

Agreement between
The United States Department of Energy
and
The Spanish Empresa Nacional de Residuos Radiactivos, S.A.
in the field of
RADIOACTIVE WASTE MANAGEMENT

WHEREAS

The United States Department of Energy (USDOE) and the Spanish Empresa Nacional de Residuos Radiactivos, S.A. (ENRESA), hereinafter referred to as the Parties, have a mutual interest in the safe, effective, and economic handling, storage, transportation, disposal, and retrieval of spent nuclear fuel and other types of radioactive waste products;

USDOE and ENRESA believe that a cooperative program of equitable sharing of their respective research and development data, technology, and experience in the management of radioactive waste would be of mutual benefit;

USDOE and ENRESA recognize the contribution that such research and development in radioactive waste management can make to protecting the environment, while furthering the safe and economic application of nuclear energy;

The DOE is responsible in the United States for the disposal of commercial nuclear spent fuel and high-level radioactive waste; ENRESA is responsible in Spain for the management of radioactive waste, which includes programs associated with the preparation, transport, treatment, interim storage, and permanent disposal of spent fuel and radioactive wastes;

Therefore, consistent with the 1974 Agreement for Cooperation between the Government of the United States of America and the Government of Spain concerning civil uses of atomic energy,

IT IS AGREED AS FOLLOWS:

ARTICLE 1 - OBJECTIVES

Cooperation under this Agreement shall be directed towards an exchange of technology for management of radioactive wastes and other mutually agreed topics associated with the management of radioactive waste. Cooperation between the Parties shall be on the basis of mutual benefit, equality and reciprocity.

ARTICLE 2 - AREAS OF COOPERATION

The areas of cooperation in the field of radioactive waste management technology covered by this Agreement may include:

1. Characterization of geologic formations
2. Field and laboratory testings
3. Preparation and packaging of radioactive wastes
4. Disposal in geologic formations
5. Surface and subsurface storage of radioactive wastes
6. Environment and safety issues
7. Design and operational issues
8. Performance assessment issues
9. Transportation requirements
10. Public acceptance issues
11. Other areas of cooperation added by mutual written agreement of the Parties.

ARTICLE 3 - FORMS OF COOPERATION

Cooperation under this Agreement may include, but is not limited to, the following forms:

1. Exchange of scientists, engineers, and other specialists for agreed periods for participation in agreed research development, analysis, design and experimental activities conducted in research centers, laboratories, engineering offices, and other facilities and enterprises of each of the Parties. Such exchanges of staff shall be in accordance with Article 6 of this Agreement.
2. Exchange of scientific, technical and public acceptance information, and results of research development and social impact studies. Such exchanges of information shall be in accordance with Article 7 of this Agreement.
3. Exchange of samples, materials, and equipment for testing, subject in each case to a written agreement, pursuant to Article 5.
4. Organization of and participation in seminars and other meetings on specific agreed topics in the areas listed in Article 2.
5. Short visits by specialist teams or individuals to the radioactive waste management facilities of the other Party.

6. Observation of and participation in studies dealing with the areas of cooperation listed in Article 2, subject in each case to a separate written agreement pursuant to Article 5.
7. Joint projects in which the Parties agree to share work and/or costs, subject in each case to a separate written agreement, pursuant to Article 5.
8. Other forms of cooperation may be added pursuant to Article 5.

ARTICLE 4 - MANAGEMENT

To supervise the implementation of this Agreement, each Party shall name a Principal Coordinator who shall keep under review the status of the cooperative activity and shall consider any major new proposals for cooperation. Day-to-day management of the cooperation shall be carried out by Technical Coordinators designated by each Principal Coordinator as needed for specific areas of cooperation. The Principal Coordinators each year shall jointly review and assess the status of cooperation under this Agreement, including the balance of exchanges in each of the various areas of cooperation listed in Article 2.

ARTICLE 5 - IMPLEMENTING AGREEMENTS

Cooperation pursuant to paragraphs 3, 6, 7, or 8, of Article 3 under this Agreement shall be implemented by formalized Project Agreements signed by both Parties. Each Project Agreement shall be attached as an Annex to this Agreement and, subject to this Agreement, address all detailed provisions for implementation including such matters as patents, exchange of equipment, and information disclosure specific to the particular program or project. The Annexes shall form an integral part of this Agreement.

ARTICLE 6 - ATTACHMENT OF STAFF

1. Whenever an exchange of staff is contemplated under this Agreement, each Party shall ensure that qualified staff are selected for attachment to the other Party.
2. Each such attachment shall be the subject of a separate agreement between the Parties in writing.

3. Each Party shall be responsible for the salaries, travel, and living expenses of its personnel while on attachment to the host Party, unless otherwise agreed.
4. The host establishment shall arrange for accommodations for the attached staff and families of the other Party or its contractors on a mutually agreeable, reciprocal basis.
5. Each Party shall provide all necessary assistance to the attached staff and their families regarding administrative formalities such as travel arrangements and work permits.
6. The attached personnel shall conform to the general and special rules of work and safety regulations in force at the host establishment, or as agreed in separate agreements. Such special rules of work may include restriction from facilities or areas considered sensitive or classified.

Article 7 - Intellectual Property Rights

The Parties shall ensure adequate and effective protection of intellectual property created or furnished under this Agreement and relevant project agreements. The Parties agree to notify one another in a timely fashion of any inventions or copyrighted works arising under this Agreement and to seek protection for such intellectual property in a timely fashion. Rights to such intellectual property shall be allocated as provided in this Article.

7.1 Scope

- A. This Article is applicable to all cooperative activities undertaken pursuant to this Agreement, except as otherwise specifically agreed by the Parties or their designees.
- B. For purposes of this Agreement, "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.
- C. This Article addresses the allocation of rights and interests between the Parties. Each Party shall ensure that the other Party can obtain the rights to intellectual property allocated in accordance with this Article, by obtaining those rights from its own participants through contracts or other legal means, if necessary. This Article 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. Disputes concerning intellectual property arising under this Agreement 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 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 Agreement shall not affect rights or obligations under this Article.

7.2 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 Agreement. 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 7.2.A above, shall be allocated as follows:
 - (1) 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 national treatment with regard to awards, bonuses, benefits, or any other rewards, in accordance with the policies of the host institution.
 - (2) (a) For intellectual property created during joint research, for example, when the Parties, participating institutions, or personnel have agreed in advance on the scope of work, the Parties or their designees shall jointly develop a technology management plan. The technology management plan shall consider the relative contributions of the Parties and their participants, the benefits of exclusive licensing by territory or for fields of use, requirements imposed by the Parties' domestic laws, and other factors deemed appropriate.

(b) If the Parties or their designees can not reach agreement on a joint technology management plan within a reasonable time not to exceed six months from the time a party becomes aware of the creation of the intellectual property in question, each Party may designate one co-exclusive licensee to have world-wide rights. Each Party shall notify the other two months prior to making a designation under this paragraph.

(c) A specific program of research will be regarded as joint research for purposes of allocating rights to intellectual property only when it is designated as such in the relevant implementing arrangement.

(d) Notwithstanding paragraph 7.2.B.(2)(a) and (b), 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 and interests worldwide. Persons named as inventors of the property shall nonetheless be entitled to royalties earned by either institution from the licensing of the property.

7.3 Business Confidential Information

In the event that information identified in a timely fashion as business-confidential is furnished or created under this Agreement, 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, 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.

ARTICLE 8 - APPLICABLE LAWS AND REGULATIONS

Each Party shall conduct the activities provided for in this Agreement and its Annexes subject to its applicable laws and regulations, and subject to the availability of appropriated funds.

ARTICLE 9 - ENTRY INTO FORCE AND TERMINATION

This Agreement enters into force upon signature and shall remain in force for five years. It may be extended by mutual agreement. However, either Party may terminate the Agreement upon six months written notice.

ARTICLE 10 - AMENDMENTS

This Agreement may be amended by written agreement of the Parties.

Done at Madrid, Spain, in duplicate, in the English language, this 16th day of December, 1992.

FOR THE UNITED STATES
DEPARTMENT OF ENERGY

Thomas H. Isaacs
(Signature)

Thomas H. Isaacs
(Name)

Director, Office of Strategic
Planning and International Programs, OCRWM
(Title)

FOR THE SPANISH EMPRESA
NACIONAL DE RESIDUOS
RADIATIVOS, S.A.

Alberto López García
(Signature)

Alberto López García
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General Manager
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