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COMMISSION OF THE EUROPEAN COMMUNITIES

COM(79) 727 final

Brussels, 10th December 1979

PARTICIPATION OF EURATOM IN THE INTERNATIONAL CONVENTION
ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL

(Communication from the Commission to the Council)

COM(79) 727 final

Communication from the Commission to the Council

1. Between 17 and 26 October at the International Atomic Energy Agency's headquarters in Vienna final negotiations took place on concluding a Convention on Physical Protection of nuclear material. The Commission representing the European Atomic Energy Community participated in the meeting and along with 58 participating countries was able to sign the Final Act which brought the two year long negotiations on this Convention to a successful conclusion.
2. The basis of the Commission's participation were directives given by the Council of Ministers at its meeting of 18 September in which were set out in detail the main points that would have to be successfully negotiated by the Commission if the Community was to eventually participate in the Convention.
3. These directives concerned
 - a) the participation of the Commission in the negotiations as well as the conditions for the accession of the Community as such ;
 - b) the negotiation of important problems which related to the substance of the convention itself, e.g. its scope, a possible revision and the settlement of disputes ;
 - c) the internal repartition of competences between the Community and the Member States.
4. The issue of EURATOM's accession to the Convention has been the subject of considerable discussion ever since the matter had been presented by the Commission on the basis of a partial mandate at the negotiating Session in February 1979. In September an informal meeting was specially convened on the subject and the Commission tabled an accession clause that would allow EURATOM to accede to the Convention alongside its

member states. The meeting, however, was unable to agree on the specific terms for accession.

5. The compromise finally established at the October meeting after extensive bargaining now indicates that the Convention would be open for signature or accession by "regional organisations of an integration or other nature" and by "international organisations" provided they were constituted by sovereign states and had the necessary competences. Furthermore the clause also incorporates the other essential EURATOM requirement that on signing it was only necessary for such organisation to indicate those Articles of the Convention that did not apply to it.
6. The Council directives also required that the Community would only accept the Scope of the Convention as set out in the draft contained in CPNM/77/Corr. 1 provided that the provisions for cooperation and assistance in the event of unlawful taking of nuclear material as set out in the first paragraph of Article 5(2) of the above-mentioned draft was not an obligation but depended upon being clearly at the request of the State party concerned. The Commission tabled an amendment to this effect, as contained in point 4 of the Council's directives and this formed the basis of a text that was accepted by all participating States.
7. The Council directives required that the Community could agree that after an unspecified period of time a conference would be held to review the operation of the Convention in the light of circumstances then prevailing. Furthermore the directives underlined that such a conference would in no way prejudice the position of those participating as to its outcome. Negotiations in Vienna confirmed the importance the majority of other parties also attached to a conference of this kind and Article 16 of the final text provides for such a conference five years after entry into force of the Convention.
8. In addition to such - possibly periodic - reviews, provisions in the Convention have also been envisaged for an amendment procedure allowing updating to take account of technical developments in the field of nuclear transport. This procedure, which is set out in Article 20, foresees the possibility of a specially convened conference to consider such amendments if the majority of parties to the Convention agree.
9. The necessity of modifying the arbitration and disputes procedure was also an element of the directives because the proposed procedure of submitting disputes over arbitration to the International Court of Justice as a last resort could not be used in cases involving the

Community since the Statutes of the ICJ rule out the possibility of the Community as such being party to proceedings before it. Alternative proposals were submitted to the meeting by the Commission and other participants. Eventually a new Article 17 was drawn up which incorporates the essential elements of the Commission's earlier draft proposal. It provides that when negotiations over a dispute have broken down the matter can be referred either to arbitration or to the International Court of Justice for decision. In the case where the procedure chosen is arbitration and the parties cannot agree on how it is arranged, either 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 the case of conflicting requests by the parties to the dispute, the request to the Secretary General of the United Nations shall have priority. This solution accommodates the position of the Community and avoids recourse to a specific procedure limited to disputes in which the Community would be involved. It can therefore be accepted by the Community.

10. The Convention will be open for signature from 3 March 1980. It will enter into force after ratification by 21 signatories. By virtue of Article 102 of the EURATOM Treaty and because of the complementary character of the competences of the Community and its Member States in matters covered by the Convention, it is necessary that the instruments of approval and ratification be deposited by the Community and its Member States at the same time. Furthermore, it would be appropriate that the Convention be signed by the Commission on behalf of Euratom and by its Member States simultaneously.
11. The Commission now submits the text of the Convention (Annex 1) so that the Council may approve its conclusion by the Commission (see Annex 2) according to the procedure of Article 101 (2) of the Euratom Treaty. In accordance with Article 18.4. (c) of the Convention, the Commission will, at the same time, make a declaration, as set out in Annex 3 indicating which States are members of Euratom and which Articles of the Convention do not apply to it.

FINAL ACT

Meeting of Governmental Representatives to consider the Drafting
of a Convention on the Physical Protection of Nuclear Material

1. The Meeting of Governmental Representatives to Consider the Drafting of a Convention on the Physical Protection of Nuclear Material met in Vienna at the Headquarters of the International Atomic Energy Agency from 31 October to 10 November 1977, from 10 to 20 April 1978, from 5 to 16 February and from 15 to 26 October 1979. Informal consultations between Governmental Representatives took place from 4 to 7 September 1978 and from 24 to 25 September 1979.
2. Representatives of fifty eight States and one organization participated, namely, representatives of:

Algeria	Germany, Federal Republic of
Argentina	Greece
Australia	Guatemala
Austria	Holy See
Belgium	Hungary
Brazil	India
Bulgaria	Indonesia
Canada	Ireland
Chile	Israel
Colombo	Italy
Costa Rica	Japan
Cuba	Korea, Republic of
Czechoslovakia	Libyan Arab Jamahariya
Denmark	Luxembourg
Ecuador	Mexico
Egypt	Netherlands
Finland	Niger
France	Norway
German Democratic Republic	Pakistan

Panama	Switzerland
Paraguay	Tunisia
Peru	Turkey
Philippines	Union of Soviet Socialist Republics
Poland	United Arab Emirates
Qatar	United Kingdom of Great Britain and Northern Ireland
Romania	United States of America
South Africa	Venezuela
Spain	Yugoslavia
Sweden	Zaire
	European Atomic Energy Community

3. The following States and international organizations participated as observers:

Iran

Lebanon

Malaysia

Thailand

Nuclear Energy Agency of the Organisation for Economic Co-operation and Development

4. The meeting elected Ambassador D.L. Siazon Jr. (Philippines) as Chairman. For the meetings in April 1978 and February 1979 Mr. R.A. Estrada-Oyuela (Argentina) was elected Chairman.

5. The Meeting elected as Vice-Chairmen:

Mr. K. Willuhn of the German Democratic Republic, who at the meeting in February 1979 was succeeded by Mr. H. Rabold of the German Democratic Republic;

Mr. R.J.S. Harry, Netherlands, who at the meeting of October 1979 was succeeded by Mr. G. Dahlhoff of the Federal Republic of Germany;

Mr. R.A. Estrada-Oyuela, Argentina, who at the meeting of October 1979 was succeeded by Mr. L.A. Olivieri of Argentina .

6. Mr. L.W. Herron (Australia) was elected Rapporteur. For the meeting in October 1979 Mr. N.R. Smith (Australia) was elected Rapporteur.
7. Secretariat services were provided by the International Atomic Energy Agency. The Director General of the Agency was represented by the Director of the Legal Division of the Agency, Mr. D.M. Edwards and, in succession to him, Mr. L.W. Herron.
8. The Meeting set up the following groups:
 - (a) Working Group on Technical Issues
Chairman: Mr. R.J.S. Harry, Netherlands
 - (b) Working Group on Legal Issues
Chairman: Mr. R.A. Estrada-Oyuela, Argentina
 - (c) Working Group on Scope of Convention
Chairman: Mr. K. Willuhn, German Democratic Republic
 - (d) Drafting Committee
Chairman: Mr. De Castro Neves, Brazil

Members: Representatives of Australia, Brazil, Canada, Chile, Czechoslovakia, Egypt, France, Federal Republic of Germany, Italy, Japan, Mexico, Qatar, Tunisia, Union of Soviet Socialist Republics, United States of America.
9. The Meeting had before it the following documents:
 - (a) Draft Convention on the Physical Protection of Nuclear Materials, Facilities and Transports, as contained in document CPNM/1.

- (b) IAEA Document INFCIRC/225, Rev.1: The Physical Protection of Nuclear Material
- (c) IAEA Document INFCIRC/254: Communications Received from Certain Member States regarding Guidelines for the Export of Nuclear Material, Equipment or Technology

10. The Meeting completed consideration of a Convention, the text of which is attached as Annex I. Certain delegations expressed reservations with regard to particular provisions in the text. These are recorded in the documents and in the Daily Reports of the Meeting. It was agreed that the text will be referred by delegations to their authorities.
11. The Meeting recommended that the text of the Convention be transmitted for information to the Twenty-third General Conference of the International Atomic Energy Agency.
12. The Convention will, in accordance with its terms, be opened for signature from 3 March 1980 at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York.

Vienna, 26 October 1979

Chairman of the Meeting

PARTICIPANTS IN THE MEETING

Signed by the delegations of:

CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL

The States Parties to this Convention,

Recognizing the right of all States to develop and apply nuclear energy for peaceful purposes and their legitimate interests in the potential benefits to be derived from the peaceful application of nuclear energy,

Convinced of the need for facilitating international co-operation in the peaceful application of nuclear energy,

Desiring to avert the potential dangers posed by the unlawful taking and use of nuclear material,

Convinced that offences relating to nuclear material are a matter of grave concern and that there is an urgent need to adopt appropriate and effective measures to ensure the prevention, detection and punishment of such offences,

Aware of the need for international co-operation to establish, in conformity with the national law of each State Party and with this Convention, effective measures for the physical protection of nuclear material,

Convinced that this Convention should facilitate the safe transfer of nuclear material,

Stressing also the importance of the physical protection of nuclear material in domestic use, storage and transport,

Recognizing the importance of effective physical protection of nuclear material used for military purposes, and understanding that such material is and will continue to be accorded stringent physical protection,

Have agreed as follows:

Article 1

For the purposes of this Convention:

- (a) "nuclear material" means plutonium except that with isotopic concentration exceeding 80% in plutonium-238; uranium-233; uranium enriched in the isotopes 235 or 233; uranium containing the mixture of isotopes as occurring in nature other than in the form of ore or ore-residue; any material containing one or more of the foregoing;
- (b) "uranium enriched in the isotope 235 or 233" means uranium containing the isotopes 235 or 233 or both in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature;
- (c) "international nuclear transport" means the carriage of a consignment of nuclear material by any means of transportation intended to go beyond the territory of the State where the shipment originates beginning with the departure from a facility of the shipper in that State and ending with the arrival at a facility of the receiver within the State of ultimate destination.

Article 2

1. This Convention shall apply to nuclear material used for peaceful purposes while in international nuclear transport.
2. With the exception of articles 3 and 4 and paragraph 3 of article 5, this Convention shall also apply to nuclear material used for peaceful purposes while in domestic use, storage and transport.
3. Apart from the commitments expressly undertaken by States Parties in the articles covered by paragraph 2 with respect to nuclear material used for peaceful purposes while in domestic use, storage and transport, nothing in this Convention shall be interpreted as affecting the sovereign rights of a State regarding the domestic use, storage and transport of such nuclear material.

Article 3

Each State Party shall take appropriate steps within the framework of its national law and consistent with international law to ensure as far as practicable that, during international nuclear transport, nuclear material within its territory, or on board a ship or aircraft under its jurisdiction insofar as such ship or aircraft is engaged in the transport to or from that State, is protected at the levels described in Annex I.

Article 4

1. Each State Party shall not export or authorize the export of nuclear material unless the State Party has received assurances that such material will be protected during the international nuclear transport at the levels described in Annex I.
2. Each State Party shall not import or authorize the import of nuclear material from a State not party to this Convention unless the State Party has received assurances that such material will during the international nuclear transport be protected at the levels described in Annex I.
3. A State Party shall not allow the transit of its territory by land or internal waterways or through its airports or seaports of nuclear material between States that are not parties to this Convention unless the State Party has received assurances as far as practicable that this nuclear material will be protected during international nuclear transport at the levels described in Annex I.
4. Each State Party shall apply within the framework of its national law the levels of physical protection described in Annex I to nuclear material being transported from a part of that State to another part of the same State through international waters or airspace.
5. The State Party responsible for receiving assurances that the nuclear material will be protected at the levels described in Annex I according to paragraphs 1 to 3 shall identify and inform in advance States which the nuclear material is expected to transit by land or internal waterways, or whose airports or seaports it is expected to enter.
6. The responsibility for obtaining assurances referred to in paragraph 1 may be transferred, by mutual agreement, to the State Party involved in the transport as the importing State.
7. Nothing in this article shall be interpreted as in any way affecting the territorial sovereignty and ~~the~~ jurisdiction of a State, including that over its airspace and territorial sea.

Article 5

1. States Parties shall identify and make known to each other directly or through the International Atomic Energy Agency their central authority and point of contact having responsibility for physical protection of nuclear material and for co-ordinating recovery and response operations in the event of any unauthorized removal, use or alteration of nuclear material or in the event of credible threat thereof.

2. In the case of theft, robbery or any other unlawful taking of nuclear material or of credible threat thereof, States Parties shall, in accordance with their national law, provide co-operation and assistance to the maximum feasible extent in the recovery and protection of such material to any State that so requests. In particular:

- (a) a State Party shall take appropriate steps to inform as soon as possible other States, which appear to it to be concerned, of any theft, robbery or other unlawful taking of nuclear material or credible threat thereof and to inform, where appropriate, international organizations;
- (b) as appropriate, the States Parties concerned shall exchange information with each other or international organizations with a view to protecting threatened nuclear material, verifying the integrity of the shipping container, or recovering unlawfully taken nuclear material, and shall:
 - (i) co-ordinate their efforts through diplomatic and other agreed channels;
 - (ii) render assistance, if requested;
 - (iii) ensure the return of nuclear material stolen or missing as a consequence of the above-mentioned events.

The means of implementation of this co-operation shall be determined by the States Parties concerned.

3. States Parties shall co-operate and consult as appropriate, with each other directly or through international organizations, with a view to obtaining guidance on the design, maintenance and improvement of systems of physical protection of nuclear material in international transport.

Article 6

1. States Parties shall take appropriate measures consistent with their national law to protect the confidentiality of any information which they receive in confidence by virtue of the provisions of this Convention from another State Party or through participation in an activity carried out for the implementation of this Convention. If States Parties provide information to international organizations in confidence, steps shall be taken to ensure that the confidentiality of such information is protected.
2. States Parties shall not be required by this Convention to provide any information which they are not permitted to communicate pursuant to national law or which would jeopardize the security of the State concerned or the physical protection of nuclear material.

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Article 7

1. The intentional commission of:

- (a) an act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property;
- (b) a theft or robbery of nuclear material;
- (c) an embezzlement or fraudulent obtaining of nuclear material;
- (d) an act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation;
- (e) a threat:
 - (i) to use nuclear material to cause death or serious injury to any person or substantial property damage, or
 - (ii) to commit an offence described in sub-paragraph (b) in order to compel a natural or legal person, international organization or State to do or to refrain from doing any act;
- (f) an attempt to commit any offence described in paragraphs (a), (b) or (c); and
- (g) an act which constitutes participation in any offence described in paragraphs (a) to (f)

shall be made a punishable offence by each State Party under its national law.

2. Each State Party shall make the offences described in this article punishable by appropriate penalties which take into account their grave nature.

Article 8

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 7 in the following cases:

- (a) when the offence is committed in the territory of that State or on board a ship or aircraft registered in that State;
- (b) when the alleged offender is a national of that State.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these offences in cases where the alleged offender is present in its territory and it does not extradite him pursuant to article 11 to any of the States mentioned in paragraph 1.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

4. In addition to the States Parties mentioned in paragraphs 1 and 2, each State Party may, consistent with international law, establish its jurisdiction over the offences set forth in article 7 when it is involved in international nuclear transport as the exporting or importing State.

Article 9

Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take appropriate measures, including detention, under its national law to ensure his presence for the purpose of prosecution or extradition. Measures taken according to this article shall be notified without delay to the States required to establish jurisdiction pursuant to article 8 and, where appropriate, all other States concerned.

Article 10

The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State.

Article 11

1. The offences in article 7 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include those offences as extraditable offences in every future extradition treaty to be concluded between them.
2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of those offences. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
4. Each of the offences shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States Parties required to establish their jurisdiction in accordance with paragraph 1 of article 8.

Article 12

Any person regarding whom proceedings are being carried out in connection with any of the offences set forth in article 7 shall be guaranteed fair treatment at all stages of the proceedings.

Article 13

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in article 7, including the supply of evidence at their disposal necessary for the proceedings. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

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Article 14

1. Each State Party shall inform the depositary of its laws and regulations which give effect to this Convention. The depositary shall communicate such information periodically to all States Parties.
2. The State Party where an alleged offender is prosecuted shall, wherever practicable, first communicate the final outcome of the proceedings to the States directly concerned. The State Party shall also communicate the final outcome to the depositary who shall inform all States.
3. Where an offence involves nuclear material used for peaceful purposes in domestic use, storage or transport, and both the alleged offender and the nuclear material remain in the territory of the State Party in which the offence was committed, nothing in this Convention shall be interpreted as requiring that State Party to provide information concerning criminal proceedings arising out of such an offence.

Article 15

The Annexes to ~~this Convention~~ constitute an integral part ~~of this Convention~~ of this Convention

Article 16

1. A conference of States Parties shall be convened by the depositary five years after the entry into force of this Convention to review the implementation of the Convention and its adequacy as concerns the preamble, the whole of the operative part and the annexes in the light of the then prevailing situation.

2. At intervals of not less than five years thereafter, the majority of States Parties may obtain, by submitting a proposal to this effect to the depositary, the convening of further conferences with the same objective.

Article 17

1. In the event of a dispute between two or more States Parties concerning the interpretation or application of this Convention, such States Parties shall consult with a view to the settlement of the dispute by negotiation, or by any other peaceful means of settling disputes acceptable to all parties to the dispute.
2. Any dispute of this character which cannot be settled in the manner prescribed in paragraph 1 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 case of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority.
3. Each State Party may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto 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 which has made a reservation to that procedure.
4. Any State Party which has made a reservation in accordance with paragraph 3 may at any time withdraw that reservation by notification to the depositary.

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Article 18

1. This Convention shall be open for signature by all States at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York from 3 March 1980 until its entry into force.
2. This Convention is subject to ratification, acceptance or approval by the signatory States.
3. After its entry into force, this Convention will be open for accession by all States.
4. (a) This Convention shall be open for signature or accession by international organisations and regional organisations of an integration or other nature, provided that any such organisation is constituted by sovereign States and has 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 organisations shall, on their own behalf, exercise the rights and fulfil the responsibilities which this Convention attributes to States Parties.
(c) When becoming party to this Convention such an organisation shall communicate to the depositary a declaration indicating which States are members thereof and which articles of this Convention do not apply to it.
(d) Such an organisation shall not hold any vote additional to those of its Member States.
5. Instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

Article 19

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the twenty first instrument of ratification, acceptance or approval with the depositary.

2. For each State ratifying, accepting, approving or acceding to the Convention after the date of deposit of the twenty first instrument of ratification, acceptance or approval, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

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Article 20

1. Without prejudice to article 16 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 States Parties. If a majority of 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 promptly circulated by the depositary to all States Parties.
2. The amendment shall enter into force for each State Party that deposits its instrument of ratification, acceptance or approval of the amendment on the thirtieth day after the date on which two thirds of the States Parties have deposited their instruments of ratification, acceptance or approval with the depositary. Thereafter, the amendment shall enter into force for any other State Party on the day on which that State Party deposits its instrument of ratification, acceptance or approval of the amendment.

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Article 21

1. Any State Party may denounce this Convention by written notification to the depositary.
2. Denunciation shall take effect one hundred and eighty days following the date on which notification is received by the depositary.

• Article 22

The depositary shall promptly notify all States of:

- (a) each signature of this Convention;
- (b) each deposit of an instrument of ratification, acceptance, approval or accession;
- (c) any reservation or withdrawal in accordance with article 17;
- (d) any communication made by an organization in accordance with paragraph 4(c) of article 18;
- (e) the entry into force of this Convention;
- (f) the entry into force of any amendment to this Convention; and
- (g) any denunciation made under article 21.

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Article 23

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 thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Convention, opened for signature at Vienna and at New York on 3 March 1980.

ANNEX I

Levels of Physical Protection to be Applied in International Transport of
Nuclear Material as Categorized in Annex II

1. Levels of physical protection for nuclear material during storage incidental to international nuclear transport include:

- (a) For Category III materials, storage within an area to which access is controlled;
- (b) For Category II materials, storage within an area under constant surveillance by guards or electronic devices, surrounded by a physical barrier with a limited number of points of entry under appropriate control or any area with an equivalent level of physical protection;
- (c) For Category I material, storage within a protected area as defined for Category II above, to which, in addition, access is restricted to persons whose trustworthiness has been determined, and which is under surveillance by guards who are in close communication with appropriate response forces. Specific measures taken in this context should have as their object the detection and prevention of any assault, unauthorized access or unauthorized removal of material.

2. Levels of physical protection for nuclear material during international transport include:

- (a) For Category II and III materials, transportation shall take place under special precautions including prior arrangements among sender, receiver, and carrier, and prior agreement between natural or legal persons subject to the jurisdiction and regulation of exporting and importing states, specifying time, place and procedures for transferring transport responsibility;
- (b) For Category I materials, transportation shall take place under special precautions identified above for transportation of Category II and ~~and~~ III materials, and in addition, under constant surveillance by escorts and under conditions which assure close communication with appropriate response forces.

- (c) For natural uranium other than in the form of ore or ore-residue, transportation protection for quantities exceeding 500 kilograms U shall include advance notification of shipment specifying mode of transport, expected time of arrival and confirmation of receipt of shipment.

ANNEX II

TABLE: CATEGORIZATION OF NUCLEAR MATERIAL

Material	Form	Category		
		I	II	III ^{c/}
1. Plutonium ^{a/}	Unirradiated ^{b/}	2 kg or more	Less than 2 kg but more than 500 g	500 g or less but more than 15 g
2. Uranium-235	Unirradiated ^{b/}	5 kg or more	Less than 5 kg but more than 1 kg 10 kg or more	1 kg or less but more than 15 g
	- uranium enriched to 20% ²³⁵ U or more			Less than 10 kg but more than 1 kg
	- uranium enriched to 10% ²³⁵ U but less than 20%			10 kg or more
	- uranium enriched above natural, but less than 10% ²³⁵ U			
3. Uranium-233	Unirradiated ^{b/}	2 kg or more	Less than 2 kg but more than 500 g	500 g or less but more than 15 g
4. Irradiated fuel			Depleted or natural uranium, thorium or low-enriched fuel (less than 10% fissile content) ^{d/o/}	

ANNEX II (CONTINUED)

- a/ All plutonium except that with isotopic concentration exceeding 80% in plutonium-238.
- b/ Material not irradiated in a reactor or material irradiated in a reactor but with a radiation level equal to or less than 100 rads/hour at one metre unshielded.
- c/ Quantities not falling in Category III and natural uranium should be protected in accordance with prudent management practice.
- d/ Although this level of protection is recommended, it would be open to States, upon evaluation of the specific circumstances, to assign a different category of physical protection.
- e/ Other fuel which by virtue of its original fissile material content is classified as Category I and II before irradiation may be reduced one category level while the radiation level from the fuel exceeds 100 rads/hour at one metre unshielded.

Draft Council Decision
approving the conclusion by the Commission
of the International Convention on the Physical Protection
of Nuclear Material

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community and in particular the second paragraph of Article 101 thereof,

Having regard to the Commission draft,

Whereas the Commission has, in conformity with the Council directives, negotiated the International Convention on the Physical Protection of Nuclear Material;

Whereas, therefore, the conclusion of the said Convention by the Commission should be approved ;

HAS DECIDED AS FOLLOWS :

Single Article

The conclusion by the Commission of the International Convention on the Physical Protection of Nuclear Material is hereby approved.

Declaration to be made by the Commission on behalf of EURATOM when signing the Convention on the Physical Protection of Nuclear Material.

At present the following States are members of the European Atomic Energy Community :

Belgium, Denmark, France, Germany, Ireland, Italy, Luxembourg, Netherlands and the United Kingdom.

The Community declares that Articles 7 to 13 of the Convention do not apply to it and it considers itself to be bound only by the arbitration procedure set out in Article 17, paragraph 2.