



General Conference

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THE AGENCY'S INSPECTORATE

Memorandum by the Director General

1. The General Conference will recall that in connection with its fourth regular session the Board transmitted to it for information a memorandum on the Agency's inspectors. [1] In that document the Board indicated that until certain issues relevant to the recruitment and sources of members of the Agency's inspectorate had been resolved, it would not consider its examination of the problems connected therewith as complete.
2. The Board reverted to the subject at meetings held in April and June 1961, and on 29 June decided that the Inspector General and all officers of Professional grade of the Division of Inspection would be appointed by the Director General as staff officials of the Agency after he had submitted applications recommended by him to the Board for approval. As a corollary to that decision the Board also decided that its consideration of the establishment of the Agency's inspectorate was concluded, and that the detailed provisions relating to the Agency's inspectors which it had annexed to its memorandum of last year were in effect.
3. As the Board pointed out last year, that Annex - which deals with matters that arise in the application of the Agency's safeguards and health and safety measures - is intended to serve as a guide to the parties concerned in negotiating provisions that are normally included in project agreements, and in agreements for the application of Agency safeguards and the Agency's health and safety measures to bilateral or multilateral arrangements or to a State's own activities in the field of atomic energy, to the extent that such provisions are relevant to each project or arrangement. The provisions of the Annex are not mandatory, and they and other provisions that may be agreed in negotiation will only be given legal effect by the entry into force of the particular agreement which incorporates them.
4. The Board has requested the communication of this memorandum to the General Conference, together with the text of the Annex to its memorandum of last year, for information at the fifth regular session.

[1] GC(IV)/INF/27.

A N N E X

THE AGENCY'S INSPECTORS

I. Designation [1] of Agency inspectors

1. When it is proposed to designate an Agency inspector for a State, the Director General shall inform the State in writing of the name, nationality and grade of the Agency inspector proposed, shall transmit a written certification of his relevant qualifications and shall enter into such other consultations as the State may request. The State shall inform the Director General, within 30 days of receipt of such a proposal, whether it accepts the designation of that inspector. If so, the inspector may be designated as one of the Agency's inspectors for that State, and the Director General shall notify the State concerned of such designation.
2. If a State, either upon proposal of a designation or at any time after a designation has been made, objects to the designation of an Agency inspector for that State, it shall inform the Director General of its objection. In this event, the Director General shall propose to the State an alternative designation or designations. The Director General may refer to the Board, for its appropriate action, the repeated refusal of a State to accept the designation of an Agency inspector if, in his opinion, this refusal would impede the inspections provided for in the relevant project or safeguards agreement.
3. Each State shall as speedily as possible grant or renew appropriate visas, where required, for persons whose designation as Agency inspectors that State has accepted.

II. Visits of Agency inspectors

4. The State shall be given at least one week's notice of each inspection, including the names of the Agency's inspectors, the place and approximate time of their arrival and departure, and the facilities and materials to be inspected. Such notice need not exceed 24 hours for any inspection to investigate any incident requiring a "special inspection". [2]
5. Agency inspectors shall be accompanied by representatives of the State concerned, if the State so requests, provided that the inspectors shall not thereby be delayed or otherwise impeded in the exercise of their functions. Agency inspectors shall use such points of entry into and departure from the State, and such routes and modes of travel within it, as may be designated by the State.
6. Agency inspectors, in locations where this is necessary, shall be provided, on request and for reasonable compensation if agreed on, with appropriate equipment for carrying out inspections and with suitable accommodation and transport.
7. The visits and activities of the Agency's inspectors shall be so arranged as to ensure on the one hand the effective discharge of their functions and on the other hand the minimum possible inconvenience to the State and disturbance to the facilities inspected.

[1] The term "designation" as used in this Annex refers to the assignment of Agency inspectors to a particular task or tasks and not to the recruitment or appointment of Agency inspectors.

[2] "Special inspections" are provided for in paragraphs 58 and 59 of the Agency's safeguards system (INFCIRC/26); they are also provided for in paragraph 32 of the Agency's health and safety measures (INFCIRC/18).

8. Consultations shall take place with the State to ensure that consistent with the effective discharge of the functions of the Agency's inspectors, their activities will be conducted in harmony with the laws and regulations existing in the State.

III. Rights of access and inspection

9. After submitting their credentials, and to the extent relevant to the project or arrangement, Agency inspectors shall have access, depending upon the type of inspection to be carried out, either:
 - (a) To all materials, equipment and facilities to which Agency safeguards against diversion are applied under the relevant provisions of document INFCIRC/26; or
 - (b) To all radiation sources, equipment and facilities which can be inspected by those Agency inspectors who are making inspections in relation to the provisions of paragraphs 31 and 32 of the Agency's health and safety measures set forth in document INFCIRC/18.

They shall have access at all times to all places and data and to any person, to the extent provided for in Article XII, A. 6 of the Statute. The State shall direct all such persons under its control to co-operate fully with Agency inspectors, and shall indicate the exact location of and identify all such materials, equipment and facilities.

10. With respect to all materials, equipment and facilities to which Agency safeguards against diversion are applied, the Agency's inspectors shall be permitted to carry out their inspections in accordance with the pertinent agreements which may include provisions for:
 - (a) Examination of the facility and/or materials to which Agency safeguards are applied;
 - (b) Audit of reports and records;
 - (c) Verification of the amounts of material to which Agency safeguards are applied, by physical inspection, measurement and sampling; and
 - (d) Examination and testing of the measurement instruments.
11. Agency inspectors for health and safety measures may perform inspections in accordance with each individual agreement, which may necessitate:
 - (a) Tests of radiation sources, of radiation detection and monitoring instruments and of other equipment or devices in connection with the use, storage, transportation or disposal as waste of radiation sources;
 - (b) Examination of facilities wherein radiation sources are used or stored, of waste disposal facilities and of all records on which reports to the Agency are based; and
 - (c) Examinations related to the evaluation of the radiation exposure of persons who have or may have been over-exposed.

The State shall perform, in a manner prescribed by the Agency, or arrange for the Agency to perform those tests and examinations deemed necessary by the Agency.

12. After an inspection has been carried out, the State concerned shall be duly informed by the Agency of its results. In case the State disagrees with the report of the Agency's inspectors, it shall be entitled to submit a report on the matter to the Board of Governors.

IV. The privileges and immunities of the Agency's inspectors

13. Agency inspectors shall be granted the privileges and immunities necessary for the performance of their functions. Suitable provision shall be included in each project or safeguards agreement for the application, in so far as relevant to the execution of that agreement, of the provisions of the Agreement on the Privileges and Immunities of the International Atomic Energy Agency [3] excepting Articles V and XII thereof, provided that all parties to the project or safeguards agreement so agree.
14. Disputes between a State and the Agency arising out of the exercise of the functions of Agency inspectors will be settled according to an appropriate disputes clause in the pertinent project or safeguards agreement.

[3] INFCIRC/9/Rev.1.

