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International Atomic Energy Agency Safeguards

Note of talks held in London, on 15th/16th December 1960

PRESENT:

AUSTRALIA

Mr. A. D. Thomas	Liaison Office in London, Australian Atomic Energy Commission

BELGIUM

M. J. Boon	Counsellor, Belgian Embassy, London
M. J. Coene	Commercial Attaché, Belgian Embassy, London

CANADA

Mr. M. H. Wershof	Ambassador and permanent representative of Canada to the European Office of the United Nations and Canadian member of theBoard of Governors of the International Atomic Energy Agency
Mr. K. Goldschlag	Counsellor Canadian Embassy Vienna
Mr. J. E. G. Hardy	Counsellor Canada House, London

FRANCE

M. A. Finkelstein	Commissariat à l'Energie Atomique

SOUTH AFRICA

Mr. D. B. Sole	Minister in Vienna and South African member of the Board of Governors of the International Atomic Energy Agency.

UNITED KINGDOM

Mr. M. I. Michaels	Under Secretary, Atomic Energy Division, Office of the Ministe for Science
Mr. H. B. Shepherd	Foreign Office
Mr. A. W. Redpath	Commonwealth Relations Office
Mr. R. L. Sutton	Board of Trade
Mr. J. C. Walker	United Kingdom Atomic Energy Authority

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UNITED STATES

Admiral P. Foster	Ambassador and United States member of the Board of Governors of the International Atomic Energy Agency
Mr. E. L. Brady	Scientific Adviser to the United States representative to the International Atomic Energy Agency

Secretariat

Mr. D. le B. Jones	-	Office of the Minister for Science
Miss A. Stoddart	-	Foreign Office

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Office of the Minister for Science,
Atomic Energy Division,
2, Richmond Terrace,
Whitehall, S.W.1.

16th December, 1960

MORNING SESSION, 15TH DECEMBER, 1960

Introduction

The United Kingdom representatives said that it was important that there should be an agreed Western line when safeguards and related subjects were discussed at the January, 1961 meeting of the Board of Governors of the I.A.E.A. The United Kingdom thought it would be useful to have an exchange of views among the Western countries and had therefore called this meeting at short notice.

2. The United States representatives welcomed the action of the United Kingdom in calling the meeting. They thought it was important that at its January meeting the Board of Governors should make it clear that it had taken serious account of the comments made at the Fourth General Conference on the "Principles and Procedures of Agency Safeguards". While the United States thought that no retreat should be made on the principles of safeguards, some more flexibility might be introduced in respect of details. They had been ready to modify their position on these in the hope that all Western governments could present a united front.

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3. The Australian representative said that his Government was determined to finalise the safeguards document at the January meeting. Many other difficult problems would face the Board of Governors during 1961 and it was important that their time should not be taken up with continued discussion of safeguards.

4. The Belgian representatives said that they were attending the talks as observers only.

5. It was agreed that the agenda of the talks should be:-

(i) Consideration of detailed criticism of safeguards scheme made at the General Conference and amendments to be put forward by Western countries.

(ii) Tactics for dealing with criticism of principles of the Agency safeguards scheme at the January meeting of the Board of Governors.

and, if time permits,

(iii) Problems arising on the document on the Agency's inspectors (GOV/INF/27) including the question of the Agency's liability for the actions of its inspectors.

(iv) Staffing of the Agency's Inspectorate Division.

(v) Other items on the agenda of the January meeting of the Board which have safeguards connotations.

Detailed Amendments

A. Para. 33 of GC(IV)/108/Rev.1

6. The South African representative said that his Government considered it essential that a distinction should be made in this paragraph between source material and special fissile material. They would like to see the paragraph amended as follows:-

(a) The provision for the application of nominal safeguards when the cumulative total of P.N. material in a State amounted to between 2 and 10 metric tons in the case of natural uranium and 4 and 20 metric tons in the case of depleted uranium and thorium should be deleted. Safeguards on source materials should not come into force until applied with their full rigour when the cumulative total of P.N. material in a State reached 10 metric tons of natural uranium and 20 metric tons of depleted uranium and thorium.

(b) Nominal safeguards should be applied to special fissionable material when the cumulative total of such P.N. material in a State amounted to between 200 grammes and 1,000 grammes. Full safeguards should be applied when the cumulative total exceeded 1,000 grammes.

(c) The final sentence of para. 33 should be deleted.

7. The United States representatives said they were prepared to support, but not to propose or co-sponsor, amendments to para. 33 which would delete the provisions for the application of minimal safeguards to source materials and which would raise the thresholds for the application of full safeguards to 10 metric tons in the case of

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natural uranium and 20 metric tons in the case of depleted uranium and thorium. They were not prepared to accept deletion of the final sentence of para. 33, but they were prepared to agree that safeguards should not apply to produced fissile material until it reached a cumulative total of 200 grammes. They tabled a redraft of para. 33 (Annex 1) to give effect to those proposals.

8. The Canadian representatives said that their Government would have preferred not to make any significant changes in GC(IV)/108/Rev.1 at the present time. The document was in any case to be reviewed in two years' time and it would be preferable to give it a trial run as it stood. They would not, however, object to amendments on which other Western countries were agreed, but they hoped that no Western country would put forward amendments which were positively unacceptable to the other countries taking part in the present talks, and particularly to the United States.

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9. The following further points were made in discussion:-

(a) Thorium - The United Kingdom, South African and Australian representatives felt that it was difficult to justify the retention of thorium under safeguards at the present time. There was unlikely to be a substantial nuclear use until the late 1960s or early 1970s when breeder reactors might possibly be employed on a commercial scale. Thorium nitrate was to some extent a commodity in general international trade. The difficulty caused by the fact that thorium was included in the definition of "source material" in Article XX of the Statute might be overcome by saying in GC(IV)/108/Rev.1 that safeguards were not at present being applied to thorium, but that the position would be reconsidered when it came into general atomic use. The removal of thorium from safeguards could be presented as evidence that Western countries were prepared to pay serious attention to constructive points raised by other countries. Although this concession might not impress the opposition, it could have a broader

public relations value. The United States said that this this point was under consideration by the Atomic Energy Commission in Washington. They thought it was wrong in principle and inconsistent with the safeguards document to depart from the fundamental principle that thorium was a source material with the same basic nuclear qualities as depleted uranium. They would, however, report back the discussion at the present meeting. It was agreed that other Western countries would not press for the removal of thorium from safeguards if on reconsideration the United States felt that an increase to 20 metric tons in the threshold for the application of safeguards was the most that they could accept.

(b) The drafting of the amendments to para. 33 should be looked at carefully to make it clear that the cumulative totals for natural uranium, depleted uranium and thorium applied to each material independently without reference to the others but that the cumulative totals for fissile materials, which were interchangeable, applied to all types of these materials taken together. The United Kingdom would circulate a draft later in the present talks. It might, however, be desirable to make the intention of the draft clear by statements written into the record of the Board rather than by very complicated drafting, the sense of which would subsequently be obscure.

(c) It was pointed out that the final paragraph of the United States redraft would lead to the application of safeguards in some cases where the quantities of source material were substantially below the thresholds set out in the first paragraph. Moreover, the sentence was inconsistent with para. 26 of GC(IV)/108/Rev.1. If the redraft were tabled in this form at the meeting of the Board of Governors, the countries tabling it might be accused of

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bad faith in putting forward amendments which appeared to make concessions but included an easily detected provision which effectively restricted most of them. On the other hand, substantial quantities of fissile material could in certain circumstances be derived from the quantities of source material below which safeguards would not be applied; it was desirable that there should be some form of safety net to permit the application of safeguards to these large quantities of fissile material. The Canadian representatives suggested that if the United States felt that they could not accept amendment of para. 33 unless the final sentence of their draft were included, it might be better to leave para. 33 as it was. It was agreed to adjourn the discussion on this point and resume it at a later stage in the present talks.

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B. Para. 38 of GC(IV)/108/Rev.1

10. The South African representative said that he did not wish to suggest any amendment of this paragraph. He would like to say for the record at the January meeting of the Board of Governors that his Government felt that this paragraph should be interpreted with a considerable degree of flexibility. Safeguards should only be applied under it if the specialised equipment or non-nuclear material could in the circumstances of the specific project, be used to further a military purpose.

11. The United States representatives said that the case-by-case approach suggested by the South African representative was suitable for some commodities (e.g. heat exchangers) which could clearly only be used for military purposes in connection with certain types of project. There were, however, other commodities (e.g. heavy water) which could be used for military purposes when the supplies exceeded a certain amount. The United States felt that in such cases cumulative totals above which safeguards should apply should be laid down in general terms by the Board of Governors. For heavy

water they suggested that nominal safeguards should apply when the cumulative total in a particular country amounted to between 3 and 10 metric tons and full safeguards should apply when the cumulative total exceeded 10 metric tons. This problem would arise in connection with the 6½ tons of heavy water which the United States were supplying through the Agency for use in a 10W. reactor at Vinca in Yugoslavia. They felt that it was desirable to lay down general principles before the Board took a decision on the Vinca project agreement so as to avoid a case-by-case approach.

12. The United Kingdom representatives said that it was politically undesirable to relate the general question of applying safeguards to heavy water to the Vinca project. The reactor involved was of very low power which could not possibly be used for military purposes, and the application of safeguards to it might be regarded as inconsistent with para. 37 of GC(IV)/108/Rev.1 which exempted small research reactors from all but nominal safeguards. Yugoslavia was a neutral country uncommitted on safeguards and it would be undesirable to antagonise her. The way out might be for the Agency to enter into an agreement with the Yugoslav Government under which safeguards would not apply while the heavy water was in the Vinca reactor but the Yugoslav Government would bind themselves to accept safeguards if the heavy water were used in some other project and the Board of Governors then felt that it was desirable to apply safeguards; a new project agreement would then be drawn up.

13. The South African representative said that his Government had always opposed the concept that heavy water should trigger off the application of safeguards. The general principle proposed by the United States would prove very controversial and there was no hope of securing agreement to it at the January meeting of the Board.

14. On the suggestion of the Canadian representatives it was agreed that, as the Yugoslav project agreement was unlikely to be circulated in time for consideration at the January meeting of the Board, Western countries should try and avoid a discussion at that meeting of points arising on para. 38 of GC(IV)/108/Rev. 1. If other countries suggested detailed amendments, Western countries would try and ride them off by general statements that the paragraph should be interpreted very flexibly.

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M. B. Goldschmidt (France) was present for part of the session.

Detailed Amendments

Para. 33 of GC(IV)/108/Rev.1 - Resumed Discussion

15. The United States representatives said that they had reported the gist of the morning's discussion by telephone to Washington where the matter was receiving urgent consideration. The initial reaction was that the omission of the final paragraph of the United States redraft of para. 33 would give rise to considerable difficulty *inter alia* in connection with U.S. atomic legislation.

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16. The South African representative said that his Government thought there was a very strong case for the proposals which he had put forward in the morning and he hoped that the United States would reconsider their position. If the United States position was not clear by 9th January, South Africa must reserve the right to table her two amendments to para. 33 for consideration at the January meeting of the Board.

General Tactics at January Meeting of the Board

17. The United Kingdom representatives said that it was necessary to distinguish between amendments of principle and amendments of detail, even though the border line was not clear. It was also necessary to decide on a concerted Western line for dealing with amendments of principle put forward by India and other opponents of safeguards.

18. The following points were made in discussion:-

(a) It was of paramount importance that the safeguards issue should be settled at the January meeting of the Board. Western tactics should be determined by the need to do this.

(b) It was possible that India or the Soviet bloc would ask for an open debate on the safeguards issue. There was

general agreement that an open debate would set an extremely bad precedent and that any proposal to hold one should be voted down.

(c) It would be undesirable to try and stop the opposition from putting forward the suggestion that the safeguards scheme should be revised on the lines contained in the Five-Power resolution at the General Conference (i.e. safeguards involving inspection should only be applied to fissile material; a guarantee of peaceful use should be asked for in the case of source material; no conditions at all should be attached to the supply of nuclear equipment). Western countries should, however, exercise self-denial and not reply in detail to the points made by the opponents of safeguards. It would be sufficient to saythat these points had been answered previously and to refer to the relevant passages in the records of previous meetings of the Board of Governors and of the Fourth General Conference. <u>The Australian representative</u> felt, however, that deliberate replies should be made to the more significant points.

(d) If it was suggested that this procedure implied disrespect to the Board of Governors, particularly the five new members, the West could reply that two of the new members - Belgium and Poland - had taken part in some of the earlier discussions of the Board and that all the new members had taken part in the Fourth General Conference.

(e) The discussion at the January meeting of the Board of Governors should conclude with a definitive resolution approving the "Principles and Procedures of Agency Safeguards" as amended during the course of the meeting. A draft of this resolution should be tabled well in advance of the beginning of the meeting, and, if possible, by 9th January.

19. The <u>United States</u> tabled the draft definitive resolution at Annex II. It was agreed that this draft was generally acceptable but that it should be examined by the resident representatives in

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Vienna, who should consider in particular whether:-

(a) It was wise to include in the preamble the reference to taking into account the views expressed in the General Conference in view of the fact that few and possibly no amendments would be made in response to these views. On the other hand, if this reference were omitted, the procedural ground that General Conference Resolution No. 71 required the Board to take into account as appropriate the views expressed at the General Conference. The answer might be to quote in a suitable context the exact words of Resolution No. 71

(b) the reference in substantive paragraph 4 to GC(IV)/108/Rev.1 should be retained there or placed in a footnote.

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20. The representatives could not commit their Governments on co-sponsorship of the definitive resolution but their preliminary views were:-

(a) Canada, the United Kingdom and the United States would very probably be willing to co-sponsor if a satisfactory solution to the problem of amending para. 33 of GC(IV)/108/Rev.1 was achieved.

(b) South Africa would be willing to co-sponsor if the quantitative limits in para. 33 were increased as she had suggested, but not otherwise.

(c) Australia would like to consider her position in view of the fact that Mr. McKnight was Chairman of the Board for the current year.

(d) France was not willing to co-sponsor or speak in favour of the resolution but would vote in favour.

(e) The Belgian observers were asked to invite their Government to consider whether they could co-sponsor.

21. It was desirable that a number of other countries should co-sponsor. Once it was clear that the United Kingdom, Canada and South Africa were in a position to co-sponsor, the United States

would approach friendly members of the Board, either in Vienna or through their capitals. It was important, however, that the tabling of the resolution should not be unduly delayed on this account. It should be tabled once three or four additonal co-sponsors had been found.

The Agency Inspectors

Staffing of the Inspection Division

22. The South African representative said that his Government, thought that the Board of Governors should as soon as possible settle the point of dispute set out in para. 3 of GC(IV)/INF/27 about whether (a) only regular officials of the Agency should serve as inspectors or (b) the staff of inspectors should be specially selected by the Director General and approved by the Board of Governors on the basis of broad representation of member States, and that, at the request of a country on whose territory an inspection was being made or of any country which had made available to the Agency special fissonable and source material or special equipment, a given team of inspectors should include an inspector or inspectors designated by such countries. The South African Government felt strongly that Western countries should stand firm on (a), but recognised that this problem was linked with the discussions at the Geneva Nuclear Test Conference. They also felt that there was no case at present for appointing an Inspector General but that the Director of the Inspection Division should be appointed as soon as possible so that the staffing of this Division could be discussed at the April meeting of the Board of Governors.

23. The United Kingdom representatives agreed that it would be inappropriate to appoint an Inspector General at the present time. The Director of the Inspection Division should be a citizen of one of the so-called neutral countries (e.g. Sweden, Switzerland, Finland, Yugoslavia or more doubtfully, Burma, Mexico, Iraq, Indonesia, Morocco, Tunisia). A suitably qualified man could probably be

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obtained only from one of the European neutrals. It was important that he should have some political sense.

24. The United States representatives said that it would be useful if suitably qualified members of the Agency staff from other Divisions could be used from time to time to carry out inspections.

25. The Canadian representatives said that they would not like to see a position in which the Eastern and Western blocs felt it necessary to have their citizens in the Inspection Division. Their personal view was that the Division should be very small and should be composed of two or three European neutrals, including the Director, one Asian, possibly from India or Indonesia, and one Latin American, possibly from the Argentine or Brazil.

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26. After discussion it was agreed that:-

(a) the Governments represented at the talks would give further consideration to this matter in advance of the January meeting of the Board of Governors;

(b) the views of the Director General of the Agency would be sought;

(c) the question whether to force the issue on the alternatives in para. 3 of GC(IV)/INF/27 at the January meeting of the Board of Governors should be decided immediately before that meeting.

Concerting of Western Tactics

27. It was suggested that a meeting of Western Governors should be held in Vienna on Friday, 20th January, 1961, to concert tactics and deal with any points which had arisen in the meantime. The United Kingdom representatives said that this would be very inconvenient but that they would consider further.

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28. The South African representative said that at the Fourth General Conference the Swiss and Dutch delegates had said that the Agency should accept some degree of liability for losses caused by the actions of its inspectors. He had subsequently suggested to the Secretariat that they should prepare a paper for the January meeting of the Board which would cover not only losses directly due to an inspector's actions but also losses caused by the unauthorised disclosure of information by an inspector. This problem was linked with the problem of staffing the Inspection Division and was an additional argument in favour of the view that only regular officials of the Agency should serve as inspectors. It should be possible to find a formula under which the Agency accepted some degree of liability and to cover this liability by insurance. He envisaged that this item would be taken at the January meeting of the Board of Governors after the safeguards document had received definitive approval. It had seemed to him desirable for the West to take some initiative so as to prevent the issue being raised by the opposition and used as part of a filibuster on safeguards. If the time was not ripe for discussion at the January meeting of the Board of Governors, the item could be deferred, although he disliked the deferment of an item just because it was difficult.

29. The United Kingdom representatives said that the standard technical assistance agreement used by the Agency and also by the Specialised Agencies contained the following provision:-

> "The technical assistance rendered pursuant to the terms of the Agreement is in the exclusive interest and for the exclusive benefit of the people and Government of .... In recognition thereof, the Government shall undertake to bear all risks and claims resulting from, occurring in the course of, or otherwise connected with any operation covered by this Agreement. Without restricting the generality of the preceding sentence, the Government shall indemnify and hold harmless the Organisations(s) and their experts, agents or employees against any and all liability suits, actions, demands, damages, costs or fees on account of death, injuries to persons or property, or any other losses resulting from or connected with any act or omission performed in the course of operation covered by this Agreement."

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This was a very sweeping indemnity which had been worked out by experience over several years. The possibility of some amendment was being considered in the United Nations, but it would not be fundamental. The problem raised by the South African representative was in general adequately covered by the provisions in the Statute and the Staff regulations to ensure that Agency officials did not disclose information obtained in the course of their duties. It would be difficult to cover any liability accepted by the Agency by insurance as the liability itself was so vague. Moreover, it would be difficult to prove in the case of a particular loss that disclosure of information had taken place, that an Agency inspector was responsible or that the loss was due to the disclosure.

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30. The Canadian representatives said that the Agency Statute and Staff Regulations went as far as was feasible by regulatory action. The question which arose was whether some compensation should be paid if these regulations failed to prevent unauthorised disclosure in a particular case. It was unfortunate that this issue had been raised for the January meeting of the Board of Governors as it might lead the opposition to safeguards to put forward the argument that definitive approval of the safeguards document should be deferred until this issue had been settled.

31. It was agreed that Western countries would consider their attitude to this problem further when they had seen the paper being prepared by the Secretariat

Detailed Amendments to Principles and Procedures of Avency Safeguards

Para. 33 of GC(IV)/108ERev.1 - resumed discussion

32. The United Kingdom representatives tabled a redraft designed to cover the drafting point referred to in para. 9(b) above and to give effect to the proposals for raising the thresholds at which safeguards should be applied to source materials but not to the proposal in the final paragraph of the United States redraft at

Annex I that safeguards should be applied when the amount of produced fissile material reached 200 grammes even though the amount of source material supplied was below the threshold. A number of amendments were suggested to the United Kingdom draft. It was agreed that the revised version at Annex III gave effect to the intention behind the draft. United States representatives said that it was not at present acceptable to their Government. It was agreed that a decision on whether to table this redraft at the January meeting of the Board of Governors should be deferred until the United States had had an opportunity to consider their position further. The South African representative reserved his Government's right to table an amendment on the lines of Annex III even if the United States Government did not change their position. He also emphasised that his Government would not be able to delay a decision on whether to table this amendment beyond early January, even though the United States position had not then been clarified.

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ANNEX I

Redraft of Para.33 of GC(IV)/108/Rev.1 tabled by the United States

In each of the following cases Agency safeguards will be attached to nuclear material supplied by the Agency and to special fissionable material produced in or by the use of such material if the quantity of such PN material in the state exceeds:

A. 10 metric tons in the case of natural uranium or depleted uranium with a Uranium-235 content of 0.5% or greater;

B. 20 metric tons in the case of depleted uranium with a Uranium-235 content of less than 0.5%;

C. 20 metric tons in the case of thorium; or

D. 200 grams total in the case of plutonium, Uranium-233, or fully enriched uranium or its equivalent in the case of partially enriched uranium.

However, Agency safeguards will be applied in a nominal manner to special fissionable material supplied by the Agency if the quantity of such PN special fissionable material in the state including the material supplied, lies between 200 and 1,000 grams of plutonium, Uranium-233, or uranium fully enriched in Uranium-235 or its equivalent in the case of partially enriched uranium.

Safeguards will be applied fully to all special fissionable material that is in excess of the amount specified in D above which has been produced in or by the use of material supplied by the Agency. These safeguards will be applied at the beginning of the process for separating the produced material from the materials in which they are contained.

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ANNEX II

SUGGESTED DRAFT RESOLUTION FOR BOARD ACTION ON GC(IV)/108
tabled by the United States

The Board of Governors,

Recalling its resolution A of 7th April 1960 provisionally approving the principles and procedures for the attachment and application of safeguards by the Agency as set forth in the Annexes to document GOV/549,

Recalling also its resolution B of the same date submitting the afore-mentioned principles and procedures to the fourth regular session of the General Conference for consideration and appropriate action in accordance with the Statute,

Noting resolution GC(IV)/RES/71 of 30 September 1960,

Having received and considered the records of the discussions of the General Conference on the afore-mentioned document,

Taking into account the views expressed in the General Conference,

1. Approves the principles and procedures as contained in document GC(IV)/108/Rev.1;

2. Decides that these principles and procedures shall be put into effect as of the date of the adoption of the present resolution;

3. Requests the Director General to transmit this document to all Member Governments, together with the text of the present resolution;

4. Decides to include in its future annual reports to the General Conference an account of the application of the principles and procedures for the attachment and application of safeguards as contained in document GC(IV)/108/Rev.1; and

5. Decides further to report to the sixth regular session of the General Conference on the results of the general review to be undertaken by the Board of these principles and procedures after two years, in the light of the actual experience gained by the Agency as well as of technological developments.

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ANNEX III

United Kingdom redraft of para. 33 as amended in discussion

(i) Agency safeguards will be attached to source material supplied by the Agency and to special fissionable material produced in or by the use of such material in the following circumstances:

(a) In the case of natural uranium, or depleted uranium with a U.235 content of 0.5% or greater, when the amount of such material in a State, which is P.N. material, exceeds 10 metric tons.

(b) In the case of depleted uranium with a U.235 content of less than 0.5% when the amount of such material is a State, which is P.N. material, exceeds 20 metric tons.

(c) In the case of thorium when the amount of such material in a State, which is P.N. material, exceeds 20 metric tons.

(ii) Agency safeguards will be attached to special fissionable material supplied by the Agency and to special fissionable material produced in or by the use of such material when the amount of such material in a State, which is P.N. material, exceeds 200 grammes. Safeguards will be applied in a nominal manner when the amount of such material in a State, which is P.N. material, amounts to between 200 grammes and 1,000 grammes.

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