

Memorandum of Cooperation Between the United States Nuclear Regulatory Commission and the National Nuclear Energy Commission of Brazil for the Import and Export of Certain Radioactive Sources

The United States Nuclear Regulatory Commission (NRC) and the National Nuclear Energy Commission (CNEN) of Brazil hereby establish the following Memorandum of Cooperation (hereinafter referred to as the "Memorandum"), consistent with paragraph 20(n) of the International Atomic Energy Agency Code of Conduct on the Safety and Security of Radioactive Sources (hereinafter referred to as the "Code") and paragraph 6 of the International Atomic Energy Agency Guidance on the Import and Export of Radioactive Sources (hereinafter referred to as the "Guidance").

Section 1. Purpose

The purpose of this Memorandum is to ensure that exports and imports of radioactive sources between the United States of America and Brazil are consistent with the Code and Guidance, to facilitate the sharing of information related to imports and exports of radioactive sources and bulk material as well as to harmonize regulatory approaches in authorizing imports and exports of radioactive sources and bulk material.

Section 2. Definitions

1. In the Memorandum:

- a.) "radioactive sources" means radioactive material that is permanently sealed in a capsule or closely bonded, in a solid form. It also means any radioactive material released if the radioactive source is leaking or broken, but does not mean material encapsulated for disposal, or nuclear material within the nuclear fuel cycles of research and power reactors;
- b.) "Category 1 radioactive sources" means radioactive sources of the first sixteen radionuclides of Category 1 in Table I of Annex I to the Code;
- c.) "Category 2 radioactive sources" means radioactive sources of the first sixteen radionuclides of Category 2 in Table I of Annex I to the Code;
- d.) "*bulk material*" means any quantity of any one or more of the first sixteen radionuclides of Table I of Annex I to the Code in a form that is:
 - a. Not a Category 1 radioactive source;
 - b. Not a Category 2 radioactive source;
 - c. Not Pu-238; and
 - d. Deemed by the Exporting Authority as posing a risk similar to or greater than a Category 2 radioactive source.
- e.) "Authority" means either the NRC or the CNEN (together, the "Authorities");

- f.) "Exporting Authority" means the Authority in the country exporting a radioactive source;
 - g.) "Importing Authority" means the Authority in the country importing a radioactive source;
 - h.) "Consent" means a response in the affirmative by the Importing Authority to a "Request for Consent" made by the Exporting Authority and, for greater certainty, is not an import "authorization" as defined in the Code; and
 - i.) "Request for Consent" means a request by the Exporting Authority to the Importing Authority for its consent to receive a Category 1 radioactive source and a confirmation that a potential recipient of a radioactive source is authorized to receive and possess the radioactive source in accordance with the national laws of the importing country.
2. All other terms used in this Memorandum, where they are defined in the Code or Guidance, have the same meaning as defined in the Code or Guidance.

Section 3. Exports and Imports between the United States of America and Brazil

The NRC and the CNEN intend to apply the following procedures:

1. For export and import of Category 1 radioactive sources:
 - a.) Prior to authorizing the export of any Category 1 radioactive source between the United States of America and Brazil, the Exporting Authority is to request Consent from the Importing Authority to the import of the radioactive source by providing a complete Annex A duly signed. Each Request for Consent is to be made sufficiently in advance of the proposed transfer to allow time for the assessment required by the Importing Authority. The Importing Authority is to respond to the Exporting Authority within the suggested time frame in the Request for Consent by returning the Request, completed and duly signed. Under normal circumstances, the suggested time frame should not be less than 14 calendar days.
 - b.) Upon receipt of the Request for Consent, should the Importing Authority anticipate that it will be unable to provide a final response within the suggested time frame for a decision, the Importing Authority will advise the Exporting Authority and provide an alternate time frame for the final response.
 - c.) The period of validity for the export authorization issued by the Exporting Authority is not to exceed the period of validity specified in the consent provided by the Importing Authority.

- d.) The Exporting Authority will endeavor to ensure, through its exports authorization process, that the Importing Authority is provided the information identified in Annex B prior to each export of any Category 1 radioactive source. The Authorities will endeavor to make such notifications at least 7 calendar days in advance of the shipment, and, in any event, no less than 24 hours in advance of the shipment.
2. For exports and imports of category 2 radioactive sources, the Exporting Authority will endeavor to ensure, through its export authorization process, that the Importing Authority is provided the information identified in Annex B prior to each export of any Category 2 radioactive source. Effort should be made that such notifications are made at least 7 calendar days in advance of each shipment, and, in any event, no less than 24 hours in advance of the shipment.
 3. The CNEN provides to the NRC Consent to export, consistent with the terms of this Memorandum, in the event of imports by Brazilian institutions of "bulk material", as defined in Section 2(1)(d) of this Memorandum. This Consent is intended to satisfy paragraphs 6, 7, and 14 of the Guidance.
 4. In the event that there is a change to the conditions of the Consent that the Importing Authority provides to the Exporting Authority, such as through license suspension or revocation of a recipient's authorization, the Importing Authority is to advise the Exporting Authority, in a timely fashion, to allow the Exporting Authority the opportunity to take appropriate action. The Exporting Authority is to acknowledge receipt of this advisement and inform the Importing Authority of any action to be taken by the Exporting Authority.

Section 4. Information Exchange

1. The exchange of information in Annex A and Annex B may be accomplished by post, facsimile, electronic mail, or other appropriate means approved by the points of contact, bearing in mind the level of confidentiality associated with the information.
2. The Authorities intend to respect paragraph 17 of the Code and paragraph 21 of the Guidance and to share relevant information they believe would assist each other in harmonizing implementation of export and import controls on radioactive sources.
3. Information exchanged between the Authorities will be appropriately protected in accordance with each Authority's domestic laws and regulations.
4. Information to be shared that requires special protection may be transmitted between the Authorities through diplomatic channels or through other channels approved by the points of contact. Such information will bear the appropriate level of security classification and denote the country of origin. Each Authority will endeavor to provide such information with the level of protection requested by the other Authority.

Section 5. Points of Contact

1. The points of contact pursuant to this Memorandum are as follows:

NRC
Deputy Director
Office of International Programs
U.S. Nuclear Regulatory Commission
MS O4 E21
Washington, DC 20555
USA

CNEN
Coordinator
General Coordination of Industrial
and Medical Facilities
National Nuclear Energy Commission
Rua General Severiano, 90 – Botafogo
22290-901 – Rio de Janeiro – RJ - Brazil

Telephone: +1 301 415 2724
Facsimile: +1 301 415 2395

Telephone: +55(21)2173-2321
Facsimile: +55(21)2173-2323

2. Any change in the points of contact is to be communicated to the other Authority in a timely fashion.

Section 6. Administrative Matters

1. This Memorandum of Cooperation becomes effective upon signature by both Authorities and remains effective until either Authority provides six months' written notice as set forth in Section 6.2 below.
2. Either Authority may terminate this Memorandum of Cooperation by providing the other Authority with written notice of its intent to terminate at least six months prior to the effective date of termination.
3. In the event of the cessation of cooperation under this Memorandum, the NRC and the CNEN intend to continue to treat all information shared under it in accordance with Section 4 of this Memorandum.
4. This Memorandum of Cooperation may be modified or amended by the mutual written agreement of both Authorities.

Section 7. Date and Signatures

The foregoing record represents the understandings reached between the NRC and the CNEN upon matters referred to therein.


Signed in duplicate at Vienna, Austria on September 14, 2009 in the English and Portuguese languages.

For the United States Nuclear Regulatory
Commission:

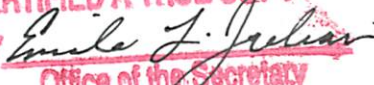
For the National Nuclear Energy
Commission:



Gregory B. Jaczko, Chairman



Odair Dias Gonçalves, President

CERTIFIED A TRUE COPY
BY 
Office of the Secretary

ANNEX A**REQUEST TO THE IMPORTING STATE FOR CONSENT TO IMPORT CATEGORY 1 RADIOACTIVE SOURCES OR TO IMPORT CATEGORY 1&2 SOURCES UNDER EXCEPTIONAL CIRCUMSTANCES**

Pursuant to Paragraphs 6,7,8,14, 15 & 16 of the IAEA Guidance on the Import and Export of Radioactive Sources, and Paragraph 23-25 of the Code of Conduct on the Safety and Security of Radioactive Sources

PART A: Information provided by the Exporting State to Importing State	
1	Unique identifiers for the consent requests:
2	Name of recipient:
3	Recipient location and legal address or principal place of business:
4	Radionuclides and radioactivity:
5	Suggested timeframes for a decision on the request:
6	Additional remarks (optional)
7	Name and Organization of representative of Exporting State:
8	Signature of representative for the Exporting State:
9	Date:

PART B: Information provided by the Importing State to Exporting State	
NOTE: PLEASE COMPLETE 10(a) OR 10(b) OR 10(c) BELOW	
10(a)	CONSENT GRANTED FOR THE IMPORT OF RADIOACTIVE SOURCES DESCRIBED IN ITEM 4 (pursuant to Paragraph 6,7)
	Period of validity of consent:
10(b)	CONSENT GRANTED UNDER EXCEPTIONAL CIRCUMSTANCES (pursuant to Paragraph 15)
	Period of validity of consent:
10(c)	CONSENT NOT GRANTED
11	If consent is granted in 10(a), then complete this item (pursuant to Paragraph 8) CHECK THIS BOX TO CONFIRM RECIPIENT IS AUTHORIZED TO RECEIVE AND POSSESS THE SOURCE(S) DESCRIBED IN ITEM 4 Or ATTACH A COPY OF RECIPIENT AUTHORIZATION TO RECEIVE AND POSSESS THE SOURCE(S) DESCRIBED IN ITEM 4
12	Additional Remarks (optional):
13	Name and Organization of representative of Importing State:
14	Signature of representative for the Importing State:
15	Date:

ANNEX B**NOTIFICATION PRIOR TO SHIPMENT
OF CATEGORY 1 OR 2 RADIOACTIVE SOURCES**

Pursuant to Paragraph 9 of
The IAEA Guidance on the Import and Export of Radioactive Sources

To:

[NAME AND COORDINATES OF IMPORTING AUTHORITY]

1. Unique identifiers (identical to the specified in corresponding Annex A)
 2. Estimated export date
 3. Name of Exporter
 4. Name and Location of Recipient (Importer)
 5. Name and Location of Recipient (Importer)
 6. Radionuclides and radioactivity
 7. Number of radioactive sources (and, if available, any additional tracking identifiers as appropriate)
 8. Aggregate activity level
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Signature of appropriate representative for the
Exporting Authority

Date