

**ARRANGEMENT BETWEEN THE
DEPARTMENT OF ENERGY OF THE UNITED STATES OF AMERICA
AND THE
NUCLEAR REGULATORY AGENCY OF THE REPUBLIC OF INDONESIA
FOR COOPERATION IN NUCLEAR MATERIAL SECURITY AND
SAFEGUARDS TECHNOLOGIES**

The Department of Energy (DOE) of the United States of America and the Nuclear Regulatory Agency (BAPETEN) of the Republic of Indonesia (hereinafter called the "Parties");

Desiring to strengthen international nuclear security and safeguards through improvements in physical protection, nuclear material control, accountancy, verification, and advanced containment and surveillance technologies;

Noting the Agreement for Cooperation between the Government of the United States of America and the Government of the Republic of Indonesia concerning Peaceful Uses of Nuclear Energy signed on June 30, 1980, as amended by Protocol Amending the Agreement for Cooperation between the Government of the United States of America and the Government of the Republic of Indonesia concerning Peaceful Uses of Nuclear Energy signed on February 20, 2004.

Bearing in mind this cooperation shall be conducted on the basis of mutual benefit;

Pursuant to prevailing laws and regulation in their respective countries;

hereby agree as follows:

Article 1

Objective

- 1.1 The objective of this Arrangement is to establish a framework for cooperation between the DOE, through the National Nuclear Security Administration, and BAPETEN to improve nuclear security and international nuclear safeguards.

Article 2

Areas of Cooperation

- 2.1 The areas of cooperation under this Arrangement may include, but are not limited to:
- 2.1.1 Physical protection of nuclear installations, as well as nuclear material;
 - 2.1.2 Nuclear material accountancy, verification and control; and
 - 2.1.3 Advanced containment and surveillance technologies.
- 2.2 Other areas of collaboration may be added by written agreement of the Parties.

Article 3

Forms of Cooperation

- 3.1 Cooperation in accordance with this Arrangement may include, but is not limited to, the following forms:
- 3.1.1 Exchange of
 - Information including:
 - a. Unclassified scientific and technical information and results of research and development;
 - b. Abstracts of reports or other information on nuclear material control, accountancy and verification, and physical protection programs;
 - c. Information on regulations and licensing of nuclear facilities and operations;
 - Scientists, engineers and other specialists, including those from industry; and
 - Materials, samples, instruments, and components.
 - 3.1.2 Joint activities including seminars, workshops, and other meetings on agreed topics; visits by a Party's specialist teams or individuals to the facilities of the other Party; testing and evaluation of technology applications, techniques or procedures;

- 3.1.3 The use by one Party of the facility(ies) owned or operated by the other Party. Such use of facilities shall be the subject of a separate written agreement between the Parties; and
- 3.1.4 Programs and projects in which the Parties decide to share the work and costs. Such joint projects shall be the subject of a separate written agreement between the Parties
- 3.2 Other specific forms of cooperation may be added by written agreement of the Parties.

Article 4

Project Annexes

Cooperative activities under this Arrangement may be undertaken by the Parties or, as appropriate, laboratories, affiliates, including the Indonesian Atomic Power Agency, or contractors of the Parties. Each cooperative activity that may involve the sharing of costs or that may give rise to the creation of intellectual property shall be described in writing in a Project Annex, which shall be subject to approval by the Permanent Coordinating Group (as provided for in Article 5). Such Project Annexes shall include detailed provisions for carrying out the specified forms of cooperation, including such matters as technical scope, exchange of business-confidential information, management, total costs, cost sharing and schedule. Each Project Annex shall refer to this Arrangement and be governed by it.

Article 5

Management

- 5.1 The Parties shall establish a Permanent Coordinating Group (PCG) consisting of representatives of each Party, to supervise the implementation of this Arrangement. Decisions of the PCG shall be made on the basis of mutual consent by both Parties.
- 5.2 Each Party shall designate a Principal Coordinator who shall be responsible for carrying out the day-to-day management of the cooperation under this Arrangement. The Principal Coordinators shall agree on specific details of cooperation in the technical areas listed in Article 2 of this Arrangement, within policy guidelines established by the PCG. The Principal Coordinators shall be responsible for working-level contacts between the Parties in the areas of cooperation.

- 5.3 The PCG shall meet once each year, alternately in the United States and in the Republic of Indonesia, or at such other times and places as agreed. At its meetings, the PCG shall evaluate the status of cooperation under this Arrangement. This evaluation shall include a review of the past year's activities and accomplishments and of the activities planned for the coming year, an assessment of the balances of exchanges within each technical field or group of related technical fields listed in Article 2, and consideration of measures designed to ensure that such exchanges are mutually beneficial to the Parties. In addition, the PCG shall consider and act on any major new proposals for collaboration. Principal Coordinators and other advisors to the Parties may, at the discretion of the PCG, participate in these annual meetings.

Article 6

Assignment of Personnel

The following provisions shall apply concerning assignments of personnel under this Arrangement:

- 6.1 Whenever an assignment of personnel is contemplated, each Party shall endeavor to ensure the selection of qualified personnel with skills and competence necessary to conduct the activities planned under this Arrangement. Each such assignment of personnel shall be agreed in advance by an exchange of letters between the Parties, referencing this Arrangement and its pertinent intellectual property provisions.
- 6.2 Each Party shall be responsible for the salaries, insurance, and allowances to be paid to its staff or its contractors, unless otherwise agreed in writing.
- 6.3 Each Party shall pay for the travel and living expenses of its staff or its contractors while on assignment to the host Party, unless otherwise agreed in writing.
- 6.4 Each Party shall help locate adequate accommodations for the other Party's staff or contractors and their families on a mutually acceptable, reciprocal basis.
- 6.5 Each Party shall provide all appropriate assistance to the assigned staff of the other Party or its contractors and their families as regards administrative formalities, such as assistance in making travel arrangements.
- 6.6 The staff and contractors of each Party shall conform to the general and specific rules of work and safety regulations in force at the host establishment.

Article 7

Exchange of Equipment and Materials

By agreement, a Party may provide equipment to be utilized in a joint activity. In that event, the following provisions shall apply:

- 7.1 The sending Party shall supply, as early as possible, a detailed list of the equipment to be provided, together with the relevant specifications and appropriate technical and informational documentation related to use, maintenance, and repair of the equipment.
- 7.2 Title to the equipment and necessary spare parts supplied by the sending Party for use in joint activities shall remain with the sending Party, and the property shall be returned to the sending Party upon completion of the joint activity, unless otherwise agreed.
- 7.3 Equipment provided pursuant to this Arrangement shall be brought into operation at the host establishment only by agreement of the Parties.
- 7.4 The host establishment shall provide the necessary premises and shelter for the equipment; utilities such as electric power, water and gas; and normally, shall provide materials to be tested, in accordance with all technical requirements, which shall be as agreed upon.
- 7.5 Responsibility for expenses, safekeeping and insurance during the transport of equipment from the original location in the country of the sending Party to the place of entry in the country of the receiving Party shall rest with the sending Party. If the sending Party elects to have the equipment returned, it shall be responsible for expenses, safekeeping, and insurance during the transport of the equipment from the original port of entry in the country of the receiving Party to the final destination in the country of the sending Party.
- 7.6 Responsibility for expenses, safekeeping, and insurance during the transport of equipment from the place of entry in the country of the receiving Party to the final destination in the country of the receiving Party shall rest with the receiving Party. If the sending Party elects to have the equipment returned, the receiving Party shall be responsible for expenses, safekeeping and insurance during the transport of the equipment from the final destination in the country of the receiving Party to the original point of entry in the country of the receiving Party.
- 7.7 Responsibility for expenses, safekeeping, and insurance during the time period that the equipment is in use in the country of the receiving Party shall rest with the receiving Party, unless otherwise agreed in writing.

- 7.8 Equipment provided pursuant to this Arrangement for use in joint activities shall be considered to be scientific, not having a commercial character, and each Party shall make its best effort to obtain duty free entry.

Article 8

Samples and Materials

Unless otherwise agreed in writing, the following provisions shall apply to the transportation and use of samples and materials provided by one Party to the other Party under this Arrangement:

- 8.1 All samples and materials provided by the sending Party to the receiving Party shall remain the property of the sending Party, and shall be returned to the sending Party on request or, by agreement of the Parties upon completion of the agreed upon activity.
- 8.2 Where one Party requests that a sample or material be provided by the other Party, the Party making the request shall bear all costs and expenses associated with the transportation of the sample or material from the location of the sending Party to its final destination.
- 8.3 Each Party shall promptly disclose to the other Party all information arising from the examination or testing of samples or materials exchanged under this Arrangement. The Parties agree that business-confidential information (as defined in Section IV of the Intellectual Property Rights Annex attached to this Arrangement), which was developed prior to or outside the scope of this Arrangement, shall remain business-confidential even though it is contained in the results of an examination or testing of samples or materials. Such information shall be identified as business-confidential by the Party asserting its business-confidential nature as soon as possible after disclosure of all information arising from the examination or testing is made to such Party and the other Party shall be immediately advised of that identification. All information identified as business-confidential shall be controlled as provided in Section IV of the Intellectual Property Rights Annex.
- 8.4 It is further understood and agreed that a Party providing samples or materials to the other Party may also provide a partial or complete list of the types of information that may result from the examination or testing of such samples or materials and which are to be treated as business-confidential as defined in Section IV of the Intellectual Property Rights Annex. All such business-confidential information is to be controlled as set out in Section IV of that Annex.

Article 9

Transfer of Information and Equipment

- 9.1 The Parties may exchange, as agreed on a mutually beneficial basis, scientific and technical information, documents and results of research and development of work carried out under this Arrangement. Such information shall be limited to that which the Parties have the right to disclose, either in their possession or available to them, relating to the types of cooperation described in Article 2.
- 9.2 Seminar proceedings and reports of joint activities carried out under this Arrangement shall be published as joint publications, as mutually agreed by the Parties.
- 9.3 The Parties agree that information developed and exchanged under this Arrangement should be given wide distribution. Except as provided in Section III of the Intellectual Property Annex to this Arrangement, such information may be made available to the public by either Party through customary channels and in accordance with normal procedures of the Parties.
- 9.4 Information or equipment transmitted by one Party to the other Party under this Arrangement and any related Project Annex shall be appropriate and accurate to the best knowledge and belief of the transmitting Party, but the transmitting Party does not warrant the suitability of the information or equipment transmitted for any particular use or application by the receiving Party or any third party. Information or equipment developed jointly by the Parties shall be appropriate and accurate to the best knowledge and belief of both Parties. Neither Party warrants the accuracy of the jointly-developed information or the appropriateness of equipment nor its suitability for any particular use or application by either Party or by any third party.

Article 10

Additional Organizations

- 10.1 The Parties may invite public and private organizations in their respective countries to participate, at those organizations' own expense and subject to such terms and conditions as the Parties may specify, in cooperative activities under this Arrangement.
- 10.2 The Parties shall not grant such organizations access to information, equipment or materials provided by one party to the other Party under this Arrangement without the prior written consent of the transmitting Party.

- 10.3 Each Party shall take measures to ensure that such organizations will not gain unauthorized access to safeguards and security information, nuclear and radiological materials, or other sensitive information or material, particularly where such access could compromise the security of either Party.

Article 11

Intellectual Property; Business-Confidential Information

The protection and allocation of intellectual property and the treatment of business-confidential information created or furnished in the course of cooperative activities under this Arrangement shall be governed by the provisions of the Intellectual Property Rights Annex, which constitutes an integral part of this Arrangement.

Article 12

General Provisions

- 12.1 Unless otherwise agreed in writing, all costs resulting from cooperation pursuant to this Arrangement shall be the responsibility of the Party that incurs them.
- 12.2 The obligation of a Party to carry out the activities provided for in this Arrangement is subject to the availability of appropriated funds.
- 12.3 Each Party shall conduct the activities provided for in this Arrangement in accordance with the laws and regulations of its respective country.

Article 13

Settlement of Disputes

Any dispute concerning the interpretation or application of this Arrangement shall be settled by consultations between the Parties.


Article 14

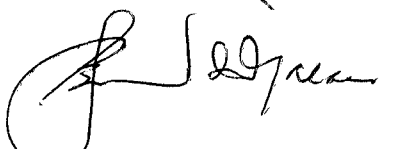
Duration, Amendment and Termination

- 14.1 This Arrangement shall enter into force upon signature and, subject to Article 14.3, remain in force for a period of five years. It shall be automatically renewed for another five years unless either Party notifies the other in writing of its intent to terminate this Arrangement three months prior to the expiration of the initial five-year period.
- 14.2 This Arrangement may be amended at any time by written agreement of the Parties.
- 14.3 Either Party may terminate this Arrangement by giving six months written notice of its intention to terminate the Arrangement.
- 14.4 All ongoing joint activities, projects and experiments not completed at the expiration of this Arrangement may be continued until their completion under the terms of this Arrangement.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this present Arrangement.

DONE at Sydney this 9th day of November, 2004, in duplicate in the English language. All texts being equally authentic.


FOR THE DEPARTMENT OF ENERGY
OF THE UNITED STATES OF
AMERICA:


FOR THE NUCLEAR REGULATORY
AGENCY OF THE REPUBLIC OF
INDONESIA:

ANNEX I

Intellectual Property Rights

I. General Obligation

The Parties shall ensure adequate and effective protection of intellectual property created or furnished under this Arrangement and relevant project annexes. Rights to such intellectual property shall be allocated as provided in this Annex.

II. Scope

- A. This Annex is applicable to all cooperative activities undertaken pursuant to this Arrangement, except as otherwise specifically agreed by the Parties or their designees.
- B. For purposes of this Arrangement, "intellectual property" shall mean the subject matter listed in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm, July 14, 1967 and may include other subject matter as agreed by the Parties.
- C. Each Party shall ensure, through contracts or other legal means with its own participants, if necessary, that the other Party can obtain the rights to intellectual property allocated in accordance with this Annex. This Annex 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.
- D. Except as otherwise provided in this Arrangement, disputes concerning intellectual property arising under this Arrangement shall 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 tribunal for binding arbitration in accordance with the applicable rules of international law. Unless the Parties or their designees agree otherwise in writing, the arbitration rules of UNCITRAL shall govern.
- E. Termination or expiration of this Arrangement shall not affect rights or obligations under this Annex.

III. Allocation of Rights

- A. 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 a copyrighted work prepared under this provision shall indicate the names of the authors of the work unless an author explicitly declines to be named.

B. Rights to all forms of intellectual property, other than those rights described in paragraph IIIA above, shall be allocated as follows:

- (1) Visiting researchers shall receive rights, awards, bonuses and royalties in accordance with the policies of the host institution.
- (2) (a) Any intellectual property created by persons employed or sponsored by one Party under cooperative activities other than those covered by paragraph III(B)(1) shall be owned by that Party. Intellectual property created by persons employed or sponsored by both Parties shall be jointly owned by the Parties. In addition, each creator shall be entitled to awards, bonuses and royalties in accordance with the policies of the institution employing or sponsoring that person.

(b) Unless otherwise agreed in an implementing or other arrangement, each Party shall have within its territory all rights to exploit or license intellectual property created in the course of the cooperative activities.

(c) The rights of a Party outside its territory shall be determined by mutual agreement considering the relative contributions of the Parties and their participants to the cooperative activities, the degree of commitment in obtaining legal protection and licensing of the intellectual property and such other factors deemed appropriate.

(d) Notwithstanding paragraphs III.B(2)(a) and (b) above, if a particular project has led to the creation of intellectual property protected by the laws of one Party but not the other, the Party whose laws provide for this type of protection shall be entitled to all rights to exploit or license intellectual property worldwide although creators of intellectual property shall nonetheless be entitled to awards, bonuses and royalties as provided in paragraph III.B(2)(a).

(e) For each invention made under any cooperative activity, the Party employing or sponsoring the inventor(s) shall disclose the inventions promptly to the other Party together with any documentation and information necessary to enable the other Party to establish any rights to which it may be entitled. Either Party may ask the other Party in writing to delay publication or public disclosure of such documentation or information for the purpose of protecting its rights in the invention. Unless otherwise agreed in writing, the delay shall not exceed a period of six months from the date of disclosure by the inventing Party to the other Party.

IV. Business-Confidential Information

In the event that information identified in a timely fashion as business-confidential is furnished or created under this Arrangement, each Party and its participants shall protect such information in accordance with applicable laws, regulations, and administrative practices. Information may be identified as "business-confidential" if a person having the information may derive an economic benefit from it or may obtain a competitive advantage over those who do not have it, and the information is not generally known or publicly available from other sources, and the owner has not previously made the information available without imposing in a timely manner an obligation to keep it confidential.