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Contents

I *Acts whose publication is obligatory*

- ★ Council Regulation (EEC) No 2613/82 of 21 September 1982 on the conclusion of the Framework Agreement for cooperation between the European Economic Community and the Federative Republic of Brazil 1
- Framework Agreement for cooperation between the European Economic Community and the Federative Republic of Brazil 2
- Exchange of letters on sea transport 7
-

II *Acts whose publication is not obligatory*

Commission

82/672/Euratom:

- ★ Agreement between the Government of Australia and the European Atomic Energy Community concerning transfers of nuclear material from Australia to the European Atomic Energy Community 8

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 2613/82

of 21 September 1982

on the conclusion of the Framework Agreement for cooperation between the European Economic Community and the Federative Republic of Brazil

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Article 1

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 113 and 235 thereof,

The Framework Agreement for cooperation between the European Economic Community and the Federative Republic of Brazil is hereby approved on behalf of the Community.

Having regard to the proposal from the Commission,

The text of the Agreement is attached to this Regulation.

Having regard to the opinion of the European Parliament ⁽¹⁾,

Article 2

Pursuant to Article IX of the Agreement, the President of the Council shall give notification that the procedures necessary for the entry into force of the Agreement have been completed on the part of the European Economic Community ⁽²⁾.

Whereas the Community should approve, for the attainment of its ends in the sphere of external economic relations, the Framework Agreement for cooperation with the Federative Republic of Brazil; whereas certain forms of economic cooperation provided for by the Agreement exceed the powers of action specified in the field of the common commercial policy,

Article 3

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 21 September 1982.

For the Council

The President

U. ELLEMANN-JENSEN

⁽¹⁾ OJ No C 28, 9. 2. 1981, p. 69.

⁽²⁾ The date of entry into force of the Agreement will be published in the *Official Journal of the European Communities* by the General Secretariat of the Council.

FRAMEWORK AGREEMENT

for cooperation between the European Economic Community and the Federative Republic of Brazil

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

of the one part, and

THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL,

of the other part,

INSPIRED by the friendly relations and traditional links between the Federative Republic of Brazil and the Member States of the European Economic Community;

RECOGNIZING that the European Economic Community and the Federative Republic of Brazil desire to establish a direct link with each other which will support, complement and extend the relations existing between the Federative Republic of Brazil and the Member States of the European Economic Community;

RESOLVED to consolidate, deepen and diversify their commercial and economic relations to the full extent of their growing capacity, so as to meet each other's requirements on the basis of mutual benefit and exploration of the complementarity of their economies in a dynamic context;

MINDFUL that the more dynamic trade relationship which both the European Economic Community and the Federative Republic of Brazil desire calls for cooperation in the field of commercial and economic endeavour;

CONSCIOUS that such cooperation is between equal partners but will take into account their respective levels of economic development and the Federative Republic of Brazil's membership of the Group of 77;

PERSUADED that such cooperation should be realized in evolutionary and pragmatic fashion as their policies develop;

DESIRING furthermore to contribute to the development of world trade in order to promote stronger economic growth and social progress;

RECOGNIZING the value of a Framework Agreement for the furtherance of the partner's economic growth and development objectives;

HAVE DECIDED to conclude a Framework Agreement for cooperation between the European Economic Community and the Federative Republic of Brazil and to this end have designated as their plenipotentiaries:

THE COUNCIL OF THE EUROPEAN COMMUNITIES:

Gaston THORN

President-in-Office of the Council of the European Communities;

Wilhelm HAFERKAMP

Vice-President of the Commission of the European Communities;

THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL:

Ramiro SARAIVA GUERREIRO

Minister of State for External Relations of the Federative Republic of Brazil;

WHO, having exchanged their Full Powers, found in good and due form,

HAVE AGREED AS FOLLOWS:

Article 1**Most-favoured-nation treatment**

The Contracting Parties shall, in their commercial relations, accord each other most-favoured-nation treatment in accordance with the provisions of the General Agreement on Tariffs and Trade.

Article 2**Commercial cooperation**

1. The Contracting Parties undertake to promote the development and diversification of their commercial exchanges to the highest possible level consistent with their respective economic situations.

2. To this end the Parties agree to study ways and means of overcoming trade barriers, in particular non-tariff and quasi-tariff barriers, taking into account the work carried out by international organizations in this field.

3. The Contracting Parties shall, each in accordance with its legislation, conduct a policy aimed at:

- (a) granting each other the widest facilities for commercial transactions in which either Party has an interest;
- (b) cooperating bilaterally and at the multilateral level in the solution of commercial problems of common interest, including those relating to commodities, semi-manufactured and manufactured products;
- (c) taking fully into account their respective needs and interests regarding both access to and the further processing of resources and access to each Contracting Party's market for the other Party's semi-manufactured and manufactured products;
- (d) bringing together economic operators in the two regions with the aim of diversifying and expanding existing trade flows;
- (e) studying and recommending trade promotion measures likely to encourage the expansion of imports and exports.

Article 3**Economic cooperation**

1. The Contracting Parties, in the light of their mutual interests and taking into account their long-term

economic aspirations, shall foster economic cooperation in all fields deemed suitable by the Parties. Among the objectives of such cooperation shall be:

- to encourage the development and prosperity of their respective industries,
- to open up new sources of supply and new markets,
- to encourage scientific and technological progress,
- generally to contribute to the development of their respective economies and standards of living.

2. As means to such ends, the Contracting Parties shall endeavour *inter alia* to facilitate and promote by appropriate means:

- (a) broad and harmonious cooperation between their respective industries, in particular in the form of joint ventures;
- (b) greater participation by their respective economic operators in the industrial development of the Contracting Parties on mutually advantageous terms;
- (c) scientific and technological cooperation;
- (d) cooperation in the field of energy;
- (e) cooperation in the agricultural sector;
- (f) favourable conditions for the expansion of investment on a basis of advantage for both Parties;
- (g) cooperation in respect of third countries.

3. The Contracting Parties shall as appropriate encourage the regular exchange of information relating to commercial and economic cooperation.

4. Without prejudice to the relevant provisions of the Treaties establishing the European Communities, this Agreement and any action taken thereunder shall in no way affect the powers of the Member States of the Communities to undertake bilateral activities with the Federative Republic of Brazil in the field of economic cooperation and to conclude, where appropriate, new economic cooperation agreements with the Federative Republic of Brazil.

Article 4**Joint Cooperation Committee**

1. A Joint Cooperation Committee shall be established, consisting of representatives of the

Community and of Brazil. It shall meet once a year. Extraordinary meetings may be called by mutual agreement.

2. The Committee shall promote and keep under review the various commercial and economic cooperation activities envisaged between the Community and Brazil. Consultations shall be held in the Committee at an appropriate level to facilitate the implementation of this Agreement and to further the attainment of its general aims.

Article 5

Other agreements

This Agreement shall replace the trade agreement between the European Economic Community and the Federative Republic of Brazil which has been in application since 1 January 1974.

Subject to the provisions concerning economic cooperation in Article 3 (4), the provisions of this Agreement shall replace the provisions of agreements concluded between Member States of the Communities and the Federative Republic of Brazil where such provisions are either incompatible with or identical to the provisions of this Agreement.

Article 6

European Coal and Steel Community

A separate Protocol shall be agreed between the European Coal and Steel Community and its Member States, on the one hand, and the Federative Republic of Brazil on the other.

Article 7

The Annex to this Agreement shall form an integral part thereof.

Article 8

Territorial application

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Economic Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of the Federative Republic of Brazil.

Article 9

Duration

1. This Agreement shall enter into force on the first day of the month following the date on which the Contracting Parties have notified each other of the completion of the procedures necessary for this purpose.

2. This Agreement is concluded for a period of five years. It shall be renewed on a yearly basis unless one of the Contracting Parties denounces it six months before the date of expiry.

Article 10

Authentic languages

This Agreement is drawn up in two copies in the Danish, Dutch, English, French, German, Italian and Portuguese languages, each of these texts being equally authentic.

Udfærdiget i Bruxelles, den attende september nitten hundrede og firs.

Geschehen zu Brüssel am achtzehnten September neunzehnhundertachtzig.

Done at Brussels on the eighteenth day of September in the year one thousand nine hundred and eighty.

Fait à Bruxelles, le dix-huit septembre mil neuf cent quatre-vingt.

Fatto a Bruxelles, addì diciotto settembre millenovecentottanta

Gedaan te Brussel, de achttiende september negentienhonderd tachtig.

Feito em Bruxelas, aos dezoito de setembro de mil novecentos e oitenta.

For Rådet for De europæiske Fællesskaber

Für den Rat der Europäischen Gemeinschaften

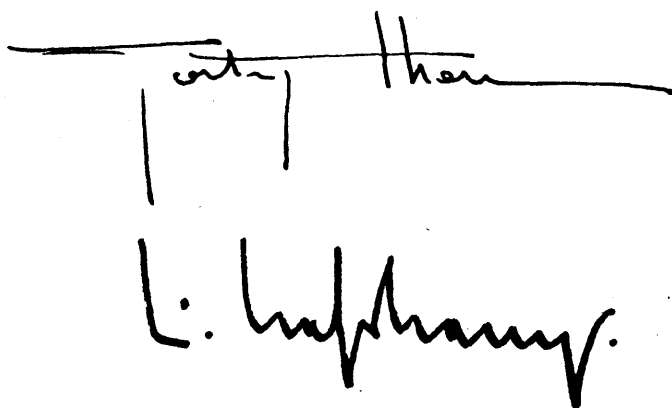
For the Council of the European Communities

Pour le Conseil des Communautés européennes

Per il Consiglio delle Comunità europee

Voor de Raad van de Europese Gemeenschappen

Pelo Conselho das Comunidades Europeias

A handwritten signature in black ink, appearing to read 'L. Lufthaus'. The signature is written in a cursive style with a horizontal line above it.

For regeringen for Den føderative republik Brasilien

Für die Regierung der Föderativen Republik Brasilien

For the Government of the Federative Republic of Brazil

Pour le gouvernement de la république fédérative du Brésil

Per il governo della Repubblica federale del Brasile

Voor de Regering van de Federatieve Republiek Brazilië

Pelo Governo da República Federativa do Brasil

A handwritten signature in black ink, appearing to read 'R. L. Guimarães'. The signature is written in a cursive style.

ANNEX

Cooperation regarding the marketing of cocoa butter and soluble coffee

1. The Community shall, in pursuance of its offer of generalized preferences as notified to UNCTAD and in accordance with arrangements based on the conclusions reached within that body, suspend the Common Customs Tariff duties on the following products, originating in developing countries, and substitute the rate shown against each one:

CCT heading No	Description	Rate of Duty
ex 18.04	Cocoa butter (fat or oil): — Cocoa butter	8 %
21.02	Extracts, essences or concentrates of coffee, tea or maté; preparations with a basis of these extracts, essences or concentrates: ex A. Extracts, essences or concentrates of coffee, preparations with a basis of these extracts, essences or concentrates: — Soluble coffee	9 %

2. Preferential imports under point 1 shall be limited to Community tariff quotas amounting, for 1974, to 21 600 tonnes for cocoa butter falling within heading No ex 18.04 and 18 750 tonnes for soluble coffee falling within tariff subheading 21.02 ex A.

After the first year of application of the Agreement, the above quotas shall be increased annually, under the

Community system of generalized preferences, on the basis of the Community's needs and imports; they may be amended for any changes made in the list of countries to which that system applies.

3. If the Community finds that products to which the arrangements described in point 1 apply are imported into the Community in such quantities or at such prices that these imports are or are likely to be particularly harmful to the interests of Community producers of like products or of products in direct competition, or if they have adverse effects on the situation in the associated countries, the Common Customs Tariff duties may be reimposed in part or in whole for the products in question in respect of the country or countries, or territory or territories, where such harmful effect originates. Such measures may also be taken in the event of serious harm, or its likelihood, to a single region of the Community.

4. Brazil shall take all appropriate steps to ensure that its policy regarding prices and other conditions for the marketing of cocoa butter and soluble coffee disturbs neither the internal market of the Community nor its traditional patterns of trade.

5. In the context of the trade cooperation provided for in Article 2 of the Agreement, Brazil is prepared, within the Joint Committee established by the Agreement, to undertake a periodic review of the effect on the Community market of its export price policy for cocoa butter and soluble coffee.

6. Should any difficulties arise in the implementation of the provisions of this Annex, the two Parties will discuss them in the Joint Committee with a view to finding mutually satisfactory solutions.

Exchange of letters on sea transport

Your Excellency,

I have the honour to confirm the following:

In view of the concern expressed by the European Economic Community and the Member States on the occasion of the negotiation of the Agreement between the Community and Brazil, signed this day, as regards obstacles to trade resulting from sea transport conditions, it has been agreed that mutually satisfactory solutions will be sought as regards sea transport between Brazil and the Community and the Member States.

To this end, it has also been agreed that, at the first meeting of the Joint Committee, the problems mentioned in the first paragraph, which could affect the development of reciprocal trade, will be examined with a view to ensuring the harmonious conduct of such trade.

Please accept, Your Excellency, the assurance of my highest consideration.

*For the Council of the European
Communities and the Member
States of the Community*

Sir,

I have the honour to confirm the following:

In view of the concern expressed by the European Economic Community and the Member States on the occasion of the negotiation of the Agreement between the Community and Brazil, signed this day, as regards obstacles to trade resulting from sea transport conditions, it has been agreed that mutually satisfactory solutions will be sought as regards sea transport between Brazil and the Community and the Member States.

To this end, it has also been agreed that, at the first meeting of the Joint Committee, the problems mentioned in the first paragraph, which could affect the development of reciprocal trade, will be examined with a view to ensuring the harmonious conduct of such trade.

Please accept, Sir, the assurance of my highest consideration.

*For the Government of the
Federative Republic of Brazil*

II

(Acts whose publication is not obligatory)

COMMISSION

AGREEMENT

between the Government of Australia and the European Atomic Energy Community concerning transfers of nuclear material from Australia to the European Atomic Energy Community

(82/672/Euratom)

THE GOVERNMENT OF AUSTRALIA

AND THE EUROPEAN ATOMIC ENERGY COMMUNITY,

DETERMINED to ensure that the international development and use of nuclear energy for peaceful purposes are carried out under arrangements which will further the objective of the non-proliferation of nuclear weapons;

MINDFUL that Australia and the following Member States of the Community, Belgium, Denmark, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands and the United Kingdom of Great Britain and Northern Ireland are Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, done at London, Moscow and Washington on 1 July 1968 (hereinafter referred to as 'the Treaty');

MINDFUL also that Member States of the Community have concluded with Australia bilateral nuclear cooperation agreements and that the provisions of this Agreement shall, when in force, be regarded as complementary to the provisions of any such bilateral agreements in force and shall, where appropriate, supersede the provisions of those agreements;

RECOGNIZING that Australia, as a non-nuclear weapon State, has, under the Treaty, undertaken not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices and that it has concluded an agreement with the International Atomic Energy Agency (hereinafter referred to as 'the Agency') for the application of safeguards in connection with the Treaty;

RECOGNIZING that the Community, pursuant to Article 2 (e) of the Euratom Treaty, must ensure by appropriate supervision that nuclear materials are not diverted to purposes other than those for which they are intended and that, to this end, safeguards will be applied in accordance with Chapter VII of the Euratom Treaty;

RECOGNIZING further that the Community and the Member States of the Community have entered into agreements with the Agency for the application of safeguards within the Community;

DESIRING to establish conditions consistent with their determination to ensure the furtherance of the objective of non-proliferation under which nuclear material can be transferred from Australia to the Community for peaceful purposes,

HAVE AGREED AS FOLLOWS:

Article I

For the purpose of this Agreement:

- (a) 'appropriate authority' means, in the case of Australia, the Australian Safeguards Office, and, in the case of the Community, the Commission of the European Communities, or such other authority as the Party concerned may from time to time notify the other Party;
- (b) 'military purpose' means direct military applications of nuclear energy such as nuclear weapons, military nuclear propulsion, military nuclear rocket engines or military nuclear reactors but does not include indirect uses such as power for a military base drawn from a civil power network, or production of radioisotopes to be used for diagnosis in a military hospital;
- (c) 'nuclear material' means any 'source material' or 'special fissionable material' as those terms are defined in Article XX of the Statute of the Agency. Any determination by the Board of Governors of the Agency under Article XX of the Agency's Statute which amends the list of materials considered to be 'source material' or 'special fissionable material' shall only have effect under this Agreement when both Parties to this Agreement have informed each other in writing that they accept such amendment;
- (d) 'Parties' means Australia and the Community;
- (e) 'Community' means both:
 - (i) the legal person created by the Treaty establishing the European Atomic Energy Community (Euratom), Party to this Agreement;
 - (ii) the territories to which the Euratom Treaty applies;
- (f) 'within the Community' means within the territories to which the Euratom Treaty applies;
- (g) 'beyond the Community' has the corresponding meaning;
- (h) 'peaceful purposes' means all uses other than use for a military purpose.

Article II

1. This Agreement shall apply to:

- (a) nuclear material transferred from Australia to the Community for peaceful purposes whether directly or through a third country, provided that Australia has so informed the Community in writing prior to, or at the time of, the transfer of such nuclear material. Notwithstanding the abovementioned requirement for notification, all the provisions of this Article shall apply to nuclear material which has been transferred between Australia and Member States of the Community pursuant to bilateral agreements and which is notified to the Community at the time this Agreement comes into force;
- (b) all forms of nuclear material prepared by chemical or physical processes or isotopic separation provided that the quantity of nuclear material so prepared shall only be regarded as falling within the scope of this Agreement in the same proportion as the quantity of nuclear material used in its preparation, and which is subject to this Agreement, bears to the total quantity of nuclear material so used;
- (c) all generations of nuclear material produced by neutron irradiation provided that the quantity of nuclear material so produced shall only be regarded as falling within the scope of the Agreement in the same proportion as the quantity of nuclear material which is subject to this Agreement and which, used in its production, contributes to this production;
- (d) if so provided for in a bilateral agreement between Australia and a Member State, nuclear material produced, processed or used in equipment which that Member State or Australia in consultation with that Member State has designated to the Community as equipment of Australian origin or as equipment derived from equipment or technology of Australian origin, and which is within the jurisdiction of that Member State at the time of designation and use.

2. The items referred to in paragraph 1 of this Article shall be transferred pursuant to this Agreement only to

a natural or legal person duly authorized to receive those items.

Article III

1. Nuclear material referred to in Article II of this Agreement shall remain subject to the provisions of this Agreement until it is determined that it is no longer usable, or that it is practicably irrecoverable for processing into a form in which it is usable for any nuclear activity relevant from the point of view of safeguards or until it has been transferred beyond the Community in accordance with the provisions of Article IX of this Agreement.

2. For the purpose of determining when nuclear material subject to this Agreement is no longer usable or is no longer practicably recoverable for processing into a form in which it is usable for any nuclear activity relevant from the point of view of safeguards, both Parties shall accept a determination made by the Agency in accordance with the provisions for the termination of safeguards of the relevant safeguards agreement to which the Agency is a party and which is referred to in Articles V and VI of this Agreement.

Article IV

Nuclear material subject to this Agreement shall not be used for, or diverted to, the manufacture of nuclear weapons or other nuclear explosive devices, research on or development of nuclear weapons or other nuclear explosive devices, or be used for any military purpose.

Article V

1. Compliance with Article IV of this Agreement shall be ensured by a system of safeguards applied by the Community and the Agency pursuant to the Euratom Treaty and to the following safeguards agreements:

- (a) the agreement concluded in accordance with Article III of the Treaty on 5 April 1973 between Belgium, Denmark, the Federal Republic of Germany, Ireland, Italy, Luxembourg, the Netherlands, the Community and the Agency;
- (b) the agreement concluded in connection with the Treaty on 6 September 1976 between the United Kingdom, the Community and the Agency;
- (c) the agreement concluded on 27 July 1978 between France, the Community and the Agency.

2. Without prejudice to Articles VI and VII of this Agreement, nuclear material subject to this Agreement shall be subject at all times to an agreement referred to in subparagraphs (a), (b) or (c) of paragraph 1 of this Article or to another agreement concluded in accordance with Article III of the Treaty.

Article VI

If, notwithstanding the provisions of Article V of this Agreement, nuclear material subject to this Agreement is present within the Community or any part thereof and the Agency has ceased to administer safeguards within the Community or such part thereof under the relevant safeguards agreement referred to in Article V of this Agreement, safeguards shall be applied under an agreement to which the Community and the Agency are parties and which provides safeguards equivalent in scope and effect to those provided by the relevant safeguards agreement referred to in Article V of this Agreement.

Article VII

If, notwithstanding the provisions of Articles V and VI of this Agreement, nuclear material subject to this Agreement is present within the Community or any part thereof and the Agency has ceased to administer safeguards within the Community or such part thereof pursuant to a safeguards agreement or agreements referred to in Articles V and VI of this Agreement, Australia and the Community shall forthwith enter into an agreement for the application of a safeguards system in the Community or the relevant part thereof which conforms with the safeguards principles and procedures of the Agency and which provides for safeguards equivalent in scope and effect to the Agency safeguards it replaces. The Parties shall consult and assist each other in the application of such a safeguards system.

Article VIII

- 1. Nuclear material subject to this Agreement shall be subject at all times to adequate levels of physical protection which shall satisfy as a minimum the criteria set out in Annex B to Agency document INFCIRC/254.
- 2. Measures of physical protection shall be applied by the Member States. The Member States, in applying physical protection measures, will be guided by recommendations of international expert groups and especially by Agency document INFCIRC/225 Rev. 1.

3. To take into account generally accepted developments in the field of physical protection, the provisions of Article XVIII shall apply.

Article IX

Nuclear material subject to this Agreement transferred to the Community shall not be transferred beyond the Community to any other country without the prior written consent of Australia.

Article X

Nuclear material subject to this Agreement shall only be enriched beyond 20 % in the isotope uranium 235 according to conditions agreed upon in writing between the Parties, as set out in Annex B.

Article XI

Nuclear material subject to this Agreement shall only be reprocessed according to conditions agreed upon in writing between the Parties, as set out in Annex C.

Article XII

1. In applying Articles IX, X and XI of this Agreement, Australia will take into account non-proliferation considerations and nuclear energy requirements of the Community. Australia shall not withhold its consent or agreement for the purpose of securing commercial advantage. Australia shall not unduly delay the making of any decision and shall also without undue delay inform the Community of any such decision.

2. If Australia considers that it is unable to grant consent to a matter referred to in Article IX of this Agreement, it shall provide the Community with an immediate opportunity for full consultation on that issue.

Article XIII

1. The appropriate authorities of both Parties shall consult at any time at the request of either Party to ensure the effective implementation of this Agreement. The Parties may jointly invite the Agency to participate in such consultations.

2. If nuclear material subject to this Agreement is present within the Community or any part thereof, the Community shall, upon the request of Australia, provide Australia in writing with the overall conclusions which the Agency has drawn from its verification activities, under the relevant safeguards agreement, in so far as they relate to nuclear material subject to this Agreement.

3. The appropriate authorities of both Parties shall establish an administrative arrangement to ensure the effective fulfilment of the obligations of this Agreement. An administrative arrangement established pursuant to this paragraph may be changed with the agreement of the appropriate authorities of both Parties.

Article XIV

The Parties shall take all appropriate precautions to preserve the confidentiality of commercial and industrial secrets and other confidential information received as a result of the operation of this Agreement.

Article XV

In the event of non-compliance by the Community or by any of its Member States with any of the provisions of Articles IV to XI inclusive, or of Articles XIII or XVI of this Agreement, or of non-compliance with, or repudiation of, Agency safeguards agreements by the Community or by any of its Member States, Australia shall have the right, subject to prior notification, to suspend or cancel further transfers of nuclear material and to require the Community and the relevant Member State or States to take corrective steps. If, following consultation between the Parties, such corrective steps are not taken within a reasonable time, Australia shall thereupon have the right to require the return of nuclear material subject to this Agreement. In the event of detonation of a nuclear explosive device by a non-nuclear-weapon State member of the Community, the aforementioned provisions would apply.

Article XVI

Any dispute arising out of the interpretation or application of this Agreement which is not settled by negotiation shall, at the request of either Party, be submitted to an arbitral tribunal which shall be composed of three arbitrators appointed in accordance with the provisions of this Article. Each Party shall designate one arbitrator who may be in the case of

Australia its national and in the case of the Community a national of one of its Member States, and the two arbitrators so designated shall elect a third, who shall not be a national of Australia or of a Member State of the Community and who shall be the chairman. If, within 30 days of the request for arbitration, either Party has not designated an arbitrator, either Party to the dispute may request the President of the International Court of Justice or the Secretary-General of the United Nations to appoint an arbitrator. In case of conflicting requests by the Parties to the dispute, the request to the Secretary-General of the United Nations shall have priority. The same procedure shall apply if, within 30 days of the designation or appointment of the second arbitrator, the third arbitrator has not been elected. A majority of the members of the tribunal shall constitute a quorum. All decisions shall be made by majority vote of all the members of the arbitral tribunal. The arbitral procedure shall be fixed by the tribunal. The decisions of the tribunal, including all rulings concerning its constitution, procedure, jurisdiction and the division of the expenses of arbitration between the Parties, shall be binding on both Parties and shall be implemented by them.

Article XVII

The provisions of this Agreement shall be regarded as complementary to the provisions of any bilateral nuclear cooperation agreements in force between Australia and Member States of the Community and shall, where appropriate, supersede the provisions of those agreements.

Article XVIII

1. The Parties may consult, at the request of either Party, on possible amendments to this Agreement,

particularly to take account of international developments in the field of nuclear safeguards.

2. This Agreement may be amended or revised if the Parties so agree.

3. Any amendment shall enter into force on the date the Parties, by exchange of diplomatic notes, specify for its entry into force.

Article XIX

The Annexes form an integral part of this Agreement, and unless expressly provided otherwise, a reference to this Agreement includes its Annexes.

Article XX

1. This Agreement shall enter into force on the date the Parties, by an exchange of diplomatic notes, specify for its entry into force and shall remain in force for an initial period of 30 years. This term may be extended for such additional periods as may be agreed between the Parties.

2. Notwithstanding the suspension, termination or expiration of this Agreement or any cooperation hereunder for any reason, the obligations in Articles III, IV, V, VI, VII, VIII, IX, X, XI, XII, XIII and XIV shall continue in effect so long as any nuclear material subject to these Articles remains in the Community or under its jurisdiction or control anywhere or until it is determined in accordance with the provisions of Article III that such nuclear material is no longer usable, or is practicably irrecoverable for processing into a form in which it is usable, for any nuclear activity relevant from the point of view of safeguards.

In witness whereof the undersigned, being duly authorized thereto by the Government of Australia and the European Atomic Energy Community respectively, have signed this Agreement.

Done in duplicate at Brussels this twenty-first day of September in the year one thousand nine hundred and eighty-one, in the Danish, Dutch, English, French, German, Greek and Italian languages, each text being equally authentic.

*For the European
Atomic Energy Community*

W. HAFERKAMP

*For the Government
of Australia*

R. FERNANDEZ

ANNEX A

Assurances from the Community

1. During the course of the negotiations between Australia and the European Atomic Energy Community, the Community side advised that it would be able to enter into an agreement with Australia concerning transfers of nuclear material from Australia to the Community. The Australian side acknowledged that an agreement of this scope between Australia and the European Atomic Energy Community would cover a significant area of the nuclear transfers likely to take place between Australia and the Community over the period of the duration of the Agreement.
2. Both sides recognized that there remained other areas of likely nuclear transfers between Australia and Member States and that in such circumstances supplementary arrangements would be required between Australia and the relevant Member State or States. In this connection both sides noted that two bilateral agreements between Australia and the United Kingdom and Australia and France have been concluded.
3. Both sides noted that the Member States, being prepared to confirm their willingness to enter into discussions if and when appropriate, about such arrangements, have submitted declarations to this effect.
4. The Community confirms there is no obstacle to the conclusion of such arrangements between Australia and any Member State of the Community wishing to conclude them, provided that any agreements or contracts are consistent with the Treaty establishing the European Atomic Energy Community.

ANNEX B

Procedure for consultations on conditions for high enrichment

Whereas Article X of the Agreement provides that nuclear material subject to the Agreement shall only be enriched beyond 20 % in the isotope uranium 235 according to conditions agreed upon in writing between the Parties.

The Parties to the Agreement,

declare that they shall not at present enrich nuclear material subject to the Agreement beyond 20 % in the isotope uranium 235; and

agree to consult within 40 days of the receipt of a request from either Party to consider proposals for conditions to be agreed upon in writing according to which nuclear material subject to the Agreement may be enriched beyond 20 % in the isotope uranium 235.

ANNEX C

Reprocessing

Whereas Article XI of the Agreement provides that nuclear material subject to the Agreement (hereinafter referred to as NMSA) shall be reprocessed only according to conditions agreed upon in writing between the Parties.

The Parties to the Agreement,

acknowledging that the separation, storage, transportation and use of plutonium require particular measures to reduce the risk of nuclear proliferation;

recognizing the role of reprocessing in connection with efficient energy use, management of materials contained in spent fuel or other peaceful non-explosive uses including research;

desiring predictable and practical implementation of the agreed conditions set out in this Annex, taking into account both their determination to ensure the furtherance of the objective of non-proliferation and the long-term needs of the nuclear fuel cycle programmes of the recipient Party;

determined to continue to support the development of international safeguards and other measures relevant to reprocessing and plutonium, including an effective and generally accepted international plutonium storage scheme,

Have agreed as follows:

Article 1

NMSA may be reprocessed subject to the following conditions:

- (a) reprocessing shall take place under Agency safeguards for the purpose of energy use or management of materials contained in spent fuel, in accordance with the nuclear fuel cycle programme as delineated and recorded in the Implementing Arrangement;
- (b) the separated plutonium shall be stored and used under Agency safeguards in accordance with the nuclear fuel cycle programme as delineated and recorded in the Implementing Arrangement;
- (c) reprocessing and use of the separated plutonium for other peaceful non-explosive purposes including research shall take place only under conditions agreed upon in writing between the Parties following consultations under Article 2 of this Annex.

Article 2

Consultations shall be held within 40 days of the receipt of a request from either Party:

- (a) to review the operation of the provisions of this Annex;
- (b) to consider amendments to the Implementing Arrangement as provided therein;
- (c) to consider improvements in international safeguards and other control techniques including the establishment of new and generally accepted international mechanisms relevant to reprocessing and plutonium;
- (d) to consider amendments to this Annex proposed by either Party in particular to take account of the improvements referred to in paragraph (c) of this Article;
- (e) to consider proposals for reprocessing and use of the separated plutonium for other peaceful non-explosive purposes including research.

Article 3

The provisions of Article XIV of the Agreement shall apply to the information included in the Implementing Arrangement referred to in Article 1 above.

Article 4

This Annex may be amended in accordance with Article XVIII of the Agreement.

Letters sent to Australia from Euratom Member States which do not have bilateral agreements with Australia ⁽¹⁾

I have the honour to refer to the Agreement between the Government of Australia and the European Atomic Energy Community concerning transfers of nuclear material from Australia to the European Atomic Energy Community.

In the light of this Agreement and in particular Annex A thereto, my Government confirms that it would be prepared, if and when appropriate, to enter into discussions about arrangements concerning the transfer of non-nuclear material, equipment and technology between Australia and ⁽²⁾, and of nuclear material from ⁽²⁾ to Australia, consistent with non-proliferation and nuclear energy requirements of Australia and my Government.

Letters on physical protection sent to Australia from Euratom States which do not have bilateral agreements with Australia ⁽¹⁾

I have the honour to refer to the Agreement between the Government of Australia and the European Atomic Energy Community concerning transfers of nuclear material from Australia to the European Atomic Energy Community.

In addition to the obligations to Australia entered into under the Agreement, I have the honour to inform you that my Government confirms that nuclear material subject to the Agreement which is within the territory, jurisdiction or control of my Government shall be subject to the levels of physical protection referred to in Article VIII of the Agreement and to the measures applied by my Government to meet these levels.

My Government also confirms its willingness to consult as necessary on matters concerning levels of physical protection and general matters relating to physical protection.

⁽¹⁾ This letter was forwarded on 21 September 1981 by the Permanent Representatives to the European Communities of all the Member States, except for France and the United Kingdom, to the Australian Ambassador to the European Communities.

⁽²⁾ Name of the country.

Side letter No 1

A. Letter from Australia to the Community

Brussels, 21 September 1981

Sir,

I have the honour to refer to the Agreement between the Government of Australia and the European Atomic Energy Community concerning transfers of nuclear material from Australia to the European Atomic Energy Community signed today at Brussels.

1. The Australian Government considers this Agreement to be an important element in the establishment of a network of bilateral agreements between Australia and potential customer countries for Australian uranium, in accordance with the Australian Government's nuclear safeguards policy as announced by the Prime Minister on 24 May 1977. One of the requirements of that policy is that Australian origin nuclear material cannot be transferred to a non-nuclear weapon State that is not a party to the Treaty on the Non-Proliferation of Nuclear Weapons. Australia is seeking to conclude further agreements with other countries on the basis of the Government's nuclear safeguards policy.
2. In the application of Article XV of the Agreement, Australia will have due regard to the nature of the non-compliance or repudiation involved so as to avoid any disproportionate interference with supply.
3. In relation to Article XVIII of the Agreement, no amendment or revision of the Agreement shall be applicable to nuclear material subject to the Agreement supplied or to be supplied pursuant to contracts entered into before such amendment or revision, unless the Parties so agree.

I should be obliged if you would acknowledge receipt of this letter.

Please accept, Sir, the assurance of my highest consideration.

For the Government of Australia

R. FERNANDEZ

B. Letter in reply from the Community to Australia

Brussels, 21 September 1981

Your Excellency,

I have the honour to acknowledge receipt of your letter of today's date which reads as follows:

'I have the honour to refer to the Agreement between the Government of Australia and the European Atomic Energy Community concerning transfers of nuclear material from Australia to the European Atomic Energy Community signed today at Brussels.

1. The Australian Government considers this Agreement to be an important element in the establishment of a network of bilateral agreements between Australia and potential customer countries for Australian uranium, in accordance with the Australian Government's nuclear safeguards policy as announced by the Prime Minister on 24 May 1977. One of the requirements of that policy is that Australian origin nuclear material cannot be transferred to a non-nuclear weapon State that is not a party to the Treaty on the Non-Proliferation of Nuclear Weapons. Australia is seeking to conclude further agreements with other countries on the basis of the Government's nuclear safeguards policy.
2. In the application of Article XV of the Agreement, Australia will have due regard to the nature of the non-compliance or repudiation involved so as to avoid any disproportionate interference with supply.
3. In relation to Article XVIII of the Agreement, no amendment or revision of the Agreement shall be applicable to nuclear material subject to the Agreement supplied or to be supplied pursuant to contracts entered into before such amendment or revision, unless the Parties so agree.

I should be obliged if you would acknowledge receipt of this letter.'

I have the honour to inform you that the European Atomic Energy Community has taken note of the contents of your letter.

Please accept, Your Excellency, the assurance of my highest consideration.

*For the European Atomic
Energy Community*

W. HAFERKAMP

Side Letter No 2

A. Letter from Australia to the Community

Brussels, 21 September 1981

Sir,

I have the honour to refer to the Agreement between the Government of Australia and the European Atomic Energy Community concerning transfers of nuclear material from Australia to the European Atomic Energy Community signed today at Brussels.

1. In the negotiations between Australia and the European Atomic Energy Community on an agreement concerning transfers of nuclear material from Australia to the Community for peaceful purposes, both Parties discussed the arrangements that would apply, in accordance with the Agreement, to transfers to third countries for conversion, enrichment up to 20 %, fuel fabrication, reprocessing and storage of nuclear material subject to the Agreement (hereinafter referred to as 'NMSA').

2. The Community delegation described the different stages of the nuclear fuel cycles of Member States. In addition to using conversion, enrichment, fuel fabrication, reprocessing and storage facilities inside the Community, Member States also make use of such facilities outside the Community.
3. In the light of these discussions, the following conclusions were reached:
 - A. (i) Transfers of NMSA between the Community and third countries, which have an agreement in force with Australia concerning nuclear transfers in relation to which agreement the Australian Government has not advised the Community that it has found it necessary to suspend, cancel or refrain from making nuclear transfers, can take place within the nuclear fuel cycle programme referred to in Annex C to the Agreement for conversion, enrichment up to 20 % in the isotope uranium 235, fuel fabrication, reprocessing or storage.
 - (ii) The Community shall promptly notify Australia, in accordance with the procedures set out in the Administrative Arrangement, of such transfers.
 - B. (i) Transfers of NMSA between the Community and third countries which do not have an agreement in force with Australia concerning nuclear transfers can take place within the nuclear fuel cycle programme referred to in Annex C to the Agreement for conversion, enrichment up to 20 % in the isotope uranium 235, and fuel fabrication.
 - (ii) In such cases it will be necessary to ensure the return to the Community, or to another country which has an agreement in force with Australia concerning nuclear transfers in relation to which agreement the Australian Government has not advised the Community that it has found it necessary to suspend, cancel or refrain from making nuclear transfers, of quantities of nuclear material equivalent to the supplied nuclear material.
 - (iii) The Community shall promptly notify Australia, in accordance with the procedures set out in the Administrative Arrangement, of such transfers.
 - C. (i) Transfers of NMSA, other than those referred to in subparagraphs 3.A and B above, from the Community to third countries which have an agreement in force with Australia concerning nuclear transfers in relation to which agreement the Australian Government has not advised the Community that it has found it necessary to suspend, cancel or refrain from making nuclear transfers, can take place for conversion, enrichment up to 20 % in the isotope uranium 235, fuel fabrication, and reprocessing or for use, storage or final disposal.
 - (ii) The Community shall promptly notify Australia, in accordance with the procedures set out in the Administrative Arrangement, of such transfers.
 - (iii) Australia shall provide the Community with, and keep up to date, the list of countries to which transfers may be made in accordance with subparagraph 3.C (i) above.
 - D. Transfers of NMSA enriched beyond 20 % in the isotopes uranium 233 and uranium 235 and plutonium from the Community to third countries can take place only in accordance with conditions agreed upon in writing between the Parties.

I propose that, if the foregoing is acceptable to the European Atomic Energy Community, this letter with your reply shall constitute an Agreement between the Government of Australia and the European Atomic Energy Community which shall enter into force on the date that the Agreement between the Government of Australia and the European Atomic Energy Community concerning transfers of nuclear material from Australia to the European

Atomic Energy Community enters into force and shall remain in force for as long as that Agreement remains in force.

Please accept, Sir, the assurance of my highest consideration.

For the Government of Australia

R. FERNANDEZ

B. Letter in reply from the Community to Australia

Brussels, 21 September 1981

Your Excellency,

I have the honour to acknowledge receipt of your letter of today's date which reads as follows:

'I have the honour to refer to the Agreement between the Government of Australia and the European Atomic Energy Community concerning transfers of nuclear material from Australia to the European Atomic Energy Community signed today at Brussels.

1. In the negotiations between Australia and the European Atomic Energy Community on an agreement concerning transfers of nuclear material from Australia to the Community for peaceful purposes, both Parties discussed the arrangements that would apply, in accordance with the Agreement, to transfers to third countries for conversion, enrichment up to 20 %, fuel fabrication, reprocessing and storage of nuclear material subject to the Agreement (hereinafter referred to as 'NMSA').
2. The Community delegation described the different stages of the nuclear fuel cycles of Member States. In addition to using conversion, enrichment, fuel fabrication, reprocessing and storage facilities inside the Community, Member States also make use of such facilities outside the Community.
3. In the light of these discussions, the following conclusions were reached:
 - A. (i) Transfers of NMSA between the Community and third countries, which have an agreement in force with Australia concerning nuclear transfers in relation to which agreement the Australian Government has not advised the Community that it has found it necessary to suspend, cancel or refrain from making nuclear transfers, can take place within the nuclear fuel cycle programme referred to in Annex C to the Agreement for conversion, enrichment up to 20 % in the isotope uranium 235, fuel fabrication, reprocessing or storage.
 - (ii) The Community shall promptly notify Australia, in accordance with the procedures set out in the Administrative Arrangement, of such transfers.
 - B. (i) Transfers of NMSA between the Community and third countries which do not have an agreement in force with Australia concerning nuclear transfers can take place within the nuclear fuel cycle programme referred to in Annex C to the Agreement for conversion, enrichment up to 20 % in the isotope uranium 235, and fuel fabrication.

- (ii) In such cases it will be necessary to ensure the return to the Community, or to another country which has an agreement in force with Australia concerning nuclear transfers in relation to which agreement the Australian Government has not advised the Community that it has found it necessary to suspend, cancel or refrain from making nuclear transfers, of quantities of nuclear material equivalent to the supplied nuclear material.
 - (iii) The Community shall promptly notify Australia, in accordance with the procedures set out in the Administrative Arrangement, of such transfers.
- C. (i) Transfers of NMSA, other than those referred to in subparagraphs 3.A and B above, from the Community to third countries which have an agreement in force with Australia concerning nuclear transfers in relation to which agreement the Australian Government has not advised the Community that it has found it necessary to suspend, cancel or refrain from making nuclear transfers, can take place for conversion, enrichment up to 20 % in the isotope uranium 235, fuel fabrication, and reprocessing or for use, storage or final disposal.
- (ii) The Community shall promptly notify Australia, in accordance with the procedures set out in the Administrative Arrangement, of such transfers.
 - (iii) Australia shall provide the Community with, and keep up to date, the list of countries to which transfers may be made in accordance with subparagraph 3.C (i) above.
- D. Transfers of NMSA enriched beyond 20 % in the isotopes uranium 233 and uranium 235 and plutonium from the Community to third countries can take place only in accordance with conditions agreed upon in writing between the Parties.

I propose that, if the foregoing is acceptable to the European Atomic Energy Community, this letter with your reply shall constitute an Agreement between the Government of Australia and the European Atomic Energy Community which shall enter into force on the date that the Agreement between the Government of Australia and the European Atomic Energy Community concerning transfers of nuclear material from Australia to the European Atomic Energy Community enters into force and shall remain in force for as long as that Agreement remains in force.'

I have the honour to confirm the conclusions recorded in your letter about the interpretation and application of the Agreement and to advise that the European Atomic Energy Community therefore agrees that your letter with the present reply shall constitute an Agreement between the Australian Government and the European Atomic Energy Community which shall enter into force on the date that the Agreement between the Government of Australia and the European Atomic Energy Community concerning transfers of nuclear material from Australia to the European Atomic Energy Community enters into force and shall remain in force for as long as that Agreement remains in force.

Please accept, Your Excellency, the assurance of my highest consideration.

*For the European Atomic
Energy Community*

W. HAFERKAMP
