

A N N E X B

GUIDELINES FOR INTERNATIONAL OBSERVATION OF
PEACEFUL NUCLEAR EXPLOSIONS

A. GENERAL GUIDELINES AND OBJECTIVES

Purpose of Observation

1. The basic purpose of international observation, hereinafter called "observation," is to verify that, in the course of conducting a peaceful nuclear explosion project in a non-Nuclear-Weapon State or States, the intent and letter of Articles I and II of the Non-Proliferation Treaty *) or of similar provisions in other international agreements are not violated.

*) Article I: Each nuclear-weapon State Party to the Treaty undertakes not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly; and not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices.

Article II: Each non-nuclear-weapon State Party to the Treaty undertakes not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or explosive devices directly, or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices.

Circumstances requiring observation

2. Observation is required where peaceful nuclear explosion services are carried out either

- (a) through the IAEA or
- (b) pursuant to bilateral agreements in accordance with Article V of the Non-Proliferation Treaty or with provisions in other international agreements calling for such observation.

Observation is also required in any case where the Agency participates and/or assists in any peaceful nuclear explosion project in any State.

Observation Agreement

3. Observation shall be undertaken pursuant to a specific agreement for observation, hereinafter called the "observation agreement," to be concluded in accordance with applicable provisions of this document between the Agency and the State or States concerned. The observation agreement shall be concluded, except for emergency situations in accordance with paragraph 20 of this document, not less than 60 days before the transport of the nuclear explosive device or devices (or any components thereof) from the territory of the Nuclear-Weapon State concerned. In the case of Agency participation and/or assistance in any peaceful nuclear explosion project in a Nuclear-Weapon State, the observation agreement shall be concluded not less than 60 days before the detonation of any nuclear explosive device involved in the project, and should to the extent relevant conform to the provisions of this document.

The Agency's obligations

4. The Agency shall:

(a) arrange to provide the minimum number of observers necessary to maintain surveillance, in accordance with the observation agreement, over those areas or situations where Articles I and II of the Non-Proliferation Treaty, or similar provisions in other international agreements might be contravened.

(b) request only that information and carry out only those activities needed to perform its observation functions for the purpose specified in the paragraph 1 of this document.

(c) carry out its observation functions in a manner designed to avoid hindering the conduct of the peaceful nuclear explosion operations, to avoid disclosing any confidential or privileged information it might receive and to give due recognition to the provisions of the Non-Proliferation Treaty or other relevant international agreements and existing domestic law of the Governments concerned.

(d) inform all Member States, and those Non-Member States parties to agreements with the Agency, of any situations or incidents which contravene, or have the appearance of contravening, either the intent or the letter of Articles I or II of the Non-Proliferation Treaty or of similar provisions in other international

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agreements, or the obligations of the Parties under the observation agreement;

(e) request appropriate action of participating States, including, if approved by the Board of Governors, withdrawal of the nuclear explosive device or devices from the territory of the Non-Nuclear Weapon State or States, if the situation or incident referred to in the preceding sub-paragraph has not been corrected to the satisfaction of the Director General within a reasonable period of time.

Other Parties' Obligations

5. It is the responsibility of the supplier Nuclear-Weapon State and Non-Nuclear-Weapon State or States which, in addition to the Agency, are Parties to the observation agreement to:

(a) plan and conduct peaceful nuclear explosion projects in a manner to protect against the direct or indirect disclosure of nuclear explosive design information, including, but not limited to, oral disclosure of such information;

(b) provide the opportunity for observation in accordance with this document and the observation agreement; and

(c) cooperate with the Agency in order to enable the Agency observers to perform their functions in accordance with this document and the observation agreement.

6. The supplier Nuclear-Weapon State shall take appropriate steps to ensure that persons other than its authorised nationals acting on its behalf do not have access to the design information contained in any documents or materials designated in accordance with paragraph 9 (e) of this document.

7. Where the opportunity for observation is provided in accordance with this document and the observation agreement, the peaceful nuclear explosion project need not be delayed if, through no fault of the Nuclear-Weapon State or Non-Nuclear-Weapon State or States Party to the observation agreement, the observation function is not performed.

B. PURPOSE AND SCOPE OF OBSERVATION AGREEMENT

8. The observation agreement in general will set forth the observations necessary to provide the following assurances against violation of Articles I and II of the Non-Proliferation Treaty or of similar provisions in other international agreements:

- (a) that the nuclear explosive device or devices to be used in furnishing peaceful nuclear explosion services to a Non-Nuclear Weapon State or States, and any documents or materials designated in accordance with paragraph 9 (e) of this document, remain at all times under the custody and control of the supplier Nuclear-Weapon State;
- (b) that there is no opportunity for persons other than authorized nationals of the supplier Nuclear-Weapon State acting on its behalf, to obtain design information, pertaining to the nuclear explosive device or devices, by physical or instrumental or visual access to the interior of any canister holding the nuclear explosive device or devices or to any documents or materials designated in accordance with paragraph 9 (e) of this document, or to obtain such information by any other means.
- (c) that no attempt is made to obtain any radioactive materials designated by the Nuclear-Weapon State in accordance with paragraph 9 (f) of this document.
- (d) that the nuclear explosion or explosions are carried out in accordance with the declared purpose.

9. Observation agreements, in general, shall include, but not be limited to, the following provisions:

(a) appropriate parts of the Non-Proliferation Treaty or other relevant international agreements and ^{of} this document, either directly or by reference;

(b) an undertaking by the Parties to the observation agreement to conduct themselves in accordance with the guidelines and objectives set forth in this document;

(c) a description of the proposed project including, in general, the declared purpose of the project; the planned involvement of each Party in the project; the technology involved; the number of nuclear explosive device canisters involved, with the approximate explosive yield of each fully assembled canister; and the planned schedule for detonation;

(d) information necessary for a detailed description of the required observations, as follows:

(1) the general characteristics and external dimensions of the shipping container and the fully assembled nuclear explosive device canister or canisters to be used in carrying out the peaceful nuclear explosion project;

(2) how the nuclear explosive device canister or canisters are to be emplaced, at what depth, and how each emplacement hole is to be filled;

(3) the predicted on-site physical effects such as surface ground motion, chimney or excavation dimensions, and how these effects relate to carrying out the declared purpose of the peaceful nuclear explosion project.

(e) a specific declaration by the supplier Nuclear-Weapon State indicating which of the documents and materials that will be transported by it to the Non-Nuclear Weapon State or States in connection with the peaceful nuclear explosion project contain design information related to a nuclear explosive device, and, therefore, require observation. The declaration should also include a description of the conditions under which observation of such documents and materials is no longer required.

(f) a specific declaration by the supplier Nuclear-Weapon State indicating which radioactive materials, if any, resulting from a peaceful nuclear explosion or explosions within a Non-Nuclear Weapon State or States and remaining

after the detonation require observation for a specified period of time, if the Nuclear-Weapon State considers that any such materials are capable of assisting any Non-Nuclear-Weapon State or States in obtaining significant nuclear explosive design information.

(g) a description of the detailed plans, agreed to among the Parties, which are required for observation. Such plans may be incorporated in the observation agreement as annexes, and may be altered or extended by agreement among the Parties without formal amendment of the observation agreement itself.

10. The detailed plans required for observation shall include:

- (a) a schedule for the transportation of the nuclear explosive device or devices (and any components thereof) in sufficient detail for the observers to perform their assigned functions, including, but not limited to, methods of transportation, time of departure and arrival, and plans for protective action by the Parties;
- (b) a detailed description of the observation required including contingency plans in the event of unplanned (but reasonably possible) circumstances, names of observers and other

responsible representatives of Parties to the observation agreement, and a more general description of any equipment to be used in maintaining technical surveillance and how this equipment is to be used;

(c) a description of the equipment, if any, to be used by the observers to determine that the nuclear explosive device or devices have been detonated and that the explosion was carried out in accordance with the declared purpose of the project. A description of the use of such equipment should also be included.

C. CHARACTER OF OBSERVATION

11. Observation shall begin when the nuclear explosive device or devices (or any components thereof), including any documents and materials declared by the supplier Nuclear-Weapon State to contain design information, leave either the territory or the means of transport which is under the jurisdiction and control of the supplier Nuclear-Weapon-State, whichever occurs later. At the request of the supplier Nuclear-Weapon State, observation may begin prior to the transport of the nuclear explosive device or devices from its territory,

for the purpose of affixing security seals on tamper-proof containers used for transporting the nuclear explosive device or devices or otherwise to facilitate the observation function.

12. Once observation has been initiated with respect to the nuclear explosive device or devices and any documents or materials designated in accordance with paragraphs 9(c) and 9(f) of this document surveillance shall be continued on a 24-hour per day basis until either:

(a) The nuclear explosive device or devices are detonated and any such documents or materials no longer require surveillance in accordance with the observation agreement and this document; or

(b) The nuclear explosive device or devices and any such documents or materials are removed from the territory of the Non-Nuclear-Weapon State or States by the supplier Nuclear-Weapon State.

13. In maintaining surveillance in accordance with the preceding paragraph continuous visual observation is desirable but other means of surveillance are acceptable if they are considered adequate by the Parties to the observation agreement and are regarded by them at least as effective as continuous visual observation. These other means of surveillance may include:

(a) Technical means of surveillance, such as tamper-proof containers and security seals for the transport of the nuclear explosive device or devices, and of the documents or materials designated

in accordance with paragraph 9(e) of this document;

(b) during and after transportation of the nuclear explosive device or devices (or any component thereof), or of the documents or materials referred to in the preceding sub-paragraph, exterior observation of any facility in which work is being done on the explosive device or devices, or on or with the said documents or materials, to verify that only authorized representatives of the supplier Nuclear-Weapon State have access to the interior of any canister holding a nuclear explosive device or to the said documents or materials;

(c) after emplacement of the nuclear explosive device or devices underground at the project site, observation of the surface of the emplacement area; and

(d) appropriate inspection to determine whether or not there has been any attempt to obtain any

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radioactive materials designated by the supplier
Nuclear-Weapon State in accordance with paragraph
9(f) of this document.

14. At the time of the detonation and immediately thereafter, as described in the observation agreement, the Agency observers shall employ such methods as may be adequate to ascertain that the nuclear explosive device or devices have been detonated. For a completely contained underground explosion this requirement might be satisfied by ground motion instrumentation to determine approximate explosive yield.

During the operations at the nuclear explosion site, Agency observers will determine whether or not the explosion has taken place ^{in accordance with} the declared purpose. Such observations need not be on a continuous basis unless specifically required by the observation agreement.

D. REPORTING

16. Agency observers individually or collectively shall promptly report to the Director General and to the responsible project representative of the supplier Nuclear-Weapon State concerning any observed circumstances

which appear to indicate that the requirements set forth in paragraph 8 of this document are not satisfied.

17. An interim report shall be prepared by Agency observers and submitted to the Director General not later than 90 days following each nuclear detonation. Apart from providing a summary of observation activities for the period up to the time of its preparation, such interim report shall specify the further actions planned to meet the obligations of the observation agreement. Interim reports shall be submitted irrespective of whether ^{any} report has been made to the Director General under the preceding paragraph. The Director General shall circulate copies of all interim reports to the Board of Governors.

18. When observation of a peaceful nuclear explosion project has been concluded to the satisfaction of the Director General, he shall issue a Record of Observation to the supplier Nuclear-Weapon State and to the Non-Nuclear Weapon State or States in which the project was conducted. Those States shall have 30 days thereafter to transmit a report along with the Director General's Record of Observation to the Board of Governors. The Board of

Governors, in turn, shall submit a report on the matter to all Member States and to non-Member states Parties to agreements with the Agency.

E. EMERGENCY PROJECTS

19. In emergency situations, such as oil or gas well fires, where the prompt use of a peaceful nuclear explosion or explosions would alleviate the situation, special measures may be taken consistent with the guidelines embodied in this document. In no case, however, will such measures be implemented in the absence of specific approval by the Board of Governors.

F. DESIGNATION OF AGENCY OBSERVERS

20. When it is proposed to designate an Agency observer for a peaceful nuclear explosion, project, the Director General shall inform in writing the supplier Nuclear-Weapon State and the Non-Nuclear-Weapon State or States in which the project is to be conducted of the name and nationality of the proposed Agency observer and shall transmit a written certification of the observer's relevant qualifications and shall enter into such other consultations as the interested States request. The supplier Nuclear-Weapon-State and the Non-Nuclear-Weapon State or States in which the project is to be conducted

shall inform the Director General within 30 days of receipt of such a proposal whether they would accept the designation of that Agency observer. If so accepted, the proposed observer may be designated as an Agency observer for that project, and the Director General shall notify the interested States of such designation.

21. If a State Party to an observation agreement, either upon proposal of a designation or at any time after a designation has been made, objects to the designation of an Agency observer for the peaceful nuclear explosion project involved it shall inform the Director General of its objection. In this event, the Director General shall propose to the interested States an alternative designation or designations. The Director General may refer to the Board, for its appropriate action, the repeated refusal of a Party to an observation agreement to accept the designation of an Agency observer if, in his opinion, this refusal would impede the observation provided for in the relevant observation agreement.

22. The Nuclear-Weapon State or the Non-Nuclear-Weapon State or States involved in a peaceful nuclear explosion

project shall as speedily as possible grant or renew appropriate visas where required for persons accepted by such states as designated Agency observers.

G. VISITS OF AGENCY OBSERVERS

23. The States Parties to an observation agreement shall, except in emergency situations, be given at least three weeks' notice of the arrival of the Agency's observers, including their names and the place and approximate time of their arrival and departure.

24. Agency observers may be accompanied by representatives of the States concerned, provided that the observers shall not thereby be delayed or otherwise impeded in the exercise of their functions. Agency observers shall use such points of entry into and departure from the State, and such routes and modes of travel within it, as may be designated by the State.

25. Agency observers, in locations where this is necessary, shall be provided, on request and for reasonable compensation if agreed on, with appropriate equipment for carrying out observation and with suitable accommodation and transport.

26. The visits and activities of the Agency's observers shall be so arranged as to ensure on the one hand the effective discharge of their functions and on the other hand the minimum possible inconvenience to the States concerned.

27. Consultations shall take place with the States concerned to ensure that, consistent with the effective discharge of the functions of the Agency's observers, their activities will be conducted in harmony with the terms of the Non-Proliferation Treaty, or with similar provisions of other international agreements, and with the laws and regulations existing in the State or States in which the project will be conducted.

28. After submitting proper identification, Agency observers, in accordance with the observation agreement, shall have access to the exterior of the nuclear explosive canister or canisters and to the location of any documents and materials the supplier Nuclear-Weapon State has, in accordance with paragraphs 7(e) and 9 (f) of this document /declared to require observation; provided, however, that such access shall be limited to that which is necessary to verify that persons other than authorised nationals of the supplier Nuclear-Weapon State do not have any

form of access to the interior of the nuclear explosive device canister or canisters or to the design information contained in any documents or materials that require observation.

29. Agency observers shall have access to any location within the area designated as the peaceful nuclear explosion project site in the observation agreement, except such locations, if any, as cannot, consistent with Articles I and II of the Non-Proliferation Treaty or with similar provisions in other international agreements, be open to other than authorized nationals of the supplier Nuclear-Weapon State.

30. Agency observers shall be granted the privileges and immunities necessary for the performance of their functions. Suitable provisions shall be included in each observation agreement, insofar as relevant to the execution of that agreement, ^{from among} / the provisions of the Agreement on the Privileges and Immunities of the International Atomic Energy Agency, excepting Articles V and XII thereof, provided that all Parties to the observation agreement so agree.

31. Disputes between a State concerned and the Agency arising out of the exercise of the functions of Agency observers will be settled according to an appropriate disputes clause in the observation agreement.

H. MISCELLANEOUS PROVISIONS

32. The guidelines set forth in this document and the procedures for which it provides are established for the information of interested States, to enable them to determine in advance the circumstances and the manner in which the Agency would provide for observation, and for the guidance of the organs of the Agency itself, in order to enable the Board of Governors and the Director General to determine readily what provisions should be included in observation agreements and how to interpret such provisions.

33. The provisions of this document that are relevant to a particular peaceful nuclear explosion project will become legally binding only upon the entry into force of an observation agreement and to the extent that they are incorporated therein. Such incorporation may also be made by reference.

34. This document shall be subject to review and may be modified by the Board of Governors in the light of experience as peaceful nuclear/explosion/science, technology and management develop.