

**General Conference**

Second regular session

THE ACCEPTANCE AND SUPPLY BY THE AGENCY OF FISSIONABLE,  
SOURCE AND OTHER MATERIALS

On 14 January 1958 the Board of Governors decided that the following preliminary paper on the acceptance and supply by the Agency of fissionable, source and other materials, which had been prepared by the Secretariat at the Board's request, should be communicated to all Members of the Agency for their information.

Introductory Note

1. In this preliminary paper the Secretariat has considered in three stages the steps needed to implement the Agency's initial programme for the supply of materials:

- (a) Measures to be taken for ascertaining what materials are available to the Agency, for promoting the demand for such materials and for ensuring continuity of supply;
- (b) The adjustment of supply to individual requirements; and
- (c) The steps which will have to be taken before the Agency can implement a project involving the supply of materials.

ASCERTAINING THE TOTAL SUPPLY AND DEMAND, AND SECURING  
CONTINUITY OF SUPPLY

General observations

2. All notifications so far received from Member States pursuant to Article IX of the Statute have been circulated to the Board. In December 1957 the Board requested the Secretariat to make

enquiries concerning the characteristics of the materials offered, their prices and terms of delivery and any other terms and conditions of supply. The Secretariat was also requested to make it clear that the Agency could not at present assume any legal or financial commitments in respect of such materials or any responsibility for storage. Since it is unlikely that the Agency will be able to use, within the next year or two, more than a proportion of the materials offered, the Board also expressed the wish that offers already made should be maintained for a substantial period beyond the year 1958 for which the notifications were automatically valid pursuant to Article IX.F of the Statute.

3. Communications along these lines have been sent already or are in the process of being despatched to all Members which have made notifications pursuant to Article IX. In view of the fact that some time is likely to elapse before projects for the use of materials can be considered, it may be desirable to make arrangements whereby the Agency will be continuously and automatically informed by Member States of any new data concerning the prices, supply position, etc., of the materials they have offered to make available.

4. In order to ensure that use is made of the materials made available, it seems clear that the Agency will have to play a dynamic role in encouraging demand from Member States. The first step would be to provide Member States with as many details as possible of the quantities, characteristics, prices, terms of delivery, etc. of such materials, and the Board has requested the Secretariat to undertake this function as soon as the required information is forthcoming. It was also stressed at the Board's meetings in December 1957 that measures would have to be taken to ensure that the conditions for supplies from the Agency are competitive with those of supplies available from other sources. At first sight there appear to be three broad types of measures which the Agency could undertake to this end: these are discussed in paragraphs 5 to 10 below.

### Price Competition

5. Before considering whether it would be desirable for the Agency to charge a price lower than the world market price for what it supplies, it is necessary to consider whether this would at present be feasible. According to preliminary indications, the Agency will, in most cases, be charged the lowest world market price for the supplies it receives. In terms of Article XIV.E of the Statute the price charged by the Agency to its Members will have to be increased by a surcharge to cover costs of handling, and storage: the cost of implementing safeguards will, in terms of Article XIV.B 1.(b) be classified as an administrative expense. Article XIV.E does authorize the subsidizing of prices by the application of voluntary contributions. In the absence, however, of any clear indication that such voluntary contributions will be forthcoming, there appears at present to be some risk that a strict application of Article XIV.E might compel the Agency to charge prices higher rather than lower than the world market prices. Questions which may be considered at this moment are therefore:

- (a) Whether it would be desirable to establish the general rule that the prices charged by the Agency to its Members should not be higher than the lowest world market price, including the lowest price charged by other suppliers for handling and storage; and
- (b) Whether the possibility should be examined of securing supplies for the Agency at lower than world market prices on the grounds, for instance, that the Agency will take over responsibility for applying the necessary health and safety and safeguards measures.

### External Financing

6. Certain projects may be feasible only if external financing is available. Article XI.B of the Statute authorizes the Agency to make arrangements to secure "necessary financing from outside sources" to assist projects, provided that the Agency itself does not assume any financial responsibility for the project. The use

which the Agency could make of materials made available to it would clearly be increased if Member States were prepared to provide or arrange external financing for Agency projects.

### Continuity of Supplies

7. It has been stressed by the Board that a major responsibility of the Agency will be to ensure continuity of supply, and the degree to which it is able to do this may directly affect the amount of use which is made of the resources placed at its disposal. The Statute appears to envisage three roles for the Agency in supplying materials to Member States. In the first two, the Agency itself would act as prime contractor and supply materials direct to Member States from resources in its possession or at its disposal. A third role would be for the Agency to be a third party to an agreement for the supply of materials directly from one Member State to another.

8. In the role of prime supplier the Agency might supply materials from stocks physically in its possession. Thus the Agency would take delivery and arrange for the storage and protection of materials in accordance with Article IX.H and I of the Statute, and draw upon these materials to meet the requirements of its Members. Provided that it could be assured of sufficient stocks, such an arrangement would obviously place the Agency in a strong position to guarantee continuity of supply. In the light of Article IX.D, however, it appears that the Agency could not unilaterally require the delivery of materials to it, solely for the purpose of maintaining stocks, and that any arrangements for stock-piling would have to be negotiated with the Member making the materials available and would bring Article IX.H and I into operation. The question is whether this type of arrangement can be usefully investigated at this stage. Such investigation would entail, inter alia, examining the question of the stage in the processing of materials at which it would be reasonable to stock-pile them, examining the financial implications of stock-piling, and exploring the question whether Member States that have offered materials to the Agency would be prepared to deliver them for stock-piling when storage facilities are available. A further fundamental question would be how the Agency could ensure replenishment of its stocks from time to time.

9. A second course might be for the Agency to negotiate a series of independent sales and purchase agreements without taking physical delivery of stocks made available to it. Under such an arrangement the Agency might, for instance, provide for the supply of materials to a given project or group of projects through a separate and independent series of relatively short-term purchasing agreements with supplying Member States. This would have the advantage of enabling the Agency to buy in the cheapest market or markets, and would not tie a particular project to a specific national source of supply. However, the Agency itself would have to accept full responsibility for ensuring the continuity of supply to the project, and would therefore have to have some assurance that Member States would continue to make available sufficient materials to meet the Agency's requirements. Since, in terms of Article IX.F of the Statute, materials offered by Members are automatically available for a period of one year only, it might be necessary to request Members, either as a general rule or in certain specific instances, to extend the validity of their offers to cover longer periods which the Board would specify under Article IX.C. But this type of arrangement, in which the Agency's contracts of sale would be separated from its contracts of purchase, might give rise to considerable difficulty in matching supply to individual requirements, since there could be no assurance that the materials supplied by a Member State would be precisely those required by other Members.

10. In the third type of arrangement the Agency would be an additional party to an agreement between a supplying Member State and a Member State which had submitted a project to the Agency.<sup>1/</sup> Under this type of arrangement the supplying Member would be answerable to both the Agency and the recipient Member State for any breach of contract.<sup>2/</sup> The possibility exists, however, that the supplier might be unable, for reasons beyond its control, to meet its commitments, and the Agency would not have the same flexibility

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<sup>1/</sup> See the second part of Article XI.F.3 of the Statute

<sup>2/</sup> See Article IX.D and G, and Article XIX.B of the Statute.

in meeting such a situation as it would have under the first two types of arrangement which give it more direct control over supplies.

#### Technical Problems

11. It is assumed that whatever the arrangements for supplies may be, it will be the responsibility of the Agency to analyze and check supplies, as a matter of prudent administration as well as in order to ensure health and safety and accountability for materials. Certain questions which arise in this connection are:

- (a) Whether analyses and checks should be made of all materials offered to the Agency, or whether such verification is necessary only when a definite agreement has been concluded and supplies are about to move;
- (b) Whether such verification must be undertaken by the Agency itself or may be contracted out; and
- (c) What verification can be carried out in the case of bilateral agreements which are already in operation and to which the Agency is requested to apply health, safety and security safeguards.

#### MATCHING SUPPLIES TO INDIVIDUAL REQUIREMENTS

12. The question of matching supplies to individual requirements has already been touched upon in paragraph 9 above. Questions which arise in this connection are:

- (a) Since it may not be possible to meet the requirements, in quantity or quality, for a particular project from the materials which Member States have offered to the Agency, what steps should the Agency take to meet such a situation? Two of the various steps which suggest themselves, are:
  - (i) The Agency might process or modify materials already made available to it. Such processing might be undertaken by the Agency itself if it has the facilities, or be arranged either at the facilities

of a Member State or commercially. Should there be any limitation on the Agency's power to arrange such operations?

- (ii) The Agency might, on behalf of the requesting State, assist in procuring the required material on the commercial market. Should there be any general rule governing such activities?
- (b) If at any time in the future the sum total of requests exceeds the materials available, what should the Agency's policy be in selecting the projects to be assisted?
- (c) Certain materials offered to the Agency will require further processing before they can be directly used for industrial or scientific purposes. What should the Agency's policy be in respect of such materials?

#### IMPLEMENTATION OF A SUPPLY PROGRAMME

13. Before the Agency could formally undertake any project involving the supply of materials to a Member State, it appears that the following steps would be necessary:

- (a) Establishment or adoption of health and safety standards pursuant to Article III.A.6 of the Statute for the transfer, use and reprocessing of materials and for the evaluation of the design of equipment;
- (b) Establishment of safeguard procedures under Articles III.A.5 and XII of the Statute for the transfer, use and reprocessing of materials and for the evaluation of the design of equipment and facilities;
- (c) Establishment of a scale of charges pursuant to Article XIV.F of the Statute;
- (d) Arrangements for the analysis and checking of materials under Article IX.G of the Statute;
- (e) Establishment of procedure and criteria for the examination of requests for projects pursuant to Article XI.E of the Statute; and

- (f) Arrangements for the reprocessing of materials supplied, and for the storage of any special fissionable materials which may be deposited with the Agency after reprocessing, pursuant to Article XII.A.5 of the Statute.

14. Before the Agency itself can take possession of special fissionable materials it will also be required, pursuant to Article IX.H and I of the Statute, to take measures for the receipt, storage, protection and issue of materials.

15. Questions which arise are:

- (a) Whether priorities should be established for the Agency's work in connection with the various measures referred to in paragraph 13 above; and
  - (b) Whether a target date should be established by which time the Agency should be in a position to bring into operation a project involving the supply of materials.
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