

OFFICE OF INTERNATIONAL PROGRAMS

PIP NO. 2
October 1997

INTERNATIONAL ARRANGEMENT/AGREEMENT NEGOTIATIONS AND RENEWALS

PURPOSE

This procedure sets forth the steps to be followed in drafting, negotiating, coordinating for Executive Branch approval before signature, and completing required notifications after signature of NRC's five-year technical information exchange and research cooperation arrangements or agreements with other countries. This procedure is intended to cover "standard" arrangements, although some of the steps outlined will also be applicable to the approximately five percent of NRC's international arrangements which are specialized agreements.

BACKGROUND

Since 1974, NRC (previously AEC-Regulation) has formalized its international technical information exchange and research program cooperation activities through a series of five-year arrangements or agreements with other countries. OIP administers the general technical information exchange agreements, which numbered 34 at this writing; RES, the umbrella research and research program cooperation agreements, which numbered about 55. All international arrangements must be cleared with the Executive Branch before signature. OIP, working through the Office of Nuclear Energy Affairs of the Bureau of Political-Military Affairs, Department of State, secures required Executive Branch approvals for all NRC international agreements before their signature. OIP also, in compliance with the Case-Zablocki Act, notifies the Congress, through the Treaty Affairs Office of the Department of State, of all NRC international agreements within 60 days of their entry-into-force.

DEFINITIONS

The Department of State proffers a complex definition of an "international agreement other than a treaty" (which enters into force only after Senate advice and consent). For the purposes of NRC and this PIP, an "international agreement or arrangement" is a binding undertaking between two or more governments or agencies of those governments covering the areas of information exchange, general cooperation, and/or research collaboration, which meets the following additional criteria:

1. It must be governed by international law and not by the domestic laws of any of the parties.
2. It must be signed by parties which have the authority to bind their governments or governmental agencies in international agreements.

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3. It must be the primary or umbrella agreement - not an "Implementing Agreement," which was clearly anticipated in a prior, more broadly-based agreement.

Although it would appear that many of NRC's arrangements and agreements do not meet all of the above-mentioned criteria, the Department of State has reserved for itself the right to make such determinations. All proposed NRC arrangements and agreements which are clearly not implementing agreements are therefore submitted to the Department for review. The Department has historically treated most of NRC's arrangements and agreements as "international agreements" which, as such, become subject to the Circular 175A authorization process.

Circular 175A is the codification of the Department of State's requirements and general guidelines on the negotiation, signature, publication, and registration of U.S. treaties and other international agreements.

The Circular 175A authorization process is the required procedure under which all proposed international arrangements and agreements must be submitted to the Department for coordination of U.S. interagency and in-house review and comment before the Department issues a letter authorizing the agency to negotiate and/or proceed to signature with an agreement. (Except where circumstances obviously indicate otherwise, the Department of State has traditionally allowed NRC to wait until negotiations are essentially complete and a text has been agreed to by the parties, since most of NRC's arrangements, agreements, and partners are non-controversial.) All identified questions and issues must be resolved before this letter is forwarded to the agency and any substantive changes made subsequently cleared with the Department.

POLICY

This procedure is a formal directive from the Director, Office of International Programs. The Commission has determined that NRC's international arrangements and agreements will all be written for periods not to exceed five years. This duration permits timely review of all terms and, where necessary, revision to reflect significant changes in U.S. and agency policy.

RESPONSIBILITIES AND AUTHORITIES

The Chairman, as head of the agency and as Chief Administrative Officer, holds and exercises the "authority to sign agreements, arrangements, and contracts with representatives of foreign countries." (The Chairman signs most of NRC's technical information exchange and general cooperation arrangements. These are generally concluded in person.)

The Executive Director for Operations (EDO) has been delegated authority by the Chairman to sign agreements and arrangements on NRC's behalf as well. (The EDO signs most of NRC's research cooperation agreements. These are generally concluded by mail.)

The Chairman and the EDO may redelegate their signature authority in writing to another Commissioner or to an Office Director. A copy of this redelegation must be filed with SECY.

Central Files serves as the official custodian of all original signed copies of NRC's international arrangements and agreements.

OIP or RES, as the case may be, prior to the execution of such arrangements, must inform the Commission that such documents are to be executed and identify any particular policy considerations or problems. When routine, this notice is generally given in the Weekly Activities Report to the Commission; when non-routine or controversial, in a separate Commission paper.

BASIC REQUIREMENTS

The following details the normal steps from start to finish in the international arrangement/agreement process. (For the cooperative agreement program it administers, RES performs the same "lead" functions as OIP until it forwards the draft text to OIP for coordination with the Executive Branch.) Unusual circumstances might require additional steps or alternate handling.

1. The OIP staff determines on its own initiative, after consultations with the prospective partner, or at the request of a third party that there is sufficient programmatic interest and/or activity either current or projected to support the need for a full-scope arrangement. (If the staff decides there is not, it proposes a scaled-back letter agreement, which limits automatic information exchange to the areas of radiation protection and materials safety and considers everything else on a case-by-case basis. See Example No. 1 attached.)
2. The OIP staff drafts a proposal to exchange technical information and to cooperate in general nuclear regulatory and safety research matters with the prospective partner, usually NRC's direct safety and regulatory counterpart. (See Example No. 2 attached.) The proposal should incorporate all of the most recent language and editorial changes inserted by both the Executive Branch and in-house reviewers and should track, as closely as possible, other successfully concluded international arrangements and agreements.
3. The OIP staff clears the proposal through its own management structure, offering it for the review of both the NEMR and BCA Directors as well as that of the desk officer who follows the involved country's program.
4. The OIP staff forwards the proposal to OGC (D. Hassell), RES (J. Cortez), and CFO (J. Funches) for review and comment/concurrence, and resolves any questions or problems raised.
5. OIP drafts two letters: one to the primary contact in the country (with copies to the local Embassy representative and the U.S. Embassy representative in the country) transmitting the proposal for consideration and pointing out its benefits (for renewals, also indicating where primary changes have been made and the reasons for them - Example No. 3 attached); and one to the Department of State (PM/NE) requesting Executive Branch review and clearance

to proceed to signature (the Circular 175A clearance process - Example No. 4 attached). These may be sent simultaneously, unless the arrangement is non-routine or controversial. If the latter, then both Commission and Executive Branch clearance should be sought before the text is shared with the prospective partner.)

6. OIP resolves comments from the prospective partner and the interagency review process. Circular 175A clearance always requires that any substantive changes to the whole arrangement/agreement be cleared back through the Department of State. ANY requested changes to the Intellectual Property Rights (IPR) Addendum of the arrangement/agreement must also be cleared by the Executive Branch.

7. The prospective partner sometimes requests that the international arrangement/agreement be signed in the language of its country as well. If this is the case, OIP asks the country to supply the draft text, which must be sent to the Department of State (PM/NE) with a request for verification of textual authenticity by the Division of Language Services. OIP, upon receipt of the language analysis, asks the country to resolve any substantive differences identified. (The prospective partner is also responsible for providing at least two original foreign language texts for the signature ceremony.)

8. When all parties have reached agreement on the text(s) to be signed, OIP works with the Chairman's office and the prospective partner to decide on the most appropriate or timely forum for signature. If it will be concluded at NRC, OIP notifies SECY (which enters it on the Commission calendar and reserves the room) and the Administrative Services Center (which sets up the room for the signing ceremony) and arranges for a luncheon or a ceremonial toast (OIP Director's Office) and an NRC photographer to record the event. If it will be concluded at IAEA Headquarters in Vienna or in the other country, OIP coordinates signature arrangements with the host. Arrangements may also be concluded by mail (as RES agreements frequently are). When this is the case, NRC usually signs first and then sends the arrangement/agreement texts for counter-signature. The arrangement/agreement becomes effective on the date of the last signature.)

9. Simultaneous with 8., OIP (or RES, if it has the lead) advises the Commission through either the Weekly Activities Report or a Commission paper, as required, of the near-signature status of the international arrangement/agreement, identifying any particular policy considerations or problems. If the signing is to take place at NRC, OIP also invites the Commission, OGC, SECY, the EDO, and other appropriate Offices to participate.

10. OIP prepares the English-language signature copies, one original for each partner. If the country requests, separate texts listing both NRC and the partner country first throughout the text are readied. (NRC keeps the one naming it first.) OIP faxes the signature copy(ies) to the country for final review - to show that all agreed revisions have been incorporated.

11. On the day of the signing, OIP is responsible for coordination of all activities related to the event, including writing pertinent remarks and a toast for the Chairman to deliver and standing by to help exchange the signature copies. Each party leaves with a signed original in English and, if one has been prepared, in the partner's language.

12. As soon as possible after signature, OIP sends the original and five copies of the arrangement/agreement to SECY for certification as true texts.

13. Within 20 days of signature, OIP must forward copies of the arrangement/agreement to the Assistant Legal Adviser for Treaty Affairs, Department of State (with a cc to PM/NE), so that Treaty Affairs can fulfill Case-Zablocki Act requirements to transmit to the Congress within 60 days of entry-into-force the texts of all new international arrangements and agreements except treaties. (See Example No. 5 attached.) Distribution should also be made at this time to OIP (arrangement coordinator and desk officer involved, OGC, and RES to receive hard copies) and routine recipients.

EFFECTIVE DATE:

October __, 1997

CONTACT:

Donna C. Chaney
Senior International Policy Officer
Office of International Programs

APPROVED BY:

Carlton R. Stoiber, Director
Office of International Programs



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

July 3, 1990

Admiral (Ret.) Cristobal Miletich Souza-Peixoto
President
Peruvian Institute of Nuclear Energy
Avenida Canada 1470
Lima 41, Peru

Dear President Miletich:

The United States Nuclear Regulatory Commission (USNRC) was pleased to be represented on the U.S. interagency team that visited Peru March 3-10, 1990. Donna Chaney of our International Programs staff has advised the Commission of your strong personal interest in developing and implementing an information sharing agreement with the NRC. We, too, recognize the importance of maintaining active, open channels of communication and exchange with our regulatory counterparts. The Commission would therefore like to propose for the consideration of the Peruvian Institute of Nuclear Energy (IPEN) the establishment of a routine exchange of documents and information on nuclear safety between our two agencies, subject to the provisions which follow. This letter, and your return letter of acceptance or amendment, would serve as the vehicle to accomplish this, subject of course to NRC approval of any amendment.

Information provided by NRC under this agreement will be in the public domain and will be provided subject to the limits of our legislative authority and budgetary constraints. It will also be focused primarily towards the materials safety area, although documents in the reactor safety area may be requested and supplied when Peru moves closer to the construction of its first nuclear power plant. NRC would expect to receive similar information as it becomes available from IPEN.

Nothing contained in this letter of agreement shall require either of us to take any action which would be inconsistent with our laws, regulations, or policy directives. It is understood that no nuclear information related to proliferation-sensitive technologies will be exchanged.

The International Programs staff in the Office of Governmental and Public Affairs (GPA/IP) will administer this information and document exchange agreement with IPEN. It will be responsible for assembling a basic NRC technical safety information package which will include, among other key documents, our Code of Federal Regulations (Title 10) and a set of NRC Regulatory Guides. GPA/IP will also see that you begin receiving our weekly compilation of press releases and NUREG-0304, Regulatory and Technical Reports (Abstract Index Journal), which lists all formal reports issued by the USNRC and its contractors. These will help you identify additional publications you might wish to request. All material will be forwarded through the U.S. Embassy in Lima.

Admiral (Ret.) C. M. Souza-Peixoto - 2 -

Other cooperative nuclear safety activities between the USNRC and IPEN, such as training and research program participation, may be considered on a case-by-case basis. It is understood by both parties, however, that no commitments are made hereunder and that such activities may require a separate, more formalized agreement.

The Commission looks forward to receiving your comments on our proposal. A positive response will establish a solid framework for a significant and beneficial exchange between our agencies.

Sincerely,

A handwritten signature in cursive script that reads "Kenneth C. Rogers". The signature is written in dark ink and is positioned above the typed name.

Kenneth C. Rogers
Acting Chairman

ARRANGEMENT

BETWEEN

THE UNITED STATES NUCLEAR REGULATORY COMMISSION

(U.S.N.R.C.)

AND

THE SWISS FEDERAL OFFICE OF ENERGY

(F.O.E.)

FOR THE EXCHANGE OF TECHNICAL INFORMATION

AND COOPERATION IN NUCLEAR SAFETY MATTERS

September 30, 1997

ARRANGEMENT
BETWEEN
THE UNITED STATES NUCLEAR REGULATORY COMMISSION
(U.S.N.R.C.)
AND
THE SWISS FEDERAL OFFICE OF ENERGY
(F.O.E.)
FOR THE EXCHANGE OF TECHNICAL INFORMATION
AND COOPERATION IN NUCLEAR SAFETY MATTERS

The United States Nuclear Regulatory Commission (hereinafter called the U.S.N.R.C.) and the Swiss Federal Office of Energy (hereinafter called the F.O.E.);

Having a mutual interest in a continuing exchange of information pertaining to regulatory matters and of standards required or recommended by their organizations for the regulation of safety and environmental impact of nuclear facilities;

Having similarly cooperated under the terms of a five-year Arrangement for the Exchange of Technical Information and Cooperation in Nuclear Safety Matters, originally signed on December 9, 1974, between the United States Atomic Energy Commission and the Swiss Federal Office of Energy, but continued after January 19, 1975, as between the U.S.N.R.C. and the F.O.E., such Arrangement including provision for its extension as mutually agreed upon by the parties;

Having already renewed cooperation for five-year periods on August 10, 1982, September 23, 1987, and September 23, 1992; and

Having indicated their mutual desire to continue the cooperation so established for another five years;

Have agreed as follows:

I. SCOPE OF THE ARRANGEMENT

A. Technical Information Exchange

To the extent that the U.S.N.R.C. and the F.O.E. are permitted to do so under the laws, regulations, and policy directives of their respective countries, the parties will exchange the following types of technical information relating to the regulation of safety, waste management, and environmental impact of designated nuclear energy facilities and to nuclear safety research programs.

1. Topical reports concerning technical safety, waste management, and environmental effects written by or for one of the parties as a basis for, or in support of, regulatory decisions and policies.
2. Documents relating to significant licensing actions and safety and environmental decisions affecting nuclear facilities.
3. Detailed documents describing the U.S.N.R.C. process for licensing and regulating certain U.S. facilities designated by the F.O.E. as similar to certain facilities being built or planned in Switzerland and equivalent documents on such Swiss facilities.

4. Reports on operating experience, such as reports on nuclear incidents, accidents, and shutdowns, and compilations of historical reliability data on components and systems.
5. Regulatory procedures for the safety, waste management, and environmental impact evaluation of nuclear facilities.
6. Early advice on important events, such as serious operating incidents and government-directed reactor shutdowns, that are of immediate interest to the parties.
7. Copies of regulatory standards required to be used, or proposed for use, by the regulatory organizations of the parties.
8. Information in the field of nuclear safety research which the parties have the right to disclose, either in the possession of one of the parties or available to it, including light water reactor safety information from the technical areas described in Addenda "A" and "B", attached hereto and made a part hereof. Cooperation in research areas may require a separate agreement, if determined to be necessary by the research organizations of one or both of the parties. Each party will transmit immediately to the other information concerning safety research results that

requires early attention in the interest of public safety, along with an indication of significant implications.

9. Other safety-related matters.

B. Cooperation in Safety Research and Regulation

The execution of joint programs and projects, or those programs and projects under which activities are divided between the two parties, including the use of test facilities and/or computer programs owned by either party, will be agreed upon on a case-by-case basis and may be the subject of a separate agreement, as determined to be necessary by one or both of the parties. Other times, it will be accomplished by an exchange of letters between the parties, subject at least to the terms and conditions of the present agreement. Technical areas specified by such exchanges of letters may be subsequently modified by mutual consent.

C. Exchange of Regulatory Staff

In order to enhance the exchange of regulatory information and feedback of regulatory experience, regulatory staff may be exchanged for periods of up to two years. Such exchanges will focus on regulatory processes, operating experience, and licensing issues, including the assessment of the safety significance of events, technical specification development,

instrumentation and control, advanced reactors, and safety research evaluation.

II. ADMINISTRATION

- A. The exchange of information under this Arrangement will be accomplished through letters, reports, and other documents, and by visits and meetings arranged in advance. A meeting will be held annually, or at such other times as mutually agreed, to review the exchange of information, to recommend revisions to the provisions of the Arrangement, and to discuss topics within the scope of the exchange. The time, place, and agenda for such meetings will be agreed upon in advance. Visits which take place under the Arrangement, including their schedules, will have the prior approval of the administrators referred to in paragraph II.B.

- B. An administrator will be designated by each party to coordinate its participation in the overall exchange. The administrators will be the recipients of all documents transmitted under the exchange, including copies of all letters unless otherwise agreed. Within the terms of the exchange, the administrators will be responsible for developing the scope of the exchange, including agreement on the designation of the nuclear energy facilities subject to the exchange, and on specific documents and standards to be exchanged. One or more technical coordinators may be appointed as direct contacts for specific disciplinary areas.

These technical coordinators will assure that both administrators receive copies of all transmittals. These detailed arrangements are intended to assure, among other things, that a reasonably balanced exchange providing access to equivalent available information from both sides is achieved and maintained.

- C. The administrators will determine the number of copies of the exchanged documents to be provided. Each document will be accompanied by an abstract in English, 250 words or less, describing its scope and content.
- D. The application or use of any information exchanged or transferred between the parties under this arrangement will be the responsibility of the receiving party, and the transmitting party does not warrant the suitability of such information for any particular use or application.
- E. Recognizing that some information of the type covered in this Arrangement is not available within the agencies which are parties to this Arrangement, but is available from other agencies of the governments of the parties, each party will assist the other to the maximum extent possible by organizing visits and directing inquiries concerning such information to appropriate agencies of the government concerned. The foregoing shall not constitute a commitment of other agencies to furnish such information or to receive such visitors.

- F. Nothing contained in this Arrangement will require either party to take any action which would be inconsistent with its laws, regulations, and policy directives. Should any conflict arise between the terms of this Arrangement and those laws, regulations, and policy directives, the parties agree to consult with a view to resolving any such conflict. No nuclear information related to proliferation-sensitive technologies will be exchanged under this Arrangement.
- G. Unless otherwise agreed, all costs resulting from cooperation pursuant to this Arrangement will be the responsibility of the party that incurs them. The ability of the parties to carry out their obligations is subject to the appropriation of funds by the appropriate governmental authority and to laws and regulations applicable to the parties.

III. EXCHANGE AND USE OF INFORMATION

A. General

The parties support the widest possible dissemination of information provided or exchanged under this Arrangement, subject both to the need to protect proprietary or other confidential or privileged information as may be exchanged hereunder, and to the provisions of the Intellectual Property Addendum, which is an integral part of this Arrangement.

B. Definitions

1. The term "information" means nuclear energy-related regulatory, safety, waste management, scientific, or technical data, including information on results or methods of confirmatory assessment, research, and any other knowledge intended to be provided or exchanged under this Arrangement.

2. The term "proprietary information" means information made available under this Arrangement which contains trade secrets or other privileged or confidential commercial information (such that the person having the information may derive an economic benefit from it or may have a competitive advantage over those who do not have it), and may only include information which:
 - a. has been held in confidence by its owner;
 - b. is of a type which is customarily held in confidence by its owner;
 - c. has not been transmitted by the owner to other entities (including the receiving party) except on the basis that it be held in confidence;
 - d. is not otherwise available to the receiving party from another source without restriction on its further dissemination; and

e. is not already in the possession of the receiving party.

3. The term "other confidential or privileged information" means information, other than "proprietary information," which is protected from public disclosure under the laws and regulations of the country of the party providing the information and which has been transmitted and received in confidence.

C. Marking Procedures for Documentary Proprietary Information

A party receiving documentary proprietary information pursuant to this Arrangement will respect the privileged nature thereof, provided such proprietary information is clearly marked with the following (or substantially similar) restrictive legend:

This document contains proprietary information furnished in confidence under an Arrangement dated September 30, 1997, between the United States Nuclear Regulatory Commission and the Swiss Federal Office of Energy and will not be disseminated outside these organizations, their consultants and contractors, and concerned departments and agencies of the Government of the United States and the Government of Switzerland without the prior approval of (name of transmitting party). This notice will be marked on any reproduction hereof, in whole or in part. These limitations will automatically terminate when this information is disclosed by the owner without restriction.

This restrictive legend will be respected by the receiving party and proprietary information bearing this legend will not be used

for commercial purposes, made public, or disseminated in any manner unspecified by or contrary to the terms of this Arrangement without the consent of the transmitting party.

D. Dissemination of Documentary Proprietary Information

1. In general, proprietary information received under this Arrangement may be freely disseminated by the receiving party without prior consent to persons within or employed by the receiving party, and to concerned Government departments and Government agencies in the country of the receiving Party.
2. In addition, proprietary information may be disseminated without prior consent
 - (a) to contractors or consultants of the receiving party located within the geographical limits of that party's nation, for use only within the scope of work of their contracts with the receiving party in work relating to the subject matter of the proprietary information;
 - (b) to domestic organizations permitted or licensed by the receiving party to construct or operate nuclear production or utilization facilities, or to use nuclear materials and radiation sources, provided that such proprietary information is used only within the terms of the permit or license; and

(c) to domestic contractors of organizations identified in (a) and (b), above, for use only in work within the scope of the permit or license granted to such organizations.

Provided that any dissemination of proprietary information under (a), (b), and (c), above, will be on an as-needed, case-by-case basis, will be pursuant to an agreement of confidentiality, and will be marked with a restrictive legend substantially similar to that appearing in III.C., above.

3. With the prior written consent of the party furnishing proprietary information under this Arrangement, the receiving party may disseminate such proprietary information more widely than otherwise permitted in subsections 1. and 2. The parties will cooperate in developing procedures for requesting and obtaining approval for such wider dissemination, and each party will grant such approval to the extent permitted by its national policies, regulations, and laws.

E. Marking Procedures for Other Confidential or Privileged Information of a Documentary Nature

A party receiving under this Arrangement other confidential or privileged information will respect its confidential nature.

provided such information is clearly marked so as to indicate its confidential or privileged nature and is accompanied by a statement indicating

1. that the information is protected from public disclosure by the Government of the transmitting party; and
2. that the information is transmitted under the condition that it be maintained in confidence.

F. Dissemination of Other Confidential or Privileged Information of a Documentary Nature

Other confidential or privileged information may be disseminated in the same manner as that set forth in paragraph III.D..

Dissemination of Documentary Proprietary Information.

G. Non-Documentary Proprietary or Other Confidential or Privileged Information

Non-documentary proprietary or other confidential or privileged information provided in seminars and other meetings organized under this Arrangement, or information arising from the attachments of staff, use of facilities, or joint projects, will be treated by the parties according to the principles specified for documentary information in this Arrangement: provided, however, that the party communicating such proprietary or other confidential or privileged information has placed the recipient on notice as to the character of the information communicated.

H. Consultation

If, for any reason, one of the parties becomes aware that it will be, or may reasonably be expected to become, unable to meet the nondissemination provisions of this Arrangement, it will immediately inform the other party. The parties will thereafter consult to define an appropriate course of action.

I. Dispute Resolution

Any dispute or questions between the parties concerning the interpretation or application of this Arrangement arising during its term will be settled amicably through mutual negotiations and consultations.

J. Other

Nothing contained in this Arrangement will preclude a party from using or disseminating information received without restriction by a party from sources outside of this Arrangement.

IV. FINAL PROVISIONS

A. This Arrangement will enter into force upon signature and, subject to paragraph IV.B., will remain in force for a period of five years. It may be extended for a further period of time by written agreement of the parties.

- B. Either party may terminate this Arrangement after providing the other party written notice 180 days prior to its intended date of termination.

- C. All information protected by provisions of this Arrangement as proprietary or other confidential or privileged information will remain so protected for the duration of this Arrangement and after this Arrangement is expired or terminated, unless otherwise agreed by the parties in writing.

DONE at Vienna, Austria, on the 30th day of September 1997, in duplicate, in the English language.

FOR THE UNITED STATES NUCLEAR
REGULATORY COMMISSION:

FOR THE SWISS FEDERAL
OFFICE OF ENERGY:

Shirley Ann Jackson, Chairman

Eduard Kiener, Director

ADDENDUM "A"

Areas in Which the U.S.N.R.C. Is Performing LWR Safety Research

1. REACTOR AGING
2. REACTOR STRUCTURAL PERFORMANCE
3. PROBABILISTIC RISK ASSESSMENT
4. THERMAL HYDRAULICS
5. CONTROL, INSTRUMENTATION, AND HUMAN FACTORS
6. SEVERE ACCIDENTS
7. ACTIVITIES RELATED TO IMPROVING THE SAFETY OF SOVIET-DESIGNED NUCLEAR POWER PLANTS

ADDENDUM "B"

Areas in Which the F.O.E. Is Performing LWR Safety Research

1. SAFETY PERFORMANCE OF NUCLEAR POWER PLANTS
2. INTEGRITY (AS, FOR EXAMPLE, AGING AND CORROSION) OF REACTOR COMPONENTS AND STRUCTURES
3. SEVERE AND TRADITIONAL ACCIDENT ANALYSES AND ISSUES
4. ACCIDENT MANAGEMENT AND DIAGNOSTIC
5. RADIATION PROTECTION RELATED RESEARCH
6. ACTIVITIES RELATED TO IMPROVING THE SAFETY OF SOVIET-DESIGNED NUCLEAR POWER PLANTS

INTELLECTUAL PROPERTY ADDENDUM

Pursuant to Article III. of this Arrangement:

The Parties shall ensure adequate and effective protection of intellectual property created or furnished under this Arrangement and relevant implementing arrangements in accordance with their national laws and regulations. The Parties agree to notify one another in a timely fashion of any inventions or copyrighted works arising under this Arrangement and to seek protection for such intellectual property in a timely fashion. Rights to such intellectual property shall be allocated as provided in this Addendum.

I. SCOPE

1. This Addendum is applicable to all cooperative activities undertaken pursuant to this Arrangement, except as otherwise specifically agreed by the Parties or their designees.
2. For purposes of this Arrangement, "intellectual property" shall have the meaning found in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm, July 14, 1967; viz., "intellectual property" shall include the rights relating to:
 - literary, artistic and scientific works,
 - performances of artists, phonograms, and broadcasts,
 - inventions in all fields of human endeavor,
 - scientific discoveries,
 - industrial designs,
 - trademarks, service marks, and commercial names and designations,
 - protection against unfair competition,and all other rights resulting from intellectual activity in the industrial, scientific, literary, or artistic fields."
3. This Addendum addresses the allocation of rights, interests, and royalties between the Parties. Each Party shall ensure that the other Party can obtain rights to intellectual property allocated in accordance with the Addendum by obtaining those rights from its own participants through contracts or other legal means, if necessary. This Addendum does not otherwise alter or prejudice the allocation between a Party and its nationals, which shall be determined by that Party's laws and practices.
4. Disputes concerning intellectual property arising under this Arrangement should be resolved through discussions between the concerned participating institutions or, if necessary, the Parties or their designees. Upon mutual agreement of the Parties, a

dispute shall be submitted to an arbitral body as agreed by the Parties. Unless the Parties or their designees agree otherwise in writing, the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL) shall govern.

5. Termination or expiration of this Arrangement shall not affect rights or obligations under this Addendum.

II. ALLOCATION OF RIGHTS

1. Each Party shall be entitled to a non-exclusive, irrevocable, royalty-free license in all countries to translate, reproduce, and publicly distribute scientific and technical journal articles, reports, and books directly arising from cooperation under this Arrangement. All publicly distributed copies of copyrighted work prepared under this provision shall indicate the names of the authors of the work unless an author explicitly declines to be named.
2. Rights to all forms of intellectual property, other than those rights described in Section II.1., above, shall be allocated as follows:
 - a. Visiting researchers, for example, scientists visiting primarily in furtherance of their education, shall receive intellectual property rights under the policies of the host institution. In addition, each visiting researcher named as an inventor shall be entitled to share in a portion of any royalties earned by the host institution from the licensing of such intellectual property.
 - b. (1) For intellectual property created during joint research, for example, when the Parties, participating institutions, or participating personnel have agreed in advance on the scope of work, each Party shall be entitled to obtain all rights and interests in its own country. The Party in whose country the invention was made shall have first option to acquire all rights and interests in third countries. If research is not designated as "joint research," rights to intellectual property arising from the research will be allocated in accordance with paragraph II.2.a., above. In addition, each person named as an inventor shall be entitled to share in a portion of any royalties earned by either institution from the licensing of the property.

(2) Notwithstanding paragraph II.2.b.(1), above, if a type of intellectual property is available under the laws of one Party but not the other Party, the Party whose laws provide for this type of protection shall be entitled to all rights

IP-3

and interests worldwide. Persons named as inventors of the property shall nonetheless be entitled to royalties as provided in paragraph II.2.b.(1), above.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

Dr. Schobo Chakraborty
Swiss Federal Nuclear Safety
Inspectorate
Hauptabteilung fuer die Sicherheit
der Kernanlagen (HSK)
5232 Villigen-HSK, Switzerland

Dear Dr. Chakraborty:

As you might know, the current five-year extension of the "Arrangement Between the United States Nuclear Regulatory Commission (U.S.N.R.C.) and the Swiss Federal Office of Energy (F.O.E.) for the Exchange of Technical Information and Cooperation in Nuclear Safety Matters" will expire on September 23, 1997. The U.S.N.R.C. has found the cooperation which has taken place under this Arrangement to be valuable, and we hope the F.O.E. has also. We are therefore forwarding the attached draft (a fourth renewal proposal) for the F.O.E.'s consideration.

You will notice that most of the provisions (including the Intellectual Property Addendum) remain unchanged or have been changed only to reflect the circumstances surrounding this proposed renewal of our Arrangement. Our primary modifications are as follows:

1. We have added two new provisions to the text: (a) item II.G to acknowledge that, unless otherwise agreed, any costs resulting from the cooperation will be the responsibility of the party incurring them and that the ability of the parties to carry out their obligations is subject to the appropriation of funds and to applicable laws and regulations, and (b) item IV.C to continue indefinitely, unless the parties agree otherwise in writing, the protection accorded to any proprietary or other confidential or privileged information which might be exchanged.
2. We have expanded two items in the "Scope": (a) A. to spell out safeguards and waste management as among the areas of technical information exchange included and (b) former I.1.d. (now I.A.8) to reflect that cooperation in the research areas may require a separate agreement if the parties themselves so determine. (This was already detailed in item I.1.2.)
3. We have moved the "Disputes" clause from the "Administration" to the "Exchange and Use of Information" section (item III.I).

We ask that you update, as necessary, Addendum B, which lists the areas in which the F.O.E. is performing LWR safety research.

Please feel free to make any comments or raise any questions the F.O.E. may wish to discuss. If we can address them to your satisfaction, we hope to conclude the formal renewal of our Arrangement within the next few months.

S. Chakraborty

- 2 -

perhaps on the margins of the IAEA General Conference in Vienna in late September-early October. Chairman Shirley Ann Jackson will be heading the U.S.N.R.C. delegation attending.

I should tell you that we are sharing this draft with you at the same time we are submitting it for U.S. interagency clearance. It is similar to others which have been approved within the past year, so we anticipate only minor changes, if any, from this process. I look forward to hearing from you soon.

Sincerely,

James R. Shea, Director
Division of Bilateral Cooperation
and Assistance
Office of International Programs

Attachment:
Text of Proposed Renewal
Arrangement

cc w/attachment:
Embassy of Switzerland
Washington, D.C.

U.S. Embassy
Bern, Switzerland

DISTRIBUTION:

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RDHauber
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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

MAY 21 1997

Dr. Alex R. Burkart
Deputy for Safeguards and Technology
Office of Nuclear Energy Affairs
Bureau of Political-Military Affairs
U.S. Department of State
Washington, D.C. 20520

Dear Dr. Burkart:

Attached for expedited Executive Branch review and concurrence is a sample agreement which the U.S. Nuclear Regulatory Commission would like to use to solicit international participation in a cooperative safety research program in the area of probabilistic risk assessment. This will be a "Category B" agreement, as defined in Donna Chaney's earlier letter to your office. It is a new initiative on the part of our Office of Nuclear Regulatory Research and represents the staff's real-time efforts to expand the scope of NRC's international cooperative research activities, as Chairman Jackson has recommended. Please remind the inter- and intra-agency reviewers that all of NRC's research is confirmatory in nature. We do no basic research.

The agreement format has been fashioned after our highly successful Cooperative Severe Accident Research Program (CSARP), which received wide acceptance in the international nuclear safety research community. In fact, a number of our CSARP partners (viz., Belgium, Canada, Croatia, the Czech Republic, Finland, France, Germany, Hungary, Italy, Japan, Korea, Lithuania, the Netherlands, the Russian Federation, Sweden, Switzerland, South Africa, the United Kingdom, and Taiwan) have already expressed interest in participating in this newly established program, which provides for technical information exchange including computer codes in the areas of reliability, risk, and related nuclear safety research, as mutually agreed. Participants will be asked to contribute cash payments and/or in-kind sharing of PRA research results.

We have incorporated what has become the "standard" intellectual property rights language which the Executive Branch has approved many times for use in NRC's international technical information exchange and research cooperation agreements. Any deviations from these provisions will be cleared with the Executive Branch before acceptance, as will any other substantive textual changes.

Dr. A. Burkart

- 2 -

We request generic clearance to proceed with this set of agreements - particularly with the countries identified above. May we have your comments/concurrence by June 27?

Thank you in advance for your efforts.

Sincerely,

1st

Ronald D. Hauber, Director
Division of Nonproliferation, Exports
and Multilateral Relations
Office of International Programs

Enclosure:

"Agreement Between the Nuclear
Regulatory Commission of the
United States of America and
Participants in the Area
of Probabilistic Risk Assessment
Research"

DISTRIBUTION w/o encl: (pls call 415-2344 [TClark] for cy of Encl)

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DFHassell, OGC	Research Agreements File
JCortez, RES	<i>JFurdes, CFO</i>

FILENAME: G:\PRA-AGRE.DCC

*Previous concurrence

CFO

OFFICE	OIP/NEMR	RES*	OGC*	OIP/NEMR:D
NAME	DCChaney:tlc	JCortez	DFHassell	RDHauber <i>RM</i>
DATE	<i>1/1</i>	05/20/97	05/21/97	<i>521107</i>

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September 10, 1997

Mr. Robert E. Dalton
Assistant Legal Adviser for
Treaty Affairs
U.S. Department of State
Washington, DC 20520

Dear Mr. Dalton:

Please find enclosed the following arrangement:

AGREEMENT BETWEEN THE UNITED STATES NUCLEAR REGULATORY
COMMISSION AND KOREA ATOMIC ENERGY RESEARCH INSTITUTE
RELATING TO PARTICIPATION IN THE USNRC PROGRAM OF SEVERE
ACCIDENT RESEARCH

I will forward a certified copy of this arrangement as soon as it becomes available.

If I can be of further assistance, please let me know.

Sincerely,

Original signed by
Ronald D. Hauber
Ronald D. Hauber, Director
Division of Nonproliferation, Exports
and Multilateral Relations
Office of International Programs

Enclosure :
As stated

cc w/encl:
Dr. Alex R. Burkart, State
D. Chaney, OIP/NEMR
J. Cortez, RES
D. Hassell, OGC



cc w/o encl: R. Hauber
OIP R/F
Central Files (original agreements will be sent once certification completed)

OFFICE	OIP/NEMR	OIP/NEMR	OIP/NEMR	
NAME	DJGriggs	DCChaney	RDHauber	
DATE	09/ /97	09/1/97	09/1 /97	