 5 November 2009 to the Director General from the Resident Representative of the Russian Federation to the IAEA, the Russian Federation requested the Director General to distribute to Member States the above-mentioned draft Agreement between the Russian Federation and the Agency (Attachment 1), and to include an item concerning the establishment of a physical reserve of LEU on the territory of the Russian Federation on the agenda for the meeting of the Board of Governors of the IAEA starting on 26 November 2009.

B. Supply of LEU to a Member State

3. In accordance with the attached draft Agreements, the steps leading to the supply of the LEU from the reserve of the LEU in the Russian Federation are as follows:

(a) A Member State experiencing a disruption in the supply of LEU that is not related to technical or commercial considerations may wish to request the Director General to assist it, in accordance with the Agency's statutory function to, inter alia, act as an intermediary for the purpose of securing the performance of fuel cycle services or the supply of nuclear material, to obtain a specified amount of LEU for the operation of specific nuclear power plants in that Member State, along with an explanation of the circumstances in support of its request.

(b) If the Director General assesses, taking into account information provided by such Member State, that the disruption is not related to technical or commercial considerations, and further also determines that the Member State fulfills the eligibility criteria described in Article I (2) of the proposed agreement to be concluded between the Government of the Russian Federation and the Agency (Attachment 1), the Director General will then conclude an agreement with the Member State requesting the LEU using the standard text of the Model Agreement to be concluded with Member States for the supply of LEU by the IAEA from the reserve (Attachment 2).

(c) The Director General would issue a notification to the Russian Federation requesting the withdrawal of a specified amount of LEU and the Agency would receive ownership and delivery of the LEU at the sea port of St. Petersburg. Immediately upon receiving ownership, the Agency will automatically transfer the LEU ownership to the Member State at the sea port of St. Petersburg for shipment out of the territory of the Russian Federation.

(d) The price of the LEU to be delivered to the Member State would be the market price of LEU prevailing at the time of supply. Payment would be effected in full and in advance to the Agency. The Agency would not assume any financial responsibility in connection with the delivery of the LEU to the Member State.

(e) The LEU to be supplied to the Member State, and any special fissionable material used or produced through its use, including subsequent generations of produced special fissionable material, will be subject to safeguards. The exercise of the Agency's safeguards rights and responsibilities in respect of the project would be achieved through the application of safeguards pursuant to the agreement between the Member State and the Agency. In accordance with the provisions of the Statute, the LEU supplied to the Member State would be subject to the Agency safety standards and measures for the use, handling, storage and transport of the LEU, as well as to physical protection measures.

C. Recommended Action

3. The draft Agreement to be concluded between the Russian Federation and the Agency (Attachment 1) and the draft Model Agreement to be concluded between the Agency and a Member State requesting the supply of LEU by the IAEA from the LEU reserve (Attachment 2) are herewith submitted to the Board for its consideration.

AGREEMENT BETWEEN THE GOVERNMENT OF THE RUSSIAN FEDERATION AND
THE INTERNATIONAL ATOMIC ENERGY AGENCY REGARDING THE
ESTABLISHMENT ON THE TERRITORY OF THE RUSSIAN FEDERATION OF A
PHYSICAL RESERVE OF LOW ENRICHED URANIUM AND THE SUPPLY OF LOW
ENRICHED URANIUM THEREFROM TO THE INTERNATIONAL ATOMIC ENERGY
AGENCY FOR ITS MEMBER STATES

WHEREAS the Government of the Russian Federation wishes to contribute to the further development of cooperation in the field of the peaceful use of atomic energy;

BEARING IN MIND that under its Statute, the IAEA is authorized to encourage and assist in the development and practical application of atomic energy for peaceful purposes throughout the world and arrange for the supply of nuclear material to the IAEA Member States to be used in accordance with the provisions of its Statute;

BEARING IN MIND the need to meet in an assured manner the demand for nuclear fuel for electricity generation of IAEA Member States;

BEARING IN MIND the initiative of the Director General of the IAEA on the creation of a reserve of low enriched uranium for the purposes of assured supply of low enriched uranium, for any Member State of the IAEA suffering a supply disruption unrelated to technical or commercial considerations;

BEARING IN MIND the proposal of the Government of the Russian Federation to establish, using its own resources, a guaranteed physical reserve for supply to third countries of low enriched uranium subject to notification by the IAEA;

NOW, THEREFORE, the Government of the Russian Federation and the IAEA hereby agree as follows:

ARTICLE I

1. The Government of the Russian Federation shall establish a guaranteed physical reserve of low enriched uranium of 120 tonnes in the form of uranium hexafluoride (UF₆) with an enrichment of 2.0% to 4.95%, of which at least one third has an enrichment of 4.95% (hereinafter referred to as "the guaranteed physical reserve of LEU").
2. Upon notification from the Director General of the IAEA, the Government of the Russian Federation shall deliver from the guaranteed physical reserve the LEU requested in such notification (hereinafter referred to as "the LEU") to the IAEA in St. Petersburg, for further supply to IAEA Member States, with respect to which the IAEA has drawn the conclusion that there has been no diversion of declared nuclear material and concerning which no issues are under consideration by the IAEA Board of Governors relating to the application of IAEA safeguards. The LEU could be transferred to any non-nuclear-weapon State only when the receiving State has brought into force an agreement with the IAEA requiring the application of safeguards on all its peaceful nuclear activities.
3. After delivery of the LEU, the Government of the Russian Federation and the IAEA shall enter into discussions on the replenishment of the guaranteed physical reserve to the quantity set out in paragraph 1 of this article.

4. The Russian Federation is the owner of the LEU. Ownership of the actual amount of the LEU delivered shall be transferred to the IAEA upon delivery of the LEU to the IAEA as provided for in paragraph 2 of this article.

5. Upon the IAEA becoming an owner of the LEU on the territory of the Russian Federation, the IAEA shall be able to automatically transfer its ownership of the LEU to the Consumer State (as defined in paragraph 8 below) immediately upon the IAEA so becoming owner, and the Government of the Russian Federation shall timeously create the necessary conditions for such transfer of ownership.

6. The delivered LEU shall meet the latest ASTM C-996 standard specification for UF6 enriched to less than 5% U-235, or any replacement of such standard specification.

7. Expenses relating to the storage and maintenance of the LEU shall be borne by the Government of the Russian Federation prior to the transfer of ownership to the IAEA of the actual amount of the delivered LEU as provided for in paragraph 4 of this article.

8. The LEU shall be used in accordance with the provisions of the Statute of the IAEA and this Agreement. The IAEA will, prior to the notification by the Director General as provided for in paragraph 2 of this article, conclude an agreement with the Government of the State to which the LEU will be supplied (the "Consumer State") which will include the following undertakings by the Consumer State:

(a) to not use the LEU, and any nuclear and special non-nuclear material produced through its use, to produce nuclear weapons or other nuclear explosive devices or to further any military purpose;

(b) to maintain physical protection measures for the LEU at levels not lower than that specified in INFCIRC/225/Rev.4, as revised from time to time;

(c) to use the LEU at nuclear power plants only to produce energy; the safety standards and measures for handling, storing and shipment set forth in IAEA document INFCIRC/18/Rev.1, as revised from time to time shall be applied to the LEU; and

(d) to not re-export or further enrich the LEU nor reprocess spent nuclear fuel (hereinafter referred to as "SNF") produced through the use of the LEU, unless otherwise agreed with the IAEA.

9. The Government of the Russian Federation and the IAEA may hold consultations with the Consumer State regarding the disposition of SNF produced from the LEU.

10. Upon receipt by the executive authority of a notification from the Director General of the IAEA for the withdrawal of the LEU, the Government of the Russian Federation shall make all the necessary arrangements for issuing timeously all authorizations and licenses that are necessary in accordance with the legislation of the Russian Federation for the import of international transport containers and the transit and transport of the LEU on the territory of the Russian Federation.

11. Upon receipt by the executive authority of a notification from the Director General of the IAEA for the withdrawal of the LEU, the Government of the Russian Federation shall make all necessary arrangements for issuing timeously all authorizations and licenses that are necessary in accordance with the legislation of the Russian Federation for the export of the LEU from the Russian Federation.

ARTICLE II

1. The Government of the Russian Federation appoints the State Atomic Energy Corporation "Rosatom" (hereinafter referred to as the "executive authority") to implement this Agreement on

its behalf. The executive authority appoints the Open Joint Stock Company “International Uranium Enrichment Centre” (hereinafter referred to as the “authorized organization”) to conclude a contract on its behalf for the supply of the LEU to the IAEA.

2. Prior to any change of the executive authority or the authorized organization, the Government of the Russian Federation shall notify the IAEA thereof through diplomatic channels and shall make all necessary arrangements for the continuous fulfillment of all rights and obligations arising from this Agreement and underlying contracts.

ARTICLE III

1. The IAEA shall secure payment for the LEU delivered. The price of the LEU delivered shall be the cost of the LEU at spot prices published by relevant known consulting companies averaged over a period preceding the LEU delivery. Currently, such spot prices include, inter alia, costs that are attributable to the transportation of international transport containers on the territory of the Russian Federation, loading of the LEU into the containers, packaging of the containers loaded with the LEU into protective shipping packages, insurance of the LEU, its transportation to seaport of St. Petersburg and loading on board of ship.

2. Payment for the LEU shall be effected by wire transfer made on the day of delivery of the LEU to the IAEA.

ARTICLE IV

1. Liability for nuclear damage caused by a nuclear incident associated with the storage, handling or transport of the LEU shall be governed by the provisions of the Vienna Convention on Civil Liability for Nuclear Damage of 1963.

2. In case the Vienna Convention is not applicable, the owner of the LEU will assume liability for any damage caused by an incident associated with the storage, handling or transport of the LEU.

ARTICLE V

1. The guaranteed physical reserve of LEU, as defined in paragraph 1 of article I of this Agreement, shall be stored on the territory of the Russian Federation in a facility of the authorized organization that is under IAEA safeguards in accordance with the Agreement between the Union of Soviet Socialist Republics and the IAEA for the Application of Safeguards in the Union of Soviet Socialist Republics of 21 February 1985, (INFCIRC/327).

2. The costs for the application of safeguards pursuant to paragraph 1 of this article shall be borne by the Government of the Russian Federation.

ARTICLE VI

The Government of the Russian Federation shall ensure that the safety standards and measures for the handling, storage and shipment of the LEU as set forth in IAEA document INFCIRC/18/Rev. 1, as revised from time to time by Board of Governors of the IAEA, are applied.

ARTICLE VII

The Government of the Russian Federation agrees to the application of levels of physical protection during the handling, storage and shipment of the LEU and shall ensure that adequate physical protection measures are applied no lower than the levels set forth in the IAEA document “The Physical Protection of Nuclear Material and Nuclear Facilities” (INFCIRC/225/Rev. 4 or subsequent versions adopted by the Government of the Russian Federation).

ARTICLE VIII

1. The Russian Federation shall not provide to the IAEA information constituting its State secrets.
2. Information transferred under this Agreement or generated as a result of its implementation which is viewed by Government of the Russian Federation or the IAEA as information regarding which there is a need to maintain confidentiality shall be clearly defined and marked as such.
3. The information mentioned in paragraph 2 of this article transferred under this Agreement or the contract mentioned in paragraph 1 of Article II of this Agreement shall be treated by the Government of the Russian Federation and the IAEA respectively in accordance with the legislation of the Russian Federation and the confidentiality regime of the IAEA. Such information shall be used only in accordance with this Agreement, and shall not be disclosed and transferred to a third party without the written consent of the Government of the Russian Federation and the IAEA.

ARTICLE IX

Any dispute between the IAEA and the Government of the Russian Federation related to the interpretation or implementation of this Agreement shall be settled by consultations between them.

ARTICLE X

1. This Agreement shall enter into force thirty days after receipt by the Director General of the IAEA of notification from the Government of the Russian Federation that the domestic procedures necessary for its entry into force have been completed and that at least one third of the guaranteed physical reserve of LEU mentioned in Article 1 of this Agreement has been established, and that guaranteed physical reserve is under IAEA safeguards in accordance with the Agreement between the Union of Soviet Socialist Republics and the IAEA for the Application of Safeguards in the Union of Soviet Socialist Republics of 21 February 1985 (INFCIRC/327).
2. This Agreement shall be concluded for an indefinite period. Either the Government of the Russian Federation or the IAEA may at any time give the other party written notification of its intention to terminate this Agreement. In such a case, this Agreement shall cease to be in force one year after receipt by the other party of such notification.

DONE in duplicate each in the Russian and English languages, both texts being equally authentic.

For the **INTERNATIONAL ATOMIC ENERGY AGENCY**:

(Signature)

(Name and Title)

(Place and Date)

For the **GOVERNMENT OF THE RUSSIAN FEDERATION:**

(Signature)

(Name and Title)

(Place and Date)

MODEL AGREEMENT BETWEEN THE
INTERNATIONAL ATOMIC ENERGY AGENCY AND THE
GOVERNMENT OF [...] FOR THE SUPPLY OF LOW ENRICHED URANIUM
FOR THE OPERATION OF THE [...] NUCLEAR POWER PLANT IN [...]

WHEREAS the Government of [...] (hereinafter referred to as the “Government”) is suffering a disruption of supply of low enriched uranium, unrelated to technical or commercial considerations, and therefore wishes to secure low enriched uranium for the operation of the [...] nuclear power plant in [...];

WHEREAS the Government has requested the assistance of the International Atomic Energy Agency (hereinafter referred to as the “IAEA”) for this purpose;

WHEREAS the IAEA has the statutory function to, inter alia, act as an intermediary for the purpose of securing the performance of fuel cycle services or the supply of nuclear material;

WHEREAS the Government has concluded on [...] with the IAEA an agreement for the application of safeguards as contained in document [...];

WHEREAS a conclusion has been drawn in respect of [...] on the non-diversion of declared nuclear material in the most recent Safeguards Implementation Report and there are currently no safeguards issues regarding [...] under consideration by the Board of Governors of the IAEA;

WHEREAS the Board of Governors of the IAEA has approved on [...] the *Agreement between the Government of the Russian Federation and the International Atomic Energy Agency regarding the establishment on the territory of the Russian Federation of a physical reserve of low enriched uranium and the supply of low enriched uranium therefrom to the International Atomic Energy Agency for its Member States* (hereinafter referred to as the “Physical Reserve Agreement”), which entered into force on [...].

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

ARTICLE I

1. The IAEA shall make available to the Government [...] tonnes of low enriched uranium in the form of uranium hexafluoride (UF₆) with an enrichment of [...] (hereinafter referred to as the “LEU”) for the operation of the [...] nuclear power plant in [...] (hereinafter referred to as the “power plant”).

2. The supply of the LEU shall be subject to the provisions of this Agreement, and the transfer of the LEU to the operator of the power plant shall not relieve the Government from complying with its obligations under this Agreement. This Agreement shall apply, mutatis mutandis, to any additional assistance provided by the IAEA to the Government in connection with the supply of the LEU for the power plant.

ARTICLE II

1. Ownership of the LEU shall automatically transfer to the Government immediately upon the IAEA becoming owner in accordance with the Physical Reserve Agreement.

2. The IAEA shall deliver the LEU to the Government or to its designated representative in St. Petersburg, Russian Federation.

3. The particular terms and conditions for the delivery of the LEU, including all costs for or connected therewith, a schedule of delivery, shipping instructions and all necessary arrangements

for the delivery of the LEU shall be determined by this Agreement and specific contract(s) to be concluded between the IAEA and the Government or its designated representative.

ARTICLE III

1. The supplied LEU shall be used exclusively for fuel fabrication for the generation of energy at the power plant and shall remain at the power plant unless the Government and the IAEA otherwise agree.
2. The supplied LEU and any special fissionable material produced through its use, including subsequent generations of produced special fissionable material, shall be stored or reprocessed or otherwise altered in form or content only on conditions and in facilities agreed to by Government and the IAEA. The supplied LEU shall not be further enriched or re-exported unless the Government and the IAEA otherwise agree.
3. Pursuant to Article I (9) of the Physical Reserve Agreement, the Government and the IAEA may hold consultations regarding the disposition of spent nuclear fuel produced from the supplied LEU.

ARTICLE IV

1. The price of the LEU shall be the cost of the LEU at spot prices published by relevant known consulting companies averaged over a period preceding the LEU delivery.
2. All costs that may arise in connection with the delivery of the LEU by the IAEA to the Government shall be borne by the Government in accordance with this Agreement and the specific contract(s) referred to in Article II (3).
3. The Government shall effect payment for the LEU and all costs that may arise in connection with the delivery of the LEU in full and in advance to the IAEA. The Government shall deposit the payment in a bank account designated by the IAEA.
4. The IAEA shall not assume any financial responsibility in connection with the delivery of the LEU to the Government.

ARTICLE V

1. The Government shall make all necessary arrangements for the timeous receipt of the LEU in St. Petersburg, as referred to in Article II, and for its shipment.
2. The Government shall take all appropriate measures to ensure the safety and security of the LEU during its transport, handling, storage and use. The IAEA does not warrant the suitability or fitness of the supplied LEU for any particular use or application and shall not bear any responsibility towards the Government, or any person for any claims arising in connection therewith.

ARTICLE VI

1. The Government undertakes that the supplied LEU and any special fissionable material produced through its use, including subsequent generations of produced nuclear and special non-nuclear special fissionable material, shall not be used for the manufacture of any nuclear weapon or any nuclear explosive device, or for research on or the development of any nuclear weapon or any nuclear explosive device, or in such a way as to further any military purpose.
2. The safeguards rights and responsibilities of the IAEA provided for in Article XII. A of the Statute of the IAEA are applicable to the LEU under this Agreement and shall be implemented and maintained. The supplied LEU shall be subject to IAEA safeguards pursuant to the Agreement between the [...] and the IAEA for the Application of Safeguards in [...] of [...] (INFCIRC/...).
3. For the purpose of this Agreement, the IAEA safeguards referred to in Article VI (2) shall, for the duration of this Agreement, be implemented pursuant to the Safeguards Agreement referred to in Article VI (2).
4. The relevant provisions of the Safeguards Agreement referred to in Article VI (2) shall apply to IAEA inspectors performing functions pursuant to this Agreement.
5. Article XII.C of the Statute of the IAEA shall apply with respect to any non-compliance by the Government with the provisions of this Agreement.

ARTICLE VII

The applicable safety standards and measures to be followed for the transport, handling, storage and use of the supplied LEU and for the operation of the power plant shall be those defined in IAEA document INFCIRC/18/Rev.1, as revised from time to time.

ARTICLE VIII

The Government undertakes that adequate physical protection measures shall be maintained with respect to the supplied LEU and any special fissionable material produced through its use, including subsequent generations of produced special fissionable material. These measures shall as a minimum provide protection comparable to that set forth in IAEA document "The Physical Protection of Nuclear Material and Nuclear Facilities" (INFCIRC/225/Rev.4), as revised from time to time.

ARTICLE IX

1. Liability for nuclear damage caused by a nuclear incident associated with the use, handling, storage or transport of the LEU shall be governed by the provisions of the Vienna Convention on Civil Liability for Nuclear Damage of 1963.
2. In case the Vienna Convention is not applicable, the owner of the LEU will assume liability for any damage, caused by an incident associated with the use, handling, storage or transport of the LEU.

ARTICLE X

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

ARTICLE XI

Any decision of the Board of Governors of the IAEA relevant to the implementation of Articles VI, VII or VIII of this Agreement shall, if the decision so provides, be given effect immediately by the IAEA and the Government.

ARTICLE XII

Any dispute arising out of the interpretation or implementation of this Agreement shall be settled by consultation or negotiation.

Article XIII

1. This Agreement shall enter into force upon signature by the Director General of the IAEA and by the authorized representative of the Government.

2. This Agreement shall continue in effect so long as any material, equipment or facility which was ever subject to this Agreement remains in the territory of [...] or under its jurisdiction or control anywhere, or until such time as the parties agree that such material, equipment or facility is no longer usable for any nuclear activity relevant from the point of view of safeguards.

DONE in duplicate in the English language.

For the **INTERNATIONAL ATOMIC ENERGY AGENCY**:

(Signature)

(Name and Title)

(Place and Date)

For the **GOVERNMENT OF [...]**:

(Signature)

(Name and Title)

(Place and Date)