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## MEASURES TO STRENGTHEN INTERNATIONAL CO-OPERATION IN NUCLEAR SAFETY AND RADIOLOGICAL PROTECTION

- (a) DRAFT CONVENTION ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT;  
and
- (b) DRAFT CONVENTION ON ASSISTANCE IN THE CASE OF A NUCLEAR  
ACCIDENT OR RADIOLOGICAL EMERGENCY

### Report by the Board of Governors

1. Pursuant to a decision taken by the Board of Governors on 21 May 1986, a group of governmental experts convened to draft international agreements on the early notification of a nuclear accident and on assistance in the event of nuclear accidents and radiological emergencies met at the Agency's Headquarters, in Vienna, from 21 July to 15 August 1986.
2. Experts from 62 Member States and representatives of 10 international organizations participated in the meeting (see Annex I).
3. The group elected Ambassador L.H.J.B. van Gorkom, Resident Representative of the Netherlands to the International Organizations in Vienna, as Chairman.

4. The meeting elected as Vice-Chairmen:

Ambassador M.E.T. Shash

Resident Representative of the Arab Republic of Egypt to the  
International Organizations in Vienna

Ambassador C.A. de Proenca Rosa

Resident Representative of Brazil to the International Organizations  
in Vienna

Mr. J. Maser

Alternate to the Resident Representative of the German Democratic  
Republic to the International Organizations in Vienna

5. At its final plenary session, the group adopted by consensus, for transmission to the Board of Governors, texts of the following two legal instruments:

- (a) Convention on Early Notification of a Nuclear Accident; and
- (b) Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency.

The texts are contained in Annexes II and III respectively.

6. The group requested the Chairman to inform the Board of a number of proposals for the scope of application of the early notification convention which had been considered in connection with article 1 of that convention; these are reproduced in Annex IV. Some experts expressed reservations with respect to particular provisions of the two conventions and the Chairman made a statement concerning the content of his report to the Board; these are reflected in the summary record of the final plenary session (see Annex V). The Chairman made the summing-up statement reproduced as Annex VI.

7. On 22 September 1986, the Board of Governors took note of the two conventions the texts of which are contained in Annexes II and III and decided to commend them to Member States and to transmit them, together with the other Annexes to this document, to the General Conference for consideration and adoption at its special session.

ANNEX I

List of States and International Organizations represented at the  
Meeting of Governmental Experts

1. Experts from the following States participated in the meeting:

Algeria	Korea, Republic of
Argentina	Kuwait
Australia	Libyan Arab Jamahiriya
Austria	Luxembourg
Belgium	Malaysia
Brazil	Mexico
Bulgaria	Morocco
Canada	Netherland
Chile	New Zealand
China	Nigeria
Colombia	Norway
Côte d'Ivoire	Pakistan
Cuba	Panama
Czechoslovakia	Peru
Democratic People's Republic of Korea	Poland
Denmark	Portugal
Egypt	Saudi Arabia
Finland	Spain
France	Sweden
German Democratic Republic	Switzerland
Germany, Federal Republic of	Thailand
Greece	Tunisia
Holy See	Turkey
Hungary	Ukrainian Soviet
India	Socialist Republic
Indonesia	Union of Soviet Socialist Republics
Iran, Islamic Republic of	United Kingdom of Great Britain and
Iraq	Northern Ireland
Ireland	United States of America
Israel	Venezuela
Italy	Yugoslavia
Japan	Zaire

2. Representatives of the following international organizations participated in the meeting:

United Nations Organization  
United Nations Conference for the Promotion of  
International Co-operation in the Peaceful Uses of Nuclear Energy  
United Nations Environment Programme  
United Nations Industrial Development Organization  
United Nations Office of the Disaster Relief Co-ordinator  
Food and Agriculture Organization of the United Nations  
World Health Organization  
World Meteorological Organization  
Commission of the European Communities  
Nuclear Energy Agency of the Organisation  
for Economic Co-operation and Development

ANNEX II

CONVENTION ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT  
(15 August 1986)

THE STATES PARTIES TO THIS CONVENTION,

AWARE that nuclear activities are being carried out in a number of States,

NOTING that comprehensive measures have been and are being taken to ensure a high level of safety in nuclear activities, aimed at preventing nuclear accidents and minimizing the consequences of any such accident, should it occur,

DESIRING to strengthen further international co-operation in the safe development and use of nuclear energy,

CONVINCED of the need for States to provide relevant information about nuclear accidents as early as possible in order that transboundary radiological consequences can be minimized,

NOTING the usefulness of bilateral and multilateral arrangements on information exchange in this area,

HAVE AGREED as follows:

Article 1

Scope of application

1. This Convention shall apply in the event of any accident involving facilities or activities of a State Party or of persons or legal entities under its jurisdiction or control, referred to in paragraph 2 below, from which a release of radioactive material occurs or is likely to occur and has resulted or may result in an international transboundary release that could be of radiological safety significance for another State.

2. The facilities and activities referred to in paragraph 1 are the following:

- (a) any nuclear reactor wherever located;
- (b) any nuclear fuel cycle facility;
- (c) any radioactive waste management facility;
- (d) the transport and storage of nuclear fuels or radioactive wastes;
- (e) the manufacture, use, storage, disposal and transport of radioisotopes for agricultural, industrial, medical and related scientific and research purposes; and
- (f) the use of radioisotopes for power generation in space objects.

Article 2

Notification and information

In the event of an accident specified in article 1, (hereinafter referred to as a "nuclear accident"), the State Party referred to in that article shall:

- (a) forthwith notify, directly or through the International Atomic Energy Agency (hereinafter referred to as the "Agency"), those

States which are or may be physically affected as specified in article 1 and the Agency of the nuclear accident, its nature, the time of its occurrence and its exact location where appropriate;

- (b) promptly provide the States referred to in sub-paragraph (a), directly or through the Agency, and the Agency with such available information relevant to minimizing the radiological consequences in those States, as specified in article 5.

### Article 3

#### Other Nuclear Accidents

With a view to minimizing the radiological consequences, States Parties may notify in the event of nuclear accidents other than those specified in article 1.

### Article 4

#### Functions of the Agency

The Agency shall:

- (a) forthwith inform States Parties, Member States, other States which are or may be physically affected as specified in article 1 and relevant international intergovernmental organizations (hereinafter referred to as "international organizations") of a notification received pursuant to sub-paragraph (a) of article 2; and
- (b) promptly provide any State Party, Member State or relevant international organization, upon request, with the information received pursuant to sub-paragraph (b) of article 2.

Article 5

Information to be provided

1. The information to be provided pursuant to sub-paragraph (b) of article 2 shall comprise the following data as then available to the notifying State Party:

- (a) the time, exact location where appropriate, and the nature of the nuclear accident;
- (b) the facility or activity involved;
- (c) the assumed or established cause and the foreseeable development of the nuclear accident relevant to the transboundary release of the radioactive materials;
- (d) the general characteristics of the radioactive release, including, as far as is practicable and appropriate, the nature, probable physical and chemical form and the quantity, composition and effective height of the radioactive release;
- (e) information on current and forecast meteorological and hydrological conditions, necessary for forecasting the transboundary release of the radioactive materials;
- (f) the results of environmental monitoring relevant to the transboundary release of the radioactive materials;
- (g) the off-site protective measures taken or planned;
- (h) the predicted behaviour over time of the radioactive release.

2. Such information shall be supplemented at appropriate intervals by further relevant information on the development of the emergency situation, including its foreseeable or actual termination.

3. Information received pursuant to sub-paragraph (b) of article 2 may be used without restriction, except when such information is provided in confidence by the notifying State Party.

Article 6

Consultations

A State Party providing information pursuant to sub-paragraph (b) of article 2 shall, as far as is reasonably practicable, respond promptly to a request for further information or consultations sought by an affected State Party with a view to minimizing the radiological consequences in that State.

Article 7

Competent authorities and points of contact

1. Each State Party shall make known to the Agency and to other States Parties, directly or through the Agency, its competent authorities and point of contact responsible for issuing and receiving the notification and information referred to in article 2. Such points of contact and a focal point within the Agency shall be available continuously.

2. Each State Party shall promptly inform the Agency of any changes that may occur in the information referred to in paragraph 1.

3. The Agency shall maintain an up-to-date list of such national authorities and points of contact as well as points of contact of relevant international organizations and shall provide it to States Parties and Member States and to relevant international organizations.

Article 8

Assistance to States Parties

The Agency shall, in accordance with its Statute and upon a request of a State Party which does not have nuclear activities itself and borders on a State having an active nuclear programme but not Party,

conduct investigations into the feasibility and establishment of an appropriate radiation monitoring system in order to facilitate the achievement of the objectives of this Convention.

#### Article 9

##### Bilateral and multilateral arrangements

In furtherance of their mutual interests, States Parties may consider, where deemed appropriate, the conclusion of bilateral or multilateral arrangements relating to the subject matter of this Convention.

#### Article 10

##### Relationship to other international agreements

This Convention shall not affect the reciprocal rights and obligations of States Parties under existing international agreements which relate to the matters covered by this Convention, or under future international agreements concluded in accordance with the object and purpose of this Convention.

#### Article 11

##### Settlement of disputes

1. In the event of a dispute between States Parties, or between a State Party and the Agency, concerning the interpretation or application of this Convention, the parties to the dispute shall consult with a view to the settlement of the dispute by negotiation or by any other peaceful means of settling disputes acceptable to them.

2. If a dispute of this character between States Parties cannot be settled within one year from the request for consultation pursuant to paragraph 1, it shall, at the request of any party to such dispute, be submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted to arbitration, if, within six months from the date of the request, the parties to the dispute are unable to agree on the organization of the arbitration, a party may request the President of the International Court of Justice or the Secretary-General of the United Nations to appoint one or more arbitrators. In cases of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority.

3. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare that it does not consider itself bound by either or both of the dispute settlement procedures provided for in paragraph 2. The other States Parties shall not be bound by a dispute settlement procedure provided for in paragraph 2 with respect to a State Party for which such a declaration is in force.

4. A State Party which has made a declaration in accordance with paragraph 3 may at any time withdraw it by notification to the depositary.

#### Article 12

##### Entry into force

1. This Convention shall be open for signature by all States and Namibia, represented by the United Nations Council for Namibia, at the Headquarters of the International Atomic Energy Agency in Vienna, and at the Headquarters of the United Nations in New York from ..... until its entry into force or for twelve months, whichever period is longer.

2. A State and Namibia, represented by the United Nations Council for Namibia, may express its consent to be bound by this Convention either by signature, or by deposit of an instrument of ratification, acceptance or approval following signature made subject to ratification, acceptance or approval, or by deposit of an instrument of accession. The instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

3. This Convention shall enter into force thirty days after consent to be bound has been expressed by three States.

4. For each State expressing consent to be bound by this Convention after its entry into force, this Convention shall enter into force for that State thirty days after the date of expression of consent.

5.(a) This Convention shall be open for accession, as provided for in this article, by international organizations and regional integration organizations constituted by sovereign States, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

(b) In matters within their competence such organizations shall, on their own behalf, exercise the rights and fulfil the obligations which this Convention attributes to States Parties.

(c) When depositing its instrument of accession, such an organization shall communicate to the depositary a declaration indicating the extent of its competence in respect of matters covered by this Convention.

(d) Such an organization shall not hold any vote additional to those of its Member States.

Article 13

Provisional application

A State may, upon signature or at any later date before this Convention enters into force for it, declare that it will apply this Convention provisionally.

Article 14

Amendments

1. A State Party may propose amendments to this Convention. The proposed amendment shall be submitted to the depositary who shall circulate it immediately to all other States Parties.

2. If a majority of the States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin not sooner than thirty days after the invitations are issued. Any amendment adopted at the conference by a two-thirds majority of all States Parties shall be laid down in a protocol which is open to signature in Vienna and New York by all States Parties.

3. The protocol shall enter into force thirty days after consent to be bound has been expressed by three States. For each State expressing consent to be bound by the protocol after its entry into force, the protocol shall enter into force for that State thirty days after the date of expression of consent.

Article 15

Denunciation

1. A State Party may denounce this Convention by written notification to the depositary.

2. Denunciation shall take effect one year following the date on which the notification is received by the depositary.

Article 16

Depositary

1. The Director General of the Agency shall be the depositary of this Convention.

2. The Director General of the Agency shall promptly notify States Parties and all other States of:

- (a) each signature of this Convention or any protocol of amendment;
- (b) each deposit of an instrument of ratification, acceptance, approval or accession concerning this Convention or any protocol of amendment;
- (c) any declaration or withdrawal thereof in accordance with article 11;
- (d) any declaration of provisional application of this Convention in accordance with article 13;
- (e) the entry into force of this Convention and of any amendment thereto; and
- (f) any denunciation made under article 15.

Article 17

Authentic texts and certified copies

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International Atomic Energy Agency who shall send certified copies to States Parties and all other States.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Convention, open for signature as provided in paragraph 1 of article 12.

ADOPTED by the General Conference of the International Atomic Energy Agency meeting in special session at Vienna on the ..... day of ..... one thousand nine hundred and .....

ANNEX III

CONVENTION ON ASSISTANCE IN THE CASE OF A NUCLEAR ACCIDENT OR  
RADIOLOGICAL EMERGENCY  
(15 August 1986)

THE STATES PARTIES TO THIS CONVENTION,

AWARE that nuclear activities are being carried out in a number of States,

NOTING that comprehensive measures have been and are being taken to ensure a high level of safety in nuclear activities, aimed at preventing nuclear accidents and minimizing the consequences of any such accident, should it occur,

DESIRING to strengthen further international co-operation in the safe development and use of nuclear energy,

CONVINCED of the need for an international framework which will facilitate the prompt provision of assistance in the event of a nuclear accident or radiological emergency to mitigate its consequences,

NOTING the usefulness of bilateral and multilateral arrangements on mutual assistance in this area,

NOTING the activities of the International Atomic Energy Agency in developing guidelines for mutual emergency assistance arrangements in connection with a nuclear accident or radiological emergency,

HAVE AGREED as follows:

Article 1

General provisions

1. The States Parties shall cooperate between themselves and with the International Atomic Energy Agency (hereinafter referred to as the "Agency") in accordance with the provisions of this Convention to facilitate prompt assistance in the event of a nuclear accident or radiological emergency to minimize its consequences and to protect life, property and the environment from the effects of radioactive releases.

2. To facilitate such cooperation States Parties may agree on bilateral or multilateral arrangements or, where appropriate, a combination of these, for preventing or minimizing injury and damage which may result in the event of a nuclear accident or radiological emergency.

3. The States Parties request the Agency, acting within the framework of its Statute, to use its best endeavours in accordance with the provisions of this Convention to promote, facilitate and support the cooperation between States Parties provided for in this Convention.

Article 2

Provision of assistance

1. If a State Party needs assistance in the event of a nuclear accident or radiological emergency, whether or not such accident or emergency originates within its territory, jurisdiction or control, it may call for such assistance from any other State Party, directly or through the Agency, and from the Agency, or, where appropriate, from other international intergovernmental organizations (hereinafter referred to as "international organizations").

2. A State Party requesting assistance shall specify the scope and type of assistance required and where practicable provide the assisting party with such information as may be necessary for that party to determine the extent to which it is able to meet the request. In the event that it is not practicable for the requesting State Party to specify the scope and type of assistance required, the requesting State Party and the assisting party shall, in consultation, decide upon the scope and type of assistance required.

3. Each State Party to which a request for such assistance is directed shall promptly decide and notify the requesting State Party directly or through the Agency whether it is in a position to render the assistance requested, and the scope and terms of the assistance that might be rendered.

4. States Parties shall within the limits of their capabilities identify and notify the Agency of experts, equipment and materials which could be made available for the provision of assistance to other States Parties in the event of a nuclear accident or radiological emergency as well as the terms, especially financial, under which such assistance could be provided.

5. Any State Party may request assistance relating to medical treatment or temporary relocation into the territory of another State Party of people involved in a nuclear accident or radiological emergency.

6. The Agency shall respond, in accordance with its Statute and as provided for in this Convention, to a requesting State Party's or a Member State's request for assistance in the event of a nuclear accident or radiological emergency by:

- (a) making available appropriate resources allocated for this purpose;
- (b) transmitting promptly the request to other States and international organizations which, according to the Agency's information, may possess the necessary resources; and
- (c) if so requested by the requesting State, co-ordinating the assistance at the international level which may thus become available.

### Article 3

#### Direction and control of assistance

Unless otherwise agreed:

- (a) the overall direction, control, co-ordination and supervision of the assistance shall be the responsibility within its territory of the requesting State. The assisting party should, where the assistance involves personnel, designate in consultation with the requesting State, the person who should be in charge of and retain immediate operational supervision over the personnel and the equipment provided by it. The designated person should exercise such supervision in cooperation with the appropriate authorities of the requesting State;
- (b) the requesting State shall provide, to the extent of its capabilities, local facilities and services for the proper and effective administration of the assistance. It shall also ensure the protection of personnel, equipment and

materials brought into its territory by or on behalf of the assisting party for such purpose;

(c) ownership of equipment and materials provided by either party during the periods of assistance shall be unaffected, and their return shall be ensured;

(d) a State Party providing assistance in response to a request under paragraph 5 of article 2 shall co-ordinate that assistance within its territory.

#### Article 4

##### Competent authorities and points of contact

1. Each State Party shall make known to the Agency and to other States Parties, directly or through the Agency, its competent authorities and point of contact authorized to make and receive requests for and to accept offers of assistance. Such points of contact and a focal point within the Agency shall be available continuously.

2. Each State Party shall promptly inform the Agency of any changes that may occur in the information referred to in paragraph 1.

3. The Agency shall regularly and expeditiously provide to States Parties, Member States and relevant international organizations the information referred to in paragraphs 1 and 2.

Article 5

Functions of the Agency

The States Parties request the Agency, in accordance with paragraph 3 of article 1 and without prejudice to other provisions of this Convention, to:

- (a) collect and disseminate to States Parties and Member States information concerning:
  - (i) experts, equipment and materials which could be made available in the event of nuclear accidents or radiological emergencies;
  - (ii) methodologies, techniques and available results of research relating to response to nuclear accidents or radiological emergencies;
- (b) assist a State Party or a Member State when requested in any of the following or other appropriate matters:
  - (i) preparing both emergency plans in the case of nuclear accidents and radiological emergencies and the appropriate legislation;
  - (ii) developing appropriate training programmes for personnel to deal with nuclear accidents and radiological emergencies;
  - (iii) transmitting requests for assistance and relevant information in the event of a nuclear accident or radiological emergency;
  - (iv) developing appropriate radiation monitoring programmes, procedures and standards;
  - (v) conducting investigations into the feasibility of establishing appropriate radiation monitoring systems;

- (c) make available to a State Party or a Member State requesting assistance in the event of a nuclear accident or radiological emergency appropriate resources allocated for the purpose of conducting an initial assessment of the accident or emergency,
- (d) offer its good offices to the States Parties and Member States in the event of a nuclear accident or radiological emergency;
- (e) establish and maintain liaison with relevant international organizations for the purposes of obtaining and exchanging relevant information and data, and make a list of such organizations available to States Parties, Member States and the aforementioned organizations.

## Article 6

### Confidentiality and public statements

1. The requesting State and the assisting party shall protect the confidentiality of any confidential information that becomes available to either of them in connection with the assistance in the event of a nuclear accident or radiological emergency. Such information shall be used exclusively for the purpose of the assistance agreed upon.

2. The assisting party shall make every effort to coordinate with the requesting State before releasing information to the public on the assistance provided in connection with a nuclear accident or radiological emergency.

Article 7

Reimbursement of costs

1. An assisting party may offer assistance without costs to the requesting State. When considering whether to offer assistance on such a basis, the assisting party shall take into account:

- (a) the nature of the nuclear accident or radiological emergency;
- (b) the place of origin of the nuclear accident or radiological emergency;
- (c) the needs of developing countries;
- (d) the particular needs of countries without nuclear facilities; and
- (e) any other relevant factors.

2. When assistance is provided wholly or partly on a reimbursement basis, the requesting State shall reimburse the assisting party for the costs incurred for the services rendered by persons or organizations acting on its behalf, and for all expenses in connection with the assistance to the extent that such expenses are not directly defrayed by the requesting State. Unless otherwise agreed, reimbursement shall be provided promptly after the assisting party has presented its request for reimbursement to the requesting State, and in respect of costs other than local costs, shall be freely transferrable.

3. Notwithstanding paragraph 2, the assisting party may at any time waive, or agree to the postponement of, the reimbursement in whole or in part. In considering such waiver or postponement, assisting parties shall give due consideration to the needs of developing countries.

Article 8

Privileges, immunities and facilities

1. The requesting State shall afford to personnel of the assisting party and personnel acting on its behalf the necessary privileges, immunities and facilities for the performance of their assistance functions.

2. The requesting State shall afford the following privileges and immunities to personnel of the assisting party or personnel acting on its behalf who have been duly notified to and accepted by the requesting State:

(a) immunity from arrest, detention and legal process, including criminal, civil and administrative jurisdiction, of the requesting State, in respect of acts or omissions in the performance of their duties; and

(b) exemption from taxation, duties or other charges, except those which are normally incorporated in the price of goods or paid for services rendered, in respect of the performance of their assistance functions.

3. The requesting State shall:

(a) afford the assisting party exemption from taxation, duties or other charges on the equipment and property brought into the territory of the requesting State by the assisting party for the purpose of the assistance; and

(b) provide immunity from seizure, attachment or requisition of such equipment and property.

4. The requesting State shall ensure the return of such equipment and property. If requested by the assisting party, the requesting State shall arrange, to the extent it is able to do so, for the necessary decontamination of recoverable equipment involved in the assistance before its return.

5. The requesting State shall facilitate the entry into, stay in and departure from its national territory of personnel notified pursuant to paragraph 2 and of equipment and property involved in the assistance.

6. Nothing in this article shall require the requesting State to provide its nationals or permanent residents with the privileges and immunities provided for in the foregoing paragraphs.

7. Without prejudice to the privileges and immunities, all beneficiaries enjoying such privileges and immunities under this article have a duty to respect the laws and regulations of the requesting State. They shall also have the duty not to interfere in the domestic affairs of the requesting State.

8. Nothing in this article shall prejudice rights and obligations with respect to privileges and immunities afforded pursuant to other international agreements or the rules of customary international law.

9. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare that it does not consider itself bound in whole or in part by paragraphs 2 and 3.

10. A State Party which has made a declaration in accordance with paragraph 9 may at any time withdraw it by notification to the depositary.

Article 9

Transit of personnel, equipment and property

Each State Party shall, at the request of the requesting State or the assisting party, seek to facilitate the transit through its territory of duly notified personnel, equipment and property involved in the assistance to and from the requesting State.

Article 10

Claims and compensation

1. The States Parties shall closely cooperate in order to facilitate the settlement of legal proceedings and claims under this article.

2. Unless otherwise agreed, a requesting State shall in respect of death or of injury to persons, damage to or loss of property, or damage to the environment caused within its territory or other area under its jurisdiction or control in the course of providing the assistance requested:

- (a) not bring any legal proceedings against the assisting party or persons or other legal entities acting on its behalf;
- (b) assume responsibility for dealing with legal proceedings and claims brought by third parties against the assisting party or against persons or other legal entities acting on its behalf;
- (c) hold the assisting party or persons or other legal entities acting on its behalf harmless in respect of legal proceedings referred to in sub-paragraph (b); and

(d) compensate the assisting party or persons or other legal entities acting on its behalf for:

- (i) death of or injury to personnel of the assisting party or persons acting on its behalf;
- (ii) loss of or damage to non-consumable equipment or materials related to the assistance;

except in cases of wilful misconduct by the individuals who caused the death, injury, loss or damage.

3. This article shall not prevent compensation or indemnity available under any applicable international agreement or national law of any State.

4. Nothing in this article shall require the requesting State to apply paragraph 2 in whole or in part to its nationals or permanent residents.

5. When signing, ratifying, accepting or acceding to this Convention, a State may declare:

- (a) that it does not consider itself bound in whole or in part by paragraph 2;
- (b) that it will not apply paragraph 2 in whole or in part in cases of gross negligence by the individuals who caused the death, injury, loss or damage.

6. A State Party which has made a declaration in accordance with paragraph 5 may at any time withdraw it by notification to the depositary.

Article 11

Termination of assistance

The requesting State or the assisting party may at any time, after appropriate consultations and by notification in writing, request the termination of assistance received or provided under this Convention. Once such a request has been made the parties involved shall consult with each other to make arrangements for the proper conclusion of the assistance.

Article 12

Relationship to other international agreements

This Convention shall not affect the reciprocal rights and obligations of States Parties under existing international agreements which relate to the matters covered by this Convention, or under future international agreements concluded in accordance with the object and purpose of this Convention.

Article 13

Settlement of disputes

1. In the event of a dispute between States Parties, or between a State Party and the Agency, concerning the interpretation or application of this Convention, the parties to the dispute shall consult with a view to the settlement of the dispute by negotiation or by any other peaceful means of settling disputes acceptable to them.

2. If a dispute of this character between States Parties cannot be settled within one year from the request for consultation pursuant to paragraph 1, it shall, at the request of any party to such dispute, be submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted to arbitration, if, within six months from the date of the request, the parties to the

dispute are unable to agree on the organization of the arbitration, a party may request the President of the International Court of Justice or the Secretary-General of the United Nations to appoint one or more arbitrators. In cases of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority.

3. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare that it does not consider itself bound by either or both of the dispute settlement procedures provided for in paragraph 2. The other States Parties shall not be bound by a dispute settlement procedure provided for in paragraph 2 with respect to a State Party for which such a declaration is in force.

4. A State Party which has made a declaration in accordance with paragraph 3 may at any time withdraw it by notification to the depositary.

#### Article 14

##### Entry into force

1. This Convention shall be open for signature by all States and Namibia, represented by the United Nations Council for Namibia, at the Headquarters of the International Atomic Energy Agency in Vienna, and at the Headquarters of the United Nations in New York from..... until its entry into force or for twelve months, whichever period is longer.

2. A State and Namibia, represented by the United Nations Council for Namibia, may express its consent to be bound by this Convention either by signature, or by deposit of an instrument of ratification, acceptance or approval following signature made subject to ratification, acceptance or approval, or by deposit of an instrument of accession. The instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

3. This Convention shall enter into force thirty days after consent to be bound has been expressed by three States.

4. For each State expressing consent to be bound by this Convention after its entry into force, this Convention shall enter into force for that State thirty days after the date of expression of consent.

5. (a) This Convention shall be open for accession, as provided for in this article, by international organizations and regional integration organizations constituted by sovereign States, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

(b) In matters within their competence such organizations shall, on their own behalf, exercise the rights and fulfil the obligations which this Convention attributes to States Parties.

(c) When depositing its instrument of accession, such an organization shall communicate to the depositary a declaration indicating the extent of its competence in respect of matters covered by this Convention.

(d) Such an organization shall not hold any vote additional to those of its Member States.

#### Article 15

##### Provisional application

A State may, upon signature or at any later date before this Convention enters into force for it, declare that it will apply this Convention provisionally.

Article 16

Amendments

1. A State Party may propose amendments to this Convention. The proposed amendment shall be submitted to the depositary who shall circulate it immediately to all other States Parties.

2. If a majority of the States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin not sooner than thirty days after the invitations are issued. Any amendment adopted at the conference by a two-thirds majority of all States Parties shall be laid down in a protocol which is open to signature in Vienna and New York by all States Parties.

3. The protocol shall enter into force thirty days after consent to be bound has been expressed by three States. For each State expressing consent to be bound by the protocol after its entry into force, the protocol shall enter into force for that State thirty days after the date of expression of consent.

Article 17

Denunciation

1. A State Party may denounce this Convention by written notification to the depositary.

2. Denunciation shall take effect one year following the date on which the notification is received by the depositary.

Article 18

Depositary

1. The Director General of the Agency shall be the depositary of this Convention.

2. The Director General shall promptly notify States Parties and all other States of:

- (a) each signature of this Convention or any protocol of amendment;
- (b) each deposit of an instrument of ratification, acceptance, approval or accession concerning this Convention or any protocol of amendment;
- (c) any declaration or withdrawal thereof in accordance with articles 8, 10 and 13;
- (d) any declaration of provisional application of this Convention in accordance with article 15;
- (e) the entry into force of this Convention and of any amendment thereto; and
- (f) any denunciation made under article 17.

Article 19

Authentic texts and certified copies

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International Atomic Energy Agency who shall send certified copies to States Parties and all other States.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Convention, open for signature as provided in paragraph 1 of article 14.

ADOPTED by the General Conference of the International Atomic Energy Agency meeting in special session at Vienna on the ..... day of ..... one thousand nine hundred and .....

ANNEX IV

Proposals for the scope of application of the Convention  
on Early Notification of a Nuclear Accident

1. Proposal jointly submitted by the experts from Argentina, France, Greece, India, Islamic Republic of Iran, Japan and Spain (11 August 1986):

Article 1

Scope of application

This Convention shall apply to any nuclear accident or radiological emergency which occurs in the territory of a State Party or within the scope of any activity conducted under the jurisdiction or control of that State and from which a release of radioactive material occurs or is likely to occur and which has resulted or may result in a transboundary transfer of radioactive material that could be of radiological safety significance in other States or in areas beyond its jurisdiction or control.

2. Proposal jointly submitted by the experts from Austria, Italy and Switzerland (14 August 1986):

Article 1

Scope of application

1. This Convention shall apply to any accident involving facilities or activities under the jurisdiction or control of a State Party and from which a release of radioactive material occurs or is likely to occur or has resulted in the implementation of emergency measures by that State to protect its population or may result in an international transboundary release or in a release which could otherwise be of radiological safety significance.

2. [.....]

3. Proposal submitted by the expert from the Islamic Republic of Iran (13 August 1986):

Article 1

Scope of application

This Convention shall apply to any nuclear incident which occurs in any facility or within the scope of any activity, including nuclear weapons or nuclear weapon tests, in the territory or any area under the jurisdiction or control of a State Party, from which a release of radioactive material occurs or is likely to occur and which has resulted or may result in a transfer of radioactive material that could be of radiological safety significance to other States.

4. Proposal submitted by the expert from Mexico (13 August 1986):

Article 1

Scope of application

(Additional paragraph)

With regard to any accident involving facilities or activities other than those referred to in paragraphs 1 and 2, the States Parties agree not to act in a manner contrary to the objectives and purposes of this Convention.

5. Proposal submitted by the expert from Spain (14 August 1986):

Article 1

Scope of application

This Convention shall apply:

- (a) to any nuclear accident or radiological emergency involving facilities or activities of a State Party; [.....]; and
- (b) to any other nuclear accident or radiological emergency notified by a State Party as it deems appropriate to protect its interests and the health and safety of the public.

A N N E X V

SUMMARY RECORD OF THE FINAL PLENARY MEETING OF GOVERNMENTAL EXPERTS  
TO DRAFT AGREEMENTS ON EARLY NOTIFICATION AND MUTUAL ASSISTANCE

Held at the Headquarters of the International Atomic Energy Agency  
Vienna, on 15 August 1986 at 4.30 p.m.

Chairman: Mr. van GORKOM (Netherlands)

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\*/ GE/1.

REPORTS BY THE CHAIRMEN OF WORKING GROUPS  
(continued from an informal plenary session)

1. The CHAIRMAN asked the Chairman of Working Group C to inform the meeting about the discussions in Working Group C and the conclusions reached in it with regard to the reservation article.
2. The CHAIRMAN OF WORKING GROUP C said that the Working Group had met in the morning and had agreed that there should be no reservation article in either draft convention.
3. The CHAIRMAN took it that the meeting wished to follow the advice of Working Group C that there should be no reservation article in either of the two draft conventions.
4. It was so agreed.
5. The CHAIRMAN said that, before adjourning on the previous evening, the Meeting had heard a report by the Chairman of Working Group A on the efforts of that working group to reach an agreement on the difficult question of article 1 - which related to the scope - of the draft convention on notification. That question had given rise to extensive discussion among governmental experts, some of whom had expressed considerable concern. In the morning he had been approached by a number of experts, including the expert from the Islamic Republic of Iran, with the request that, in the light of the solution found on the previous day for the problem raised by the delegation of Luxembourg, which had been resolved with the assistance of the Chairman of Working Group C, he should attempt once again to try to find a solution in respect of the scope of the draft convention as a whole.
6. The Chairman of Working Group A and he himself had held consultations with experts who had played an active part in Working Group A in the previous week and who had put forward proposals in respect of the scope for article 1. The views of experts from nuclear-weapon States, which had a direct interest in the matter, had also been solicited, and he was extremely gratified to be able to report that it had been possible to reach agreement on an additional article to be inserted after article 2 of the present draft text[\*], which would read as follows:

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[\*] Document GE/8/Rev.3 of 13 August 1986.

"Other Nuclear Accidents

"With a view to minimizing the radiological consequences, States Parties may notify in the event of nuclear accidents other than those specified in article 1."

7. It was his conviction that the agreement reached on that additional article would lead to a consensus on article 1 and thus on the text of the draft convention as a whole.

8. The expert from the UNION OF SOVIET SOCIALIST REPUBLICS said that it was gratifying that work on one of the most complex questions for the Meeting of governmental experts had now been brought to a successful conclusion. The fact that an additional article for the draft convention on notification had been approved obviously meant that the text of the whole draft convention could also be approved. The elaboration of that draft text was a positive development and established the conditions for the Soviet Union, like other nuclear-weapon States, to provide notification in the event of accidents with nuclear weapons or nuclear explosions when there were transboundary consequences which could be considered to have radiological implications for other States.

9. The CHAIRMAN thanked the Soviet expert for his co-operation in reaching an agreement. He welcomed the fact that no delegation was refusing to join in the consensus on the additional article.

10. The expert from the UNITED STATES OF AMERICA said that the spirit in which he had approached the negotiations on the drafting of the two conventions had always been one of compromise, desirous as he was of seeking a consensus which would find the broadest support. In the past four weeks he had repeatedly outlined the United States Government's position concerning the scope of coverage of the draft convention on notification. He did not intend to reiterate that position but pointed out that he had explained earlier why he had argued in favour of a coverage that effectively excluded certain types of nuclear accident.

11. The United States continued to believe that the draft convention on notification should focus primarily on possible transboundary effects of radioactive releases from those nuclear facilities which clearly posed the greatest risk to the health and safety of the public and to the environment, namely reactors and nuclear fuel cycle facilities. In working Group A there had been wide support for a scope which included all such facilities irrespective of their location or of the use to which they were put.

12. However, the United States Government appreciated the fact that universal coverage of all events had its attractions. He had stated on a number of occasions during the Meeting that the United States Government would, as a matter of national policy, voluntarily provide notification about all accidents which had or might have transboundary effects. It still did not believe that, from a factual and technical point of view, possible accidents involving nuclear weapons or radiological hazards associated with the testing of such weapons represented a significant enough hazard to public health and safety for them to be covered by the detailed undertakings contained in the draft conventions. Nevertheless, many - although not a large majority - of the governmental experts were firmly of the opinion that some consideration should be given to other radiological releases, including those from nuclear weapons. The United States Government was conscious of those views and of world public opinion, which might be reassured if the governmental experts were able to include within the convention on notification some recognition of the fact that other accidents should also be the subject of prompt warning to States which might be affected by them.

13. Until the previous day, his instructions had been to oppose any inclusion - whether implicit or explicit - of activities associated with nuclear weapons within the scope of the draft convention for the national security reasons he had outlined on a number of occasions.

14. However, he felt strongly that all delegations had to go one step further to achieve compromise at the present meeting, so that it would be possible to elaborate the conventions requested by Member States at the June Board, for which many national leaders had called and which the world's public urgently wished to see approved. To do otherwise would be irresponsible. In

view of the desirability of approving a text for the convention by consensus and of the strong views of other Governments, and as a result of the efforts of the Chairman and those of the Chairman of Working Group A, the United States Government was now prepared to agree to the inclusion in the draft convention of a provision which recognized that States Parties might notify in the event of nuclear accidents other than those covered by the convention with a view to minimizing radiological consequences. The United States Government had carefully examined the precise terms of the proposed provision for voluntary notification of other accidents and had authorized him to accept it.

15. The fact that all other governmental experts had accepted that formulation, which represented a major concession by his Government - and clearly by a number of others also - showed that other Governments shared the United States Government's desire to reach consensus and to bring the work of the governmental experts to a successful conclusion.

16. Finally, he wished to thank the Chairman and the Chairman of Working Group A who had worked so hard to achieve a reasonable solution acceptable to all governmental experts. He also wished to thank all the other governmental experts - and especially those with opinions different from his own - for the statesmanlike way in which they had conducted themselves during long, complex and arduous negotiations.

17. The CHAIRMAN wished, in the light of the statements by the experts from the Soviet Union and the United States, to appeal to the nuclear-weapon States to take the opportunity of the special session of the General Conference to confirm their policies in conformity with the new article 3 of the draft convention on notification, which the governmental experts had just approved.

18. The expert from CHINA said that the Chairman had clearly achieved a considerable amount as a result of his efforts. China had always maintained that any nuclear accidents with transboundary radiological consequences should be the subject of notification to countries which might be affected, so that they could take protective measures at an early stage. During the Meeting of governmental experts he had always had that aim in view. He recalled that, in his statement of the previous day relating to matters not included in the

draft convention, he had said that the Chinese Government was prepared to notify in respect of any nuclear accidents caused by nuclear weapons in accordance with the new article 3 that had just been approved. It was therefore highly gratifying that that article had found a consensus, and he thanked the Chairman, the Chairman of Working Group A and other governmental experts for their efforts to resolve the matter.

19. The expert from the UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND said that the United Kingdom Government attached considerable importance to the satisfactory and successful conclusion of an agreement on the draft convention on notification and therefore welcomed the steps taken by the Chairman to find a consensus. The new article 3 proposed by the Chairman was fully in line with the position of the United Kingdom Government, which she had frequently outlined, and she therefore welcomed its approval. With regard to the Chairman's appeal to the nuclear-weapon States, she had already stated that it was the United Kingdom Government's intention to notify in the event of accidents with nuclear weapons, and it would be making a more formal expression of that intention at the special session of the General Conference.

20. The expert from COTE D'IVOIRE, speaking on behalf of the African Group and the Group of 77 as a whole, welcomed the fact that it had been possible, in a relatively short time, to draw up two important draft conventions relating to nuclear safety. That spectacular result, representing the resolution of an important and delicate matter, could not have been possible without the high sense of responsibility, competence and perfectionist approach of the Chairman and of the three Chairmen of the working groups.

21. The CHAIRMAN of WORKING GROUP C wished to draw the attention of the governmental experts to certain editorial changes in the draft conventions[\*] which had been approved earlier in the day by Working Group C: first, the first paragraph of the preamble to the draft convention on notification should be the same as in the draft convention on assistance; secondly, the word "Agency" should be replaced by the words "International Atomic Energy Agency" in the third line of paragraph 1 of article 11 and in the third line of

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[\*] The changes relate to the draft texts in documents GE/8/Rev.3 and GE/9/Rev.3 of 13 August 1986, rather than to GE/8/Rev.3/Corr.1 and GE/9/Rev.3/Corr.1 of 15 August 1986, which were the versions actually approved at the end of the meeting.

article 17 of the draft convention and notification and in the fifth from last line of the texts of both draft conventions; and, thirdly, only the word "Agency" should appear in brackets in the second line of article 1 of the draft convention on assistance.

22. The CHAIRMAN took it that those editorial changes were acceptable to the governmental experts and said that revised texts[\*] would be distributed as soon as possible.

23. Finally, he thanked the Chairmen of the three working groups for their reports.

RECOMMENDATIONS BY THE GOVERNMENTAL EXPERTS TO THE BOARD OF GOVERNORS  
(GE/8/Rev.3, GE/9/Rev.3)[\*\*]

24. The CHAIRMAN suggested that experts should make any statements they wished to be included in the summary record, which was to be attached to his report to the Board, before proceeding to adopt the two draft conventions.

25. The expert from ITALY said that nuclear energy had a very important role to play in the economies of States, and especially in meeting the present and future needs of the developing world. Effective international measures therefore had to be taken to make nuclear energy more acceptable to the public, and the intention to do that had been announced at the highest governmental level.

26. The Agency's programme of work in the field of nuclear safety in the light of experience to be derived from the Chernobyl' accident had been discussed at length in the Board of Governors, and Italy had clearly stated its position on the scope and objectives of the supplementary activities agreed on. It was essential that substantive results should be achieved in the areas of early notification of nuclear accidents and emergency assistance.

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[\*] GE/8/Rev.3/Corr.1 and GE/9/Rev.3/Corr.1 of 15 August 1986.

[\*\*] Under this agenda item, all references to the texts of the draft conventions relate to the versions that were actually approved at the end of the meeting, namely GE/8/Rev.3/Corr.1 and GE/9/Rev.3/Corr.1 of 15 August 1986.

27. It was in that light that, although he welcomed the fact that agreement had recently been reached on the definition of the scope of the draft convention on notification by the addition of paragraph 3 and he fully realized the many difficulties faced by other governmental experts, he was convinced that the field of application of that draft convention should be as broad as possible. To that end Italy had introduced the proposed amendment in documents GEA/8 and GEA/8/Corr.1 at an early stage in the proceedings. The purpose of that amendment had been to make it obligatory to notify in the event of nuclear accidents which caused a significant release of radioactive materials whether they had transboundary effects or not.

28. In an effort to find a compromise, he had, together with the experts from Austria and Switzerland, submitted a new proposal to which the Chairman of Working Group A had referred in his oral report of the previous day. That proposal had been opposed by some experts on the grounds that it did not fall within the mandate given to the governmental experts by the Board of Governors. He did not accept that argument: the decision taken by the Board on the whole set of measures to be taken as a consequence of the Chernobyl' accident and in response to public opinion could hardly be considered a precise mandate. In addition, the Board had referred to "early notification and comprehensive information about nuclear accidents with possible transboundary effects", and had not made any reference to the significance of such effects in terms of radiological safety. He considered that, until it became clear that an accident would not affect other States, the obligation to notify remained if the aim of providing an early warning were to be met.

29. Thus, he believed that timely notification, together with the relevant information, was essential in order to allow potentially affected States enough time to take appropriate countermeasures to cope with the abnormal situation and to make preparations in case an emergency occurred. It should be borne in mind that in emergencies unforeseen situations might arise and the conduct of persons and organizations might be unpredictable or might not be fully in line with established procedures.

30. He was therefore unable to accept any formulation of article 1 which limited the commitment to notify in the event of accidents to the case in

which, in the judgement of the State in which the accident had occurred, two conditions were met simultaneously: that the accident should have transboundary effects and also that it should be of radiological significance outside the territory of the State in which the accident had occurred. For that reason he would unfortunately not be able to join any consensus on the scope of the draft convention and notification, and Italy would have to reserve its position until the special session of the General Conference.

31. The public throughout the world was now much more aware of nuclear matters than it had been a few months earlier, and he considered it highly desirable to try to meet its concerns and expectations by concluding a meaningful agreement. The Italian Government would find it difficult and would consider it inadvisable to continue to develop nuclear power without the support of the public, and that should be the case in all countries.

32. In conclusion, he questioned whether it was better to protect certain hypothetical and undefined national interests than to succeed in elaborating a good and universally accepted convention which would pave the way for the safe and necessary development of nuclear power for the benefit of humanity.

33. The expert from POLAND expressed to the Chairman and to the Chairmen of the working groups his appreciation for their skill in conducting the work of the meeting, which had been brought to a successful conclusion. He considered both draft conventions to be extremely important since they had long been awaited by world public opinion and were necessary for the further development and use of nuclear energy.

34. He was convinced that the conventions would enter into force in the very near future and said that Poland would act with a view towards their practical implementation. Poland was also prepared to provide assistance on the basis of its knowledge of and experience with the establishment and implementation of a contamination surveillance system for the environment and foodstuffs; a system of that type had been in operation in Poland since 1964 and had proved itself to be fully operative during the Chernobyl' emergency. The Polish Government would be able to co-operate in that respect either through the Agency or directly with interested States.

35. In conclusion, he wished to thank the Director General and the Secretariat for their contribution to the positive results of the meeting.

36. The expert from SWEDEN said that, in reaching a consensus on the texts of the two conventions, the meeting had achieved a success which was greater than anyone could have expected, because of the spirit of compromise which had reigned during the deliberations of the past four weeks. It was to be hoped now that the conventions would be finally adopted at the special session of the General Conference in September.

37. With regard to the convention on assistance, he was convinced that, if any such accident or emergency should occur, it would prove very valuable that States had agreed in advance on certain international rules to facilitate prompt transfer of personnel and equipment. Regrettably, experience showed that situations might arise when the time factor was very critical in efforts to protect and save lives, property and the environment.

38. With regard to the convention on notification, it seemed worth stressing that States which adhered to that convention would be accepting binding obligations of a type which had not previously existed in the multilateral field.

39. Thus, the two conventions, if adopted, would represent an important step forward. At the same time, they could also be regarded as a foundation and framework for further international co-operation in that field, since the terms of the conventions were rather general and additional obligations and details might have to be worked out in bilateral or regional agreements between interested countries. Such agreements might contain well-defined trigger levels and detailed rules concerning the exchange of information about operating experience and incidents, co-operation on emergency planning and co-ordinated training of emergency organizations, etc.

40. One of the most important questions discussed over the past weeks had been the definition of the scope of the convention on notification. It was to be expected that the public would ask why the draft text for that convention did not include a clear obligation to notify releases of radioactive material caused by accidents involving nuclear weapons and nuclear weapons tests. It was certainly of the greatest importance that such releases, when they had

serious radiological safety significance, should be notified internationally. His delegation could accept only with the greatest reluctance that it was not possible to include such an obligation in the convention at the present time. However, it had noted that the experts from China, the United Kingdom, the United States of America and the Soviet Union had made announcements from which it could be concluded that their Governments would in fact also notify releases due to such accidents. He hoped all nuclear-weapon States would eventually make formal declarations to that effect, as they would certainly facilitate the general acceptance of the conventions, even though they would not make the need for a comprehensive test ban treaty any less.

41. The success of further international efforts to achieve the highest possible level of safety and to prevent emergency situations in the nuclear field would to a very large extent depend on the work carried out by the IAEA. The conventions to be adopted would lead to additional responsibilities and to a higher workload for the Agency, which would thus need strong support from its members commensurate with their interest in the Agency's success in endeavours to ensure nuclear safety.

42. The expert from FRANCE said that he had not opposed the consensus which had recently been achieved on the scope of the convention on notification. France would, however, have preferred to see the scope of the convention extended to all nuclear accidents irrespective of their origin, and the limitation on the scope was regrettable.

43. In addition, the French Government was of the view that, in accordance with the spirit of the convention on notification, State implicitly reserved the right not to divulge information if its national security might be endangered thereby.

44. Turning to the convention on assistance, he said that France reserved the right to make, at the appropriate time, national statements in accordance with the provisions of paragraph 9 of article 8, paragraph 5 of article 10 and paragraph 3 of article 13. That waiver also applied to paragraph 3 of article 11 of the draft convention on notification, since it related to the provisions of an article on settlement of disputes which were common to both conventions.

45. The expert from the ISLAMIC REPUBLIC OF IRAN said that his country attached considerable importance to the peaceful and safe use of nuclear energy. The public was seriously concerned about accidents such as that at Three Mile Island and Chernobyl', which also had the effect of increasing disappointment on the part of the public at the continuing proliferation of non-peaceful uses of nuclear energy. He was strongly of the belief that all incidents relating to nuclear safety with radiological consequences should be notified and should come within the scope of the convention on notification. It was for that reason that he had submitted a proposed version of article 1 for consideration by the governmental experts which had read as follows:

"This Convention shall apply to any nuclear incident which occurs in any facility or within the scope of any activity, including nuclear weapons or nuclear weapons tests, in the territory or in any area under the jurisdiction or control of a State Party from which a release of radioactive material occurs or is likely to occur and has resulted or may result in a transfer of radioactive material that could be of radiological safety significance to other States"

46. He further recalled his proposal for part of the preamble to both draft conventions:

"NOTING with regret the continuous proliferation of nuclear defence and widespread deployment of nuclear arsenals all over the world and their potential threat of radioactive release,

"NOTING with regret the continuous release of radioactive material as the result of nuclear weapons tests,

"NOTING the current public opinion and the firm determination to use the valuable source of nuclear energy in a safe manner ..."

47. Unfortunately, two countries had not been in favour of full-scope coverage in the convention. After a lengthy discussion, he had nevertheless showed a spirit of co-operation and had joined a consensus of a number of countries which were proposing full-scope coverage which did not explicitly mention nuclear weapons and nuclear weapons tests. It was regrettable that that proposal had also not been accepted as a result of the opposition of the same two countries.

48. After yet further discussions and laudable efforts by the Chairman, he (the expert from the Islamic Republic of Iran) had, in a spirit of compromise, once again demonstrated the goodwill of his country by agreeing to adopt the present texts of the preambles and of article 1 of the draft convention on notification and not to block the consensus despite having earlier stated that he would do that.

49. He further wished to point out that he had made the following proposal in respect of article 9 of the convention on notification relating to bilateral and multilateral agreements, as follows:

"In furtherance of their mutual interests, States Parties may consider, where deemed appropriate, the conclusion of bilateral or multilateral arrangements, including advance emergency response planning in the area of this Convention."

50. It was his firm belief that notification would be useful and effective only if plans had been laid in advance. Since certain experts had had difficulty with the word "emergency", he had attempted to make a final compromise by agreeing to delete that word from his proposal. Unfortunately, the proposal had been opposed by one expert, the expert from the United States of America. In a spirit of co-operation, he (the expert from the Islamic Republic of Iran) had been prepared to withdraw his proposal but continued to believe that the wording he had proposed represented logical and useful elements for the article in question.

51. He was therefore refraining from blocking the consensus on the draft convention as a whole in the hope that it would constitute a first step towards full-scope coverage under arrangements of the type foreseen by the draft convention in the future. He further hoped that it would be possible to meet the expectations of the public throughout the world in respect of full coverage of the potential threat represented by radioactive releases from nuclear weapons and nuclear weapons tests.

52. He wished to thank the Chairman, the Chairman of Working Group A and all governmental experts who had co-operated with him and had provided him with moral support in his efforts towards achieving the safe and peaceful use of nuclear energy throughout the world.

53. The expert of SWITZERLAND, thanking the Chairman, the Chairmen of the three working groups and the Secretariat for their efforts to render the outcome of the Meeting successful, welcomed the results obtained by the governmental experts in four weeks of negotiation. He associated himself entirely with the compromise texts which were to be submitted to the various national authorities for approval. The two draft conventions with their expanded scope, which for the first time provided for multilateral coverage of military nuclear facilities and activities, represented a considerable and important step forward in the sphere of nuclear safety. The important role assigned to the Agency in that field was also to be welcomed.

54. Nevertheless, he continued to be concerned about three factors. His expression of that concern did not constitute reservations but related to problems in respect of which Switzerland would reserve the right to return at a later stage when appropriate.

55. First, with regard to early notification of a nuclear accident foreseen in article 1 of the draft convention on notification, the threshold for notification, namely actual releases of radioactivity into the State affected, was not consistent with his understanding of the expression "early warning". In accordance with the proposal which he had put forward, namely that notification should take place in the event of any accident that had led to the taking of radiological protection measures for the population in the state in which the accident had taken place, other States, which might be affected by the vagaries of the weather, would become able to mobilize the necessary material resources and warning systems to monitor the situation and to be prepared to take emergency measures if required. The information transmitted in that case would also enable Governments to counter the spreading of misleading and speculative reports by the media and to reassure the public. Such measures would, furthermore, be in the interests of the State in which the accident had taken place since they would assist it to make the necessary arrangements in respect of its own tourist industry and commercial interests.

56. Secondly, the consequences of the Chernobyl' accident had shown that interpretation of the principles and limits adopted internationally by the International Commission on Radiological Protection had been very different in

the various European countries affected. The fact was that the concept of "radiological safety significance" in the two conventions was likely to be interpreted in very different ways, depending on the country concerned. He therefore urged the Chairman to bring the problem to the attention of the Board of Governors and to ask it to entrust the Agency with the mandate of clarifying that concept in concrete and uniform terms in co-operation with the World Health Organization.

57. Thirdly, he noted with satisfaction that the key political problem before the Meeting had been solved by the inclusion of article 3 in the draft convention on notification. Nevertheless, it would be desirable for the five nuclear-weapon States to take the opportunity of the special session of the General Conference to make a political declaration expressing their willingness to notify, in accordance with the draft convention, States threatened by an accident involving nuclear weapons or nuclear weapons tests.

58. The representative of MEXICO said that the last four weeks' work had resulted in a remarkable success because it had been possible to accommodate nearly all the different positions held by the various States. That was a signal example of international co-operation at its best, in a field where such co-operation was particularly important, since the ultimate aim of the conventions under discussion was to protect the health and the very existence of mankind and the environment. Perhaps the most impressive result of all, however, had been the inclusion of the new article 3 in the draft convention on notification and the commitment by the nuclear-weapon States to place the notification of such accidents on as wide a basis as possible. That was a small, but extremely important step towards achieving international co-operation on the peaceful use of nuclear energy under the best possible operating safety conditions.

59. The expert from EGYPT said that his delegation would join in the consensus reached on the provisions regarding the scope of application of the draft convention on early notification, even though it had always considered, in view of the convention's purpose, that it should have a full scope covering all nuclear accidents and activities; however, in the light of the long and difficult deliberations which had been necessary, the new article 3 could be

regarded as an acceptable compromise. On the other hand, it was his delegation's understanding that the scope of application of the draft convention on assistance was broader, since its article 1 was unqualified.

60. With regard to article 5 of the draft convention on assistance, dealing with the "Functions of the Agency", his delegation continued to believe that the request provided for in the chapeau remained open without response, which seemed unusual in the practice of international conventions. Clearly, the Agency could not be bound by undertakings of the type mentioned in the article without decisions being taken by its policy-making organs. However, given the important role the Parties expected the Agency to play, they would naturally be very interested in knowing about such decisions when they had been taken. It might therefore have been wise to add a paragraph reading: "The Agency shall keep the States Parties informed of the decisions that may be taken in response to the request made in this article."

61. A third matter on which agreement had been reached, but in connection with which difficulties could be expected to arise, was the fact that no article covering reservations had been included in either draft convention. The rules of international law which would apply in such a case stipulated the acceptability of only those reservations which were compatible with the objectives and purpose of the convention. The application of such rules would require an understanding among all the Parties on the provisions relating to the objectives and purpose of each convention.

62. The expert from INDONESIA said that considerable time and energy were usually necessary to draft instruments that were to come under international law; the fact that the experts had been able to formulate a widely acceptable text in so short a time was therefore remarkable.

63. A number of important questions of principle relating to the scope of application of the draft convention on notification in particular had been discussed during the meeting, including the general obligations of both the Agency and the States Parties in the event of a nuclear accident, general provisions concerning the settlement of disputes, privileges and immunities, and, most importantly, the problem of liability and reimbursement. His

delegation was prepared to go along with the consensus which had been reached, but wished to explain its position with regard to several articles in the two draft conventions which were of particular interest to his Government.

64. As far as the convention on notification was concerned, in particular its article 1 dealing with the scope of application, his delegation was in favour of the widest possible scope, embracing also elements other than those specified in paragraph 2 of the article. However, his delegation had noted with satisfaction the assurance given by certain delegations as to their preparedness to give notification of all accidents, including those associated with nuclear weapons. In the light of that assurance, his delegation was also able to support the new article 3 of the draft convention on notification.

65. With regard to the articles contained in both draft conventions and dealing with settlement of disputes, not all States had accepted compulsory jurisdiction of the International Court of Justice. Those States which had not done so, under the optional clause contained in the Court's Statute, had accepted its jurisdiction under some treaties, in particular for the settlement of disputes concerning their interpretation or application. His delegation therefore supported the paragraphs in those articles according to which the parties to a dispute would consult with a view to settling the dispute by negotiation or by other peaceful means acceptable to them. Should his Government express its consent to be bound by the conventions, it would make a reservation with regard to paragraph 2 of the relevant articles in both conventions.

66. In summary, the conclusion of the conventions was a matter of essential importance for the further strengthening of international co-operation in the safe development and use of nuclear energy. With immediate entry into force, the conventions would serve the useful purpose of restoring the full confidence of the international community in the use and safety of nuclear energy. Moreover, they would encourage national decision-makers to develop their nuclear energy programmes in the interests of social and economic development.

67. The expert from ARGENTINA, referring to the draft convention on notification, pointed out that article 1 gave a new, but inaccurate, definition of a nuclear accident which was not the same as that used in the text of the other draft convention on assistance, produced by the same authors, and did not follow the definitions provided in the Agency's Safety Series publication No. 72, which had been prepared by experts of greater authority. Such discrepancies were not inevitable and might lead to problems in the future, for as a result of that defective definition, article 1 did not cover all nuclear accidents which needed to be notified.

68. In article 4, defining the functions of the Agency, the affected State was not referred to in sub-paragraph (b). Although article 2(b) indicated that the information was to be provided to the Agency for transmission to the affected State, the Agency was given no mandate to do so under article 4(b). If the affected State was neither a Member State (of the Agency) nor a State Party (to the convention), it would therefore not receive the information necessary (article 5) to protect the health of its population.

69. In article 5, paragraph 3 had initially been proposed as a clause of good faith. The information was to be used for the objectives and purposes of the convention, namely to protect the health of the population, and not for political ends or to protect commercial interests. Paragraph 3 had been transformed into a confidentiality clause which had nothing to do with the initial proposal and which might give rise to problems in transmitting the information or in using it for legitimate purposes.

70. Article 8 recommended that the Agency should "conduct investigations into the feasibility and establishment of an appropriate radiation monitoring system in order to facilitate the achievement of the objectives of this Convention". Those objectives, however, were to transmit information so that protection measures could be taken in the affected countries. Thus, the draft convention had a serious deficiency, since it was nowhere made clear what the affected countries could do with the information gathered, to whom they should transmit it, for what purpose, and what should be done with it.

71. On the basis of a legal argument concerning the possible overlapping of information from two different sources concerning the same accident, a vital

article had been left out which would have made it possible to follow the spreading of the radioactive release and to take precautionary measures in time. That article would have required the affected States to supply information to the Agency concerning the contamination they were measuring so that it could be distributed to other affected States.

72. The draft convention clearly did not reflect all the recommendations included in document INFCIRC/321. The work must therefore be continued at the level of technical committees so that the recommendations contained in chapters III ("Reportable Events") and V ("Integrated Planning") of that document could be put into practice.

73. The main emphasis of the draft convention on assistance had been on protecting the State providing assistance. Although it was understandable that the legal framework of the agreement should be that of a service contract governed by the laws of general commerce, it did not seem reasonable to consecrate internationally as a legal instrument a service contract such as that which appeared in the present draft convention on assistance.

74. It was true that the State providing assistance in an emergency might be entitled to demand guarantees for its personnel, but the extension to that personnel of privileges and immunities such as those provided for under article 8 would be quite unrealistic in the sort of emergency situation envisaged.

75. It was also hard to understand why article 10 had disregarded important ethical principles. When its paragraph 2 was analysed carefully, it was seen that the State providing assistance assumed no responsibility whatever for any type of damage it might cause, whereas the State receiving assistance, in addition to bearing the damage due to the emergency situation, was to be held responsible also for all damage which might be suffered by the State providing the assistance.

76. Finally, the clause covering entry into force in both conventions was surprisingly strict. Thus, one article would make even the signing of the conventions difficult, since such signature would be equivalent to ratification unless explicitly stated otherwise. As a result, mere silence

would in the present case engender rights and obligations, which was also something of a novelty. Moreover, the small number of States whose consent was required for the convention to enter into force was a worrying indication of the interests which lay behind the convention.

77. The expert from INDIA said that accidents such as the one at the Union Carbide plant in Bhopal on the one hand, and events such as the bombing of Hiroshima in 1945 and the subsequent steady development of nuclear weapons on the other, showed the vital importance for mankind of making the world both safer and more peaceful. The purpose of the meetings held during the last four weeks had been somewhat less ambitious: it had been to make the world just a little bit safer than it was, despite all the potential Three Mile Islands and Chernobyl's which the future might hold. But by no stretch of the imagination could that be interpreted to mean that the experts should have concerned themselves only with certain kinds of nuclear accidents. Where the draft convention on notification was concerned, covering only accidents from peaceful or non-peaceful reactors and fuel cycle facilities was not enough in view of the potential mischief that might be caused by an accident involving nuclear weapons. It had been argued that such accidents were most unlikely, because of the fool-proof safety precautions that had been taken. But if that were so, then there would be no reason not to include them under the draft conventions, as the nuclear-weapon States would then in any case have virtually nothing to notify. The argument based on national security also was not convincing; no one wished to breach national security - what was required was merely an immediate notification of a nuclear accident, whatever its source, so that adequate measures could be initiated for the protection of the health and safety of the population and environment in other countries.

78. Those were the reasons why his delegation, along with those of Argentina, France, Greece, Iran, Japan and Spain, had put forward what had been described as a "full-scope proposal" which would have made the notification convention cover any nuclear accident or radiological emergency of transboundary radiological safety significance that might occur in the territory of a State Party or in connection with any activity conducted under the jurisdiction or control of that State. Since that proposal had not been acceptable to all delegations, though many had sympathized with the approach,

his delegation had decided, in a spirit of compromise, to advance an alternative proposal, supported also by the delegations of Argentina, France, Iran, Iraq, Mexico, Spain and Turkey, which would have supplemented the draft article of restricted scope with the words: "With regard to any accident involving facilities and activities other than those referred to in paragraphs 1 and 2, the States Parties agree not to act in a manner contrary to the objectives and purposes of this Convention".

79. The present meeting was missing a unique opportunity to do the right thing by being faint-hearted in its recommendations regarding the convention on early notification. It was only following the dictum of not sacrificing the good in the interest of the best. By doing so, the experts, while congratulating themselves on being pragmatic, would be recommending the adoption by the international community of draft conventions which were flawed by congenital defects. That was wholly unsatisfactory, as it would enable some countries to get away with what they wanted, while the rest of the world would have to conform to the new discipline. Nevertheless, the Indian delegation had decided not to obstruct the consensus which appeared to have emerged in the present meeting to recommend the two draft conventions for approval by the special session of the General Conference.

80. The expert from JAPAN said that it was in the nature of a compromise such as the one which had now been achieved after lengthy and intensive discussions that everyone had to sacrifice something, sometimes their principles and sometimes their real interests. However, what had been gained was the universality of the conventions, and his delegation sincerely hoped that as many countries as possible would become Party to them in the near future.

81. With regard to the draft convention on notification, his delegation believed that every State engaged in any sort of nuclear activity had an obligation to inform other States of any nuclear accidents or other events which might affect, or might have affected, them. He therefore hoped that the new article 3 in the notification convention would in fact be treated as a genuine legal obligation.

82. Despite the efforts which had gone into achieving a consensus on the conventions, it was nevertheless to be hoped that no country would ever need to have recourse to them, and that all countries engaged in nuclear activities would fulfill their responsibility for the safety of the environment and of mankind.

83. The expert from IRAQ said that the Chernobyl' accident had demonstrated the need for international co-operation in the field of nuclear safety. From the beginning of the negotiations to draft agreements to govern such co-operation, his delegation, along with many others, had insisted that the convention on notification must be full-scope, meaning that it should cover information on all nuclear accidents, both peaceful and military.

84. For political reasons, there had been some difficulty in agreeing on the scope of application which would be defined by article 1 of the draft convention on notification. Such difficulties need not have arisen if agreement had been reached on Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) during the 1980 or 1985 NPT Review Conferences, which could have led to a halting or even reversal of the nuclear arms race - an outcome devoutly to be desired in view of the potentially nefarious effects of nuclear weapons on man and his health and environment.

85. Nevertheless, his delegation had participated actively in the Working Groups in the hope of arriving at a positive procedure. A broad consensus appeared now to be emerging, and his delegation was prepared to join in it, even though not all the demands of his delegation and others were satisfied by the texts as they now stood.

86. The new article 3 in the draft convention on notification constituted a welcome achievement, as it ensured that all nuclear accidents, even those occurring outside the framework of the convention, would be notified. Some nuclear-weapon States had declared their intention to regard such notification as an obligation, but it was desirable that all nuclear-weapon States should make a firm political commitment, at the ministerial level, to that principle during the special session of the General Conference.

87. The expert from SPAIN said it had been a maximum concession for his Government to accept that the draft convention on early notification did not provide for the mandatory notification of all types of nuclear accident or radiological emergency. His delegation had at first presented a full-scope text and had only subsequently put forward a more liberal one which left it at the discretion of the nuclear powers to decide how to notify some accidents. His delegation had also repeatedly declared that it would not adhere to the convention if its proposals were not accepted, but it was now after all joining in the consensus which was embodied in articles 1 and 3 of the notification convention, in view of the explanatory statements made during the present meeting by the nuclear-weapon States with respect to other nuclear accidents not covered by article 1.

88. The long and intense effort which had been necessary to achieve consensus on the draft convention on notification should not be allowed to obscure the important fact that a consensus had also been achieved with respect to the draft convention on assistance. His delegation considered the two draft conventions which had been agreed upon as two legal milestones on the road towards consolidated international co-operation which should, if care were taken not to delay the process or to stray from the straight path, eventually lead to the goal of complete and comprehensive nuclear safety and radiation protection. However, his country, like all others, hoped that the conventions would never have to be applied and would therefore make every effort and take good care to avoid any future nuclear accident.

89. The expert from the NETHERLANDS expressed his satisfaction at the results of the negotiations held over the past four weeks. The two conventions, as they now stood, in large measure met the needs of the time. The consensus which had just been reached on an additional article in the draft convention on notification was particularly welcome. Nevertheless, his delegation wished to make two points with regard to article 1 of that convention.

90. The first related to the conditions under which certain obligations would arise for the State Party concerned. Paragraph 1 of article 1 referred to an accident "that could be of radiological safety significance for another

State". That phrase contained two elements of uncertainty, however, both of which were in the first instance left at the discretion of the State in whose territory or under whose jurisdiction or control the accident had occurred, namely what exactly was or was not of radiological safety significance, and what were the chances that another State really would be affected.

91. In his delegation's opinion, a nuclear accident which, under the existing national regulations of the State where the accident occurred, would actuate an extensive national off-site response was ipso facto of sufficient importance to be regarded as an accident with possible significant effects for other States. While that might be considered self-evident, his delegation would have preferred the text of the article to contain an explicit statement to that effect. That would have introduced a degree of objectivity and would have ensured that States which might be affected would be involved in evaluating the likelihood of their being affected. Nevertheless, his delegation was prepared to accept that no language had been found that could receive general approval, and was satisfied, on the basis of the discussions which had been held on that question, that the present text of article 1 included an implicit understanding that an accident entailing national protective measures of the kind just described would indeed be considered a nuclear accident within the meaning of article 1.

92. Secondly, the term "international transboundary release" used in the same paragraph was not entirely clear, since a release of radioactive material that might affect another State need not under all circumstances cross an international boundary in the legal sense of that word. However that might be, his delegation interpreted the term as including an accident with a space-based nuclear reactor even though, in international law, no certainty existed as to any boundary between outer space and air space.

93. The expert from AUSTRALIA said that after four weeks of intensive work the meeting had reached the stage where the results could be forwarded for approval by the special session of the General Conference. That was particularly gratifying for Australia, which had played a major role in launching the negotiations in early May after the Chernobyl' accident and in bringing them to the Board of Governors. The Australian proposals at that

time had included the early negotiation of a notification agreement and of an agreement on emergency assistance in the event of nuclear accidents. His Government had wanted the agreements to be as comprehensive as possible and to have the widest possible support. Australia had committed itself, in making those proposals, to an early and effective international response to the whole range of safety questions raised by the Chérnobl' accident.

94. Considerable progress had clearly been made at the present meeting, even if the formal positions of the various countries could not be given until Governments had had time to consider the outcome of the negotiations. Nevertheless, proceeding from the invaluable drafts prepared by the Secretariat, the experts had produced a draft convention on assistance which could be regarded as a settled product needing only the approval of the special session before being opened for adherence by Governments. They had further produced a draft convention on notification which enjoyed virtually full support and which also had been brought to the point where, after approval of the special session, it could be immediately adhered to by Governments.

95. At the beginning of the negotiations, only three nuclear-weapon States had agreed with most other delegations in favouring the broadest possible coverage for the conventions; the other two nuclear-weapon States were thus to be commended for having moved such a long way towards accepting substantive coverage of both civil and military facilities and activities. The assumption of legal obligations regarding that mix in multilateral instruments would be unique and constituted a most significant advance.

96. On the other hand, not to have produced a text fulfilling at least those conditions would have been indefensible, given that the conventions merely built on existing principles of international law regarding good faith and neighbourliness in relation to the minimization of environmental damage and the responsibility of States to ensure that activities within their jurisdiction or control did not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction, as reflected in Principle 21 of the Stockholm Declaration. The omission of any specific reference to those principles or to such obligations of notification and

consultation as flowed from them with respect to transboundary environmental damage was understood by Australia as not in any way weakening those obligations.

97. It was perhaps worth recording at the present time his delegation's interpretation of a number of terms used in the text of the draft convention on notification. First, the term "accident" was intended to be comprehensive and to cover international acts such as terrorist attacks and sabotage; it was not a restrictive term of art. Secondly, there appeared to be no common understanding concerning the application of "transboundary"; the interpretation of that term appeared to have been left to future development in practice. His delegation urged that a liberal interpretation should be placed on that term, as well as on others in article 1 such as "radiological safety significance", meaning that the presumption should be in favour of notification, not against it, as would be consistent with Principle 21 of the Stockholm Declaration and the duty to notify under customary international environmental law.

98. His delegation had been greatly encouraged by the nuclear-weapon States' response to the suggestion that they should each make statements of intent to give early notification of accidents of radiological safety significance involving nuclear weapons. His delegation looked forward to confirmation of that intention at the special session of the General Conference, which would neatly complement the permissive provisions of the new article 3 agreed on the present occasion.

99. The expert from the SOVIET UNION said that the acceptance of the texts of the two conventions within such tight time-limits gave him hope that the conventions would be approved by the forthcoming special session of the General Conference and could soon thereafter enter into force. In drafting and accepting those conventions, the world community was taking the first steps towards establishing the reliable international regime of safe nuclear power development which had been suggested by the Soviet leader, Mr. Gorbachev, in his speech on 14 May 1986.

100. In connection with the draft convention on early notification, his delegation wished to state that the acceptance of the text had created

favourable conditions for nuclear-weapon States to inform other States about accidents involving nuclear weapons or nuclear explosions when they were accompanied by transboundary effects which might be significant from the point of view of their radiological impact on other States. The Soviet Union was prepared to proceed along those lines.

101. The expert from MALAYSIA said that the remarkable consensus which had been achieved would not have been possible without the spirit of co-operation and compromise shown by virtually all delegations and their will to accommodate the concerns and difficulties of certain other delegations. Most of the latter even, believing that radioactive releases of radiological safety significance, whatever their source, posed a grave danger to the health and safety of populations and their environment, had been in favour of the widest possible scope of application for the draft convention on notification. What needed to be provided under that convention was merely the notification of accidents together with some information which would help neighbouring States to take the necessary precautions. His delegation had earlier supported, including in the present text of article 1 the paragraph proposed by Mexico, which would have provided the widest scope of application. However, his delegation noted with satisfaction that, in the final hours of the meeting, the experts had been able to agree on a new article 3 which went in the appropriate direction towards having a comprehensive convention on early notification.

102. With regard to the draft convention on assistance, his delegation had also earlier expressed its difficulties with article 8 on privileges, immunities and facilities which would normally be subject to his country's laws and regulations. Nevertheless, his delegation noted that article 8, like articles 10 and 13 relating to claims and compensation and to the settlement of disputes, contained a provision enabling a country to declare itself not bound by the obligations provided for under each of those articles.

103. The expert from LUXEMBOURG said that the Chernobyl' accident had demonstrated the dangerous absence of a fixed mechanism for co-operation between States in the event of a nuclear accident. The proposal to hold the present meeting had therefore been favourably received by Luxembourg, which

had no nuclear installations of its own although one of the largest nuclear power plants in existence was near its border. Luxembourg was therefore strongly in favour of States with nuclear activities committing themselves to apply international safeguards and other obligations.

104. It was gratifying that nuclear weapons and nuclear tests had not been excluded from the draft convention on notification and that consensus had been achieved by that means. It was, however, regrettable that notification under the new article 3 was not obligatory and also that the notification threshold in article 1 was insufficiently precise.

105. Turning to the draft convention on assistance, he said that certain problems had been either ignored or treated unsatisfactorily. Although he had not wished to oppose the consensus, it was very unlikely that the Government of Luxembourg would sign the latter draft convention because the fundamental question of responsibility had not been covered; that meant that problems of the reimbursement of assistance costs had not been solved satisfactorily. The principle whereby costs should be borne by those responsible for the contamination should be applied both to compensation for nuclear damage and to assistance costs. In particular, it was unacceptable that a State which had caused a nuclear accident and which agreed to provide assistance to another State affected by that accident should have the right to require reimbursement of assistance costs.

106. The expert from BELGIUM welcomed the nuclear-weapon States' readiness to make declarations of intent to the effect that they would, on a voluntary basis, notify any accidents not covered under article 1 of the future convention on notification. Belgium invited all nuclear-weapon States to make such a declaration of intent in conformity with the spirit of the convention.

107. On another subject, it was his delegation's view that the application of the two conventions should not call for any additional resources to be made available to the IAEA.

108. The expert from CUBA expressed his gratitude to those countries which, by their flexibility and sense of responsibility, had made it possible to reach a generally acceptable consensus regarding the very important matter of the scope of application of the draft convention on notification. His

delegation hoped that the success of the present meeting would be only the first link in a chain reaction which would lead to the total banning of nuclear weapons and the complete prohibition of nuclear weapons tests, so that the resources devoted to those purposes could be reallocated to economic development and the welfare of peoples.

109. The expert from FINLAND considered that the adoption of the draft conventions on early notification and assistance would constitute a milestone on the international community's path towards strengthening nuclear safety efforts world-wide. With the co-operation of all participating States, it had been possible to draft those important documents in the exceedingly short time of four weeks. Both conventions contained a number of principles which were novel in international law concerning safety precautions and the minimization of the effects of possible nuclear accidents.

110. Like many others, his delegation would have wished the scope of the notification convention to be wider, because his Government's natural concern was with the hazards to the life and health of the population resulting from any nuclear accident or radiological emergency, irrespective of its source. However, it had become evident during the negotiations that it would not be possible to extend the scope of the convention to include nuclear weapons and nuclear weapons tests, so his delegation was able to accept the compromise solution which had been reached after long and difficult negotiations. Even with its present scope, the convention on notification represented a significant step forward. In addition, his delegation naturally attached great importance to the declared willingness of the nuclear-weapon States to notify any nuclear accident having transboundary effects, including those involving nuclear weapons or nuclear weapons tests. In that connection, his delegation wished to re-emphasize the importance of achieving a complete nuclear test ban as a result of discussion in other forums.

111. Since the conventions were general and global in character, his delegation welcomed the provision under which States Parties might consider, where they deemed it appropriate, the conclusion of bilateral or multilateral agreements to complement the conventions, taking into account the particular requirements prevailing in different parts of the world.

112. A further matter which seemed worth mentioning was the role of the Agency in the implementation of the two conventions, since they would establish a system which presupposed that certain important functions would be performed by the Agency and thus placed upon it great responsibility in making the conventions operative as early and as effectively as possible.

113. The expert from CHILE said that the two draft conventions, in their present final form, were more comprehensive than the original drafts proposed by the Secretariat and also reflected the interests of delegations better. The draft conventions which had been produced so successfully would also demonstrate to the public that prompt and satisfactory results could be obtained in the face of difficulties where common goals and the necessary motivation existed.

114. In the 41 years which had passed since the tragic beginning of the nuclear age, a multitude of valuable peaceful applications of controlled nuclear energy had been demonstrated; nevertheless, many people continued to associate nuclear energy primarily with its military applications, and the Chernobyl' accident had further alerted public opinion to its hazards. While the step taken by the present meeting in arriving at a consensus was very welcome, further measures must be instituted to increase the public awareness of the true benefits and risks of nuclear energy, and the IAEA would have to play a leading role in that endeavour.

115. The expert from PORTUGAL said that the efforts deployed to extend the scope of application of the draft convention on notification had been worth while. Important statements of goodwill had been made with regard to accidents having radiological consequences. His delegation could therefore join in the general consensus. However, the thresholds which would trigger the notification mechanism remained undefined, as had already been pointed out by the expert from Switzerland, and he hoped the Board of Governors or the special session of the General Conference would consider that matter and perhaps find a better wording in that respect.

116. The expert from the FEDERAL REPUBLIC OF GERMANY welcomed the achievement of a consensus on the two draft conventions, which had been made possible by the political will of the States represented to come to an

agreement. His Government would have preferred the preamble to the conventions to mention explicitly that all States had a responsibility to ensure that nuclear activities were carried out in such a manner as to protect the health and safety of the public and the environment, but he was satisfied with the consensus achieved even though that proposal had not met with agreement. His Government was particularly gratified that it had been possible to find acceptable language to deal with the problem of nuclear weapons.

117. The expert from CANADA agreed with the experts from Switzerland and Portugal that the term "radiological safety significance" was not properly defined and suggested that the Board should clarify the meaning of the term.

118. With regard to the phrase "exact location where appropriate" in articles 2 and 5 of the draft convention on notification, his delegation interpreted "where appropriate" to modify only the adjective "exact", but not the noun "location".

119. The expert from TURKEY welcomed the consensus achieved on the text of the two draft conventions. Careful note had been taken of the declarations made by the experts from the nuclear-weapon States. Most delegations had originally come to the present meeting with the expectation of producing more comprehensive texts than those which had been achieved, in particular with regard to a wider scope of article 1 of the notification convention and to contingency planning in the case of the assistance convention. All the same, remarkable progress had been made in agreeing on many important provisions which would contribute to the protection of the public against radioactive hazards.

120. The expert from the UNITED STATES OF AMERICA said that the United States had been interested in the elaboration of conventions on early notification and mutual assistance in the event of a nuclear accident for some time. The United States Government had put forward a proposal in 1981 and the Agency had issued documents INFCIRC/321 and INFCIRC/310, but until the last few months the international community had not been ready to adopt such conventions. The time for that had come, however, and he was pleased to join in the consensus on the draft conventions.

121. Turning to the convention on notification, he said that the scope of application provided for under article 1 was broad and unprecedented and included those facilities - reactors and fuel cycle facilities - that were of greatest concern. He reiterated his statement on item 7 of the agenda that, as a matter of national policy, the United States would voluntarily notify in the event of all accidents which had or might have transboundary effects. In an effort to achieve compromise and consensus, the United States Government had authorized him to accept the provisions of article 3.

122. He welcomed the fact that responsibility for reporting as defined under the convention on notification was unambiguous and would not lead to vague or multiple responsibilities, which might give rise to confusion or controversy at a time of crisis. That possibility was clearly obviated for an accident involving a nuclear facility or activity of a State Party, and he noted that it was the State that would be best informed about the nature and development of an accident that was responsible for reporting.

123. With regard to the information to be reported under article 5, he said that it was reasonable that it should be directly linked with the objective of minimizing the damage to public health, safety and the environment.

124. Moreover, he pointed out that article 9 (Bilateral and multilateral arrangements) made it clear that, if States decided that it was in their mutual interest, they were not debarred from making arrangements with each other in respect of the subject matter of the convention. That being so, it was the view of the United States Government that the draft convention was fully adequate in itself and did not require any additional arrangements for its implementation.

125. Turning to the draft convention on assistance, he said that the text provided a framework for assistance whereby each State Party had the right to decide whether to request, offer or receive such assistance.

126. If States Parties accepted all the provisions of article 8 relating to privileges, immunities and facilities and of article 10 relating to claims and compensation, that would facilitate offers of assistance from the United States Government in the event of a nuclear accident.

127. With regard to article 1 (General provisions), he said that paragraph 1 made it clear that, in the event of a nuclear accident or radiological emergency, States Parties should co-operate as specified by the other provisions of the convention; in accordance with paragraph 2, if the States Parties deemed it to be in their mutual interest, they might effect such co-operation through bilateral or multilateral arrangements.

128. With respect to reimbursement for assistance, he said that, under article 2 of the convention, the United States Government would offer assistance subject to reimbursement, but would be prepared to consider the waiver of reimbursement in accordance with the provisions of article 7.

129. Turning to matters relating to both conventions, he said that it was the understanding of the United States Government that confidential information received pursuant to paragraph 3 of article 5 of the convention on notification and article 6 of the convention on assistance would be protected in accordance with national law. In addition, it was gratifying that neither convention would of itself result in requirements for additional resources for the Agency and that both texts strengthened the role of the Agency in the area of nuclear safety in accordance with its Statute.

130. The expert from CZECHOSLOVAKIA congratulated the Chairman and the Chairmen of the three working groups on the way in which they had brought the deliberations of the governmental experts to a satisfactory conclusion. The discussions had been difficult, but something very important had emerged from them: when the political will was available it was possible to solve problems which had earlier appeared insurmountable.

131. The Czechoslovak Government welcomed the fact that articles 1 and 3 of the draft convention on notification represented two new important elements in a regime of safe nuclear power development. Moreover, the fact that a satisfactory consensus had been achieved on the draft conventions would serve as an example, the influence of which would not be confined to deliberations within the Agency.

132. The expert from the GERMAN DEMOCRATIC REPUBLIC thanked the Chairman and the Chairmen of the three working groups for all the efforts they had made to reach a successful conclusion. It was gratifying that two draft conventions

which were likely to make nuclear power safer were now available. That was very important since nuclear energy would, in view of the energy needs of States, continue to play an important role. He was in favour of both draft conventions being submitted to the Board and to the special session of the General Conference; their elaboration represented the step forward that the governmental experts had been asked to make. He believed that no country should have any difficulty in becoming a party to the conventions; they could not be effective without broad - or even universal - adherence. That objective should be aimed at for the benefit of the public, on behalf of whom the governmental experts were working.

133. The expert from AUSTRIA thanked the Chairman and the Chairmen of the three working groups for their efforts to achieve agreement on the conventions. He hoped that the two drafts would be accepted by States as legally binding instruments.

134. On behalf of the Austrian Government he also wished to thank the Director General of the Agency and its Secretariat for their quick and effective reaction after the Chernobyl' accident, which it was to be hoped would be the last in a series of accidents. The initiative of the Federal Republic of Germany in urging the holding of a special session of the Board of Governors and a special session of the General Conference was also to be commended.

135. For some years already, Austria had had a policy of engaging in negotiations with a view to concluding agreements with all neighbouring States on matters of mutual interest relating to nuclear energy. The aim of that policy was to establish a form of safety zone around the country. He therefore saw the two draft conventions as complementing Austria's bilateral efforts.

136. He recalled that, at the 1979 General Conference, the Austrian delegation had said that the Agency's work would be incomplete if it did not pay more attention to the transboundary aspects of nuclear facilities. The Austrian Government had therefore welcomed the establishment in 1982 of two expert groups for drafting guidelines on mutual assistance and information exchange.

137. Although he recognized that it had needed considerable political will to transform the guidelines he had mentioned into draft conventions, he said that the compromise achieved was at a comparatively low level and was somewhat disappointing. It was unfortunate that the concept of responsibility had not been included, since Governments were ultimately responsible for the health, safety and property of their people.

138. A special responsibility was borne by the nuclear-weapon States. Austria would have been in favour of approving a full-scope convention on notification, especially since the source or causes of a nuclear accident would be of only minor interest to the public when confronted with the effects of such an accident. The Austrian Government therefore believed that all international agreements relating to activities which might involve nuclear material should be of the full-scope type. Unfortunately, it had become apparent that a full-scope convention would not find a consensus, and he had therefore joined the consensus on the texts approved. He wished, however, to stress his basic agreement with the ideas underlying the proposal submitted by the expert from Spain.

139. Nevertheless, it was gratifying that all military nuclear facilities and activities - with the exception of nuclear weapons and nuclear-weapon tests were expressly included in the draft convention on notification. He noted the fact that the experts from the United States, the Soviet Union, the United Kingdom and China had made formal declarations concerning the notification of accidents with nuclear weapons for nuclear-weapon tests. He had also noted the declaration by the expert from France, which had been accompanied by an endorsement of a full-scope convention.

140. Turning to the draft convention on assistance, he welcomed the inclusion of article 9 on the transit of personnel, equipment and property.

141. Agreement on the two draft conventions represented only a first step in the regulation by legal means of problems arising out of the nuclear activities of States towards a comprehensive regime covering all transboundary effects of nuclear accidents. Another aspect which required particularly urgent action was the question of liability and compensation for victims of transboundary radiological contamination. That matter, as well as the definition of the term "radiological safety significance" in a manner that was

consistent throughout the world, should be taken up as soon as possible after the adoption of the two conventions. The Agency should play a leading role in that process. In any case, the first steps that had been taken with the agreement on the two draft conventions were very promising ones.

142. The expert from IRELAND, thanking the Chairman and the Bureau for their work during the past four weeks, said that the Chernobyl' accident had fully awakened Governments, scientists and world public opinion to the possibility that a major nuclear accident might have serious long-range radiological effects. The force of that awakening had led the governmental experts to complete the two draft conventions in a very short time.

143. He said that the Irish people would be reassured to hear that a framework for effective international action on early notification and mutual assistance had now been established.

144. He congratulated the Chairman on the successful conclusion of the draft convention on assistance and welcomed the conclusion of the draft convention on notification. It was, however, unfortunate that a better result involving the inclusion of all possible nuclear accidents had not been achieved. There was widespread concern throughout the world about the accidental release of radiation regardless of its source. For that reason a full-scope convention would have been preferable. It was regrettable that, although all the nuclear-weapon States had indicated their willingness to notify in the event of any nuclear accident which might be of radiological significance for another State, not all had found it possible to make such notification mandatory within the framework of the draft convention.

145. However, in the interests of concluding what he regarded as a very necessary convention at an early date, he was prepared to agree to the text elaborated. He looked forward to more detailed statements being made by nuclear-weapon States at the General Conference in respect of notification in the event of accidents involving nuclear weapons.

146. The expert from CHINA said that the Chinese Government attached great importance to nuclear safety and to international co-operation in that field. The decision by the Board to convene the Meeting of governmental experts to

draft the two conventions had been a very important one. His primary consideration in participating in the Meeting had been the urgency of drafting the conventions, and for that reason he had worked all along in a spirit of understanding, compromise and co-operation.

147. He had consistently advocated full-scope notification because, in his opinion, any accident likely to have transboundary radiological consequences should be notified so that countries which might be affected could take early protective measures. During the meeting he had therefore attempted with other delegations to find an appropriate solution to the problem of notification of nuclear accidents which were not covered by the scope of the draft convention on notification. The scope finally approved by the Meeting was in line with the view of the Chinese delegation and was therefore to be welcomed. In reporting to the Chinese Government he would request it to give favourable consideration to the draft conventions and to the appeal made by the Chairman to the nuclear-weapon States in respect of article 3 of the convention on notification. He would also recommend the Chinese Government to make a declaration in due course to the effect that it would voluntarily notify in the event of nuclear accidents involving nuclear weapons.

148. The expert of DENMARK said that the views of the Danish Government on an agreement on early notification of nuclear accidents were contained in a memorandum (GOV/INF/501) which had been circulated to all Agency Member States before the meeting of the Board of Governors in June 1986.

149. Although the draft convention on notification did not reflect all the views of the Danish Government, he wished to lend his support to that text. At the same time he wished to state that Denmark attached considerable importance to statements by nuclear-weapon States in connection with the application of article 3 of the draft convention.

150. The expert from BRAZIL shared the satisfaction expressed by other speakers at the approval by consensus of the texts of the two conventions, which represented an important and promising step towards strengthening international co-operation between countries, with a view both to the legitimate goal of protecting their populations and environments and to the

development of stronger fraternal ties among nations. At the same time, the texts assigned an active role to the Agency in securing the transmission of information and the delivery of assistance in various sectors.

151. In the discussions of the convention on notification, his delegation had shown a strong preference for a broad scope; however, his delegation was pleased to join in the compromise which had been achieved, in particular with respect to the new article 3, which his delegation strongly supported.

152. The draft convention on assistance had a very broad scope and, in view of its humanitarian nature, deserved the highest praise. A provision which received his delegation's particularly firm support was paragraph 2 of article 1, encouraging the conclusion of bilateral arrangements, which were essential to the implementation of the convention and to the attainment of its purposes.

153. A further cause for satisfaction to his delegation was the fact that the two conventions did not have any financial implications. They therefore caused no concern to his Government. However, his Government would be stating its final position on the two conventions on the occasion of their adoption and signature at the special session of the General Conference in September 1986.

154. The expert from GREECE said that his delegation had from the outset been in favour of a full-scope convention on early notification covering all types of nuclear accident, regardless of their cause, in view of the importance of protecting mankind against the hazards of nuclear accidents. Nevertheless, in a spirit of compromise, his delegation had been prepared to go along with the approach adopted in the present article 1 and to welcome the inclusion of the additional article 3, which it was to be hoped would meet the concerns of those delegations that had been most interested in ensuring full-scope coverage in article 1 of the draft convention on notification.

155. The CHAIRMAN asked whether the governmental experts were prepared to approve the two draft conventions in documents GE/8/Rev.3/Corr.1 and GE/9/Rev.3/Corr.1.

156. It was so decided.

157. The CHAIRMAN, before summing up the results of the Meeting of governmental experts, wished to make two points of an administrative nature. First, he asked experts to bear in mind that access to the texts of the two draft conventions should remain restricted until they were submitted to the Board. Secondly, his own report to the Board would have the following format: the body of the report would be factual and would relate to matters such as the number of experts and the composition of the Bureau. As agreed on the previous day, it would reflect the report by the Chairman of Working Group A relating to the problem of the scope of the convention on notification. As had further been agreed, it would contain the texts of proposals submitted during the past few days in Working Group A, including the proposal by the expert from the Islamic Republic of Iran on article 1. The texts of the two draft conventions, the text of his own summing-up and the text of the summary record of the final plenary meeting would be attached to his report.

The meeting rose at 6.25 p.m.

ANNEX VI

Summing-up statement by the Chairman of the meeting of  
governmental experts at the final plenary session,  
held on 15 August 1986

We have now come to the end of our work, with the adoption by consensus of the texts of two draft conventions. This is what we set out to achieve in accordance with the mandate entrusted to us by the Agency's Board of Governors. I need hardly say how grateful I am to all of you for your enthusiasm and co-operation, which enabled the conclusion of our work in what is, for a task of this nature, a remarkably short time. In summing up the results of our joint endeavours over the past four weeks, I wish to make a few comments, which I propose to reiterate when I report to the Board at its meetings beginning on 22 September 1986.

The conventions whose texts we have just adopted will be presented to the Board for consideration and, subject to its endorsement, to the forthcoming ministerial-level special session of the General Conference, the Agency's supreme policy-making organ, which, I hope, will adopt them and recommend them for early signature or ratification and for provisional application, pending formal consent to be bound.

These conventions, which are the outcome of compromise, seek to provide a broad framework for an important aspect of effective international co-operation in ensuring the safe utilization of nuclear power. Clearly, however, they represent but a first step - and much still needs to be done, both by Governments and by the Agency. For example, there needs to be standardization of terminology and measurements to be used in the implementation of the conventions. This seems to be a matter of high priority.

Both conventions provide for an important role to be played by the Agency. I am confident that Governments will continue strongly to support the Agency in its efforts to serve, in accordance with its Statute and within the limits of the resources available to it, as an effective instrument of international co-operation aimed at making nuclear facilities still safer. When endorsing the conventions, the Board of Governors will, I hope, empower the Director General to carry out the functions entrusted to the Agency under the two conventions.

While providing an international legal framework in the areas of early notification and emergency assistance, the conventions are, of course, not exhaustive; they underline the importance of a continuing need for further bilateral, regional and multilateral co-operation and arrangements in these areas, which should address themselves to specific issues, wishes and concerns which could not - or not fully - be met in the present conventions. I also wish to point out that the two conventions are not intended to derogate from any international obligations on early notification and assistance that may already exist under international law.

During consideration of the two draft conventions, several proposals were made which were not, after discussion, incorporated into the texts adopted by consensus. As an example, I would refer to proposals relating to the scope of the Convention on Early Notification in relation to nuclear accidents arising from nuclear weapons or nuclear tests. This was shown to be a matter of great importance to certain participants, as well as reflecting a much desired objective of many others. However, on this as on many other issues a statesmanlike consensus was reached. The summary record of the final plenary session will show the extent to which participating experts were ready to go in order to achieve this consensus. I am convinced that among participants in this meeting there is the strong hope that the nuclear-weapon States would favourably consider the possibility of notifying on a voluntary basis to other States any nuclear accident with transboundary effects, limited only by the constraints imposed by considerations of national security. I appeal

to the Governments of the nuclear-weapon States to use the opportunity of the special session of the General Conference to confirm their policies in this respect in conformity with article 3 of the Convention on Early Notification. I also refer to proposals relating to the threshold and triggers for notification and proposals relating to nuclear installations in border areas. Some of these proposals may require further consultations and further study in the IAEA or in another framework.

The success of the legal framework established by these conventions will naturally depend on the political will of the international community as a whole. It is my hope that the conventions will enter into force without delay, after formal adoption at the special session of the General Conference, and that Governments will take all the requisite steps to bring them into effective operation and will favourably consider requests for assistance in the application of the conventions. I am heartened by the willingness expressed by some countries to provide prompt notification in cases of releases of radioactive material having potential transboundary effects even prior to the entry into force of the relevant convention, and I would appeal to other countries to express the same willingness.

In conclusion, I would like to say to my colleagues in the group of experts that it has been both an honour and a pleasure to serve as Chairman. The Vice-Chairmen and I have all been much encouraged and helped by the excellent atmosphere and spirit of give-and-take which have characterized our discussions, and which have indeed made possible the consensus which has been achieved. We are all aware that many participants have made concessions, some not easy to make, to enable consensus to be reached, and for this I am heartily thankful. I hope that the sentiments which I have expressed in my summing-up, and will express in my report to the Board of Governors, reflect this same spirit of consensus among my colleagues in the group of experts as a whole. Thank you all very much.