

AGREEMENT
BETWEEN
THE DEPARTMENT OF ENERGY OF THE UNITED STATES OF AMERICA
AND
THE NATIONAL COMMISSION FOR NUCLEAR ACTIVITIES CONTROL OF
ROMANIA
CONCERNING
COOPERATION TO ENHANCE THE PHYSICAL SECURITY OF ROMANIA'S
RADIOACTIVE SOURCES AND SPECIAL NUCLEAR MATERIAL

The Department of Energy of the United States of America (DOE) and the National Commission for Nuclear Activities Control of Romania (CNCAN), hereinafter referred to as "the Parties",

Desiring to implement the Agreement Between the Government of the United States of America and the Government of Romania Concerning Cooperation in the Area of Counterproliferation of Weapons of Mass Destruction, and the Promotion of Defense and Military Relations, signed at Washington March 30, 1998, as amended (hereinafter referred to as the Counterproliferation Agreement), as it pertains to preventing the theft, sabotage or unauthorized use of radioactive sources and special nuclear material in Romania, which have the potential to cause unacceptable consequences if employed for malicious purposes in a radiological dispersal, radiological exposure, or improvised nuclear device, by enhancing the physical security of those sources and materials;

Taking into account that Romania is a Member State of the European Union and is party to the Euratom Treaty; and

Taking into account the provisions of the Code of Conduct on Safety and Security of Radioactive Sources of the International Atomic Energy Agency (IAEA);

Have agreed as follows:

ARTICLE I

For purposes of this Agreement:

"Radioactive sources" (hereinafter "RSs") means radioactive material permanently sealed in a capsule or closely bonded in a solid form, and which is not exempt from the Government of Romania's regulatory control. These RSs may either be in use as intended, in a temporary or permanent waste storage site, or orphaned. RSs include 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.

"High activity RSs" means radioactive sources that may pose a significant risk to individuals, community and environment, which fall under Categories I-III on Table I of the Annex to the IAEA's Code of Conduct on Safety and Security of Radioactive Sources, and which both Parties agree are subject to this Agreement.

"Regulatory control" means any form of the Government of Romania's statutory or regulatory control applied to facilities housing, or activities in Romania related to, RSs and special nuclear material, for reasons related to radiation protection or to the safety or security of radioactive sources and of special nuclear material.

"Orphaned sources" mean RSs which are not under the regulatory control of the Government of Romania, either because they have never been under regulatory control, or because they have been abandoned, lost, misplaced, stolen, or transferred without proper authorization (license).

"Special nuclear material" means fissile isotopes of highly enriched uranium and all isotopes of plutonium contained in research and test reactor critical and sub-critical fuel assemblies, rods, control rods, or sub-components thereof; research and test reactor target assemblies or sub-components thereof; and bulk materials intended for research or test purposes. These materials may be irradiated or unirradiated.

"Security" means measures designed to deter, prevent, or respond to unauthorized access or damage to, or sabotage, loss, theft, or unauthorized transfer of, high activity RSs and special nuclear material.

ARTICLE II

1. In accordance with the terms of this Agreement, DOE may provide assistance at no cost to the CNCAN or its designated implementing agents to assist the CNCAN in enhancing the physical security of high activity RSs and special nuclear material which the Parties jointly determine require physical security enhancements, and to search for and recover orphaned sources.

2. The CNCAN or its designated implementing agents shall use all materials (including supplies, equipment and instruments), training and services provided in accordance with this Agreement exclusively for the purpose stated in paragraph 1 of this Article.
3. This Agreement, and all activities undertaken in accordance with this Agreement, shall be subject to the provisions of the Counterproliferation Agreement. In the event of any discrepancies between this Agreement and the Counterproliferation Agreement, the provisions of the Counterproliferation Agreement shall prevail.
4. Nothing in this Agreement is intended to duplicate activities undertaken under the Agreement between the Department of Energy of the United States of America and the Nuclear Agency of Romania and the National Commission for Nuclear Activities Control of Romania Concerning Cooperation in the Area of Countering the Proliferation of Nuclear Materials and Technologies, signed at New York July 19, 2004, as amended.

ARTICLE III

1. DOE and the CNCAN shall each have the right, upon written notification to the other, to delegate responsibilities for the implementation of this Agreement to other agencies, departments or units of its respective government.
2. DOE and the CNCAN shall each have the right, upon written notification to the other, to designate technical liaison representatives for materials, equipment, training and services provided pursuant to this Agreement.

ARTICLE IV

1. Pursuant to the terms of this Agreement, DOE may provide to the CNCAN, or its designated implementing agents, assistance for the purpose of enhancing the security of Romania's high activity RSs and special nuclear material. Such assistance may include, but is not limited to, activities related to:
 - (a) improving methods of physical security and control to reduce the risk of theft of possible diversion of high activity RSs and special nuclear material stored at premises on the territory of Romania;
 - (b) assessments of physical security and physical security enhancements to high activity RSs and special nuclear material, and to the facilities at which they are located, including but not limited to medical facilities, research institutes, and commercial enterprises;
 - (c) secure transport of high activity RSs and special nuclear material within Romania, including the provision of transport packaging kits;
 - (d) training and provision of equipment to conduct searches for and retrieval of orphaned sources; and

- (e) such other physical security enhancements with respect to Romania's management of high activity RSs, special nuclear material, and orphaned sources as the Parties jointly decide.

2. The terms of this Agreement shall cover:

- (a) the provision of technical assistance, safety engineering services, planning and project management support pertaining to the implementation of any assistance provided under this Agreement; and
- (b) the provision of procurement and/or acquisition services, selection of subcontractors, contract and project management services, and the technical and administrative oversight of subcontractor performance during the preparation for and implementation of work under this Agreement.

3. Conditions of assistance provided under this Agreement shall be defined by separate contracts or arrangements between DOE and the CNCAN or their designated implementing agents. In case of any inconsistency between these contracts or arrangements and this Agreement, the provisions of this Agreement shall prevail.

4. Pursuant to the terms of this Agreement, DOE may, at its discretion, provide the CNCAN or its designated implementing agents with other types of assistance subject to the written agreement of both Parties.

ARTICLE V

1. CNCAN or its designated implementing agents shall assist DOE or its designated implementing agents during implementation of any agreed assistance pursuant to this Agreement.

2. CNCAN or its designated implementing agents shall coordinate with other appropriate ministries, agencies, and organizations to ensure that materials, including supplies, equipment and instruments, provided to CNCAN under this Agreement are afforded priority processing to allow prompt delivery to their ultimate destination within Romania. CNCAN or its designated implementing agents shall coordinate with the appropriate ministries, agencies, and organizations to ensure that appropriate security measures are provided for United States Government personnel, contractors, and materials, including supplies, equipment, and instruments, at those facilities associated with work under this Agreement.

3. CNCAN or its designated implementing agents shall facilitate the examination, by the appropriate ministries, agencies, and organizations, of all materials, including supplies, equipment and instruments received pursuant to this Agreement, and provide confirmation to DOE of their acceptability within ten days of receipt of the results of such examinations. The

terms and conditions for repair or replacement of non-complying materials, including supplies, equipment and instruments, will be set forth in the contract(s) under which materials, including supplies, equipment, and instruments, are provided under this Agreement.

4. CNCAN or its designated implementing agents shall, through annual inspections, ensure that physical security enhancements provided under this Agreement to sites containing high activity RSs and special nuclear material are used for their intended purpose and are maintained in good working order. CNCAN will encourage all sites to sustain the physical security upgrades after their warranty period and maintenance provided by DOE ends.

ARTICLE VI

In addition to the audit and examination rights set forth in Article XII of the Counterproliferation Agreement, DOE representatives shall have the right to monitor the implementation of terms of contracts and the progress of work under this Agreement, at facilities in the territory of Romania.

ARTICLE VII

1. As appropriate, DOE may enter into implementing arrangements with CNCAN to carry out the provisions of this Agreement. In case of any inconsistency between this Agreement and any such arrangements, the provisions of this Agreement shall prevail.
2. Any implementing arrangement concluded between the Parties shall enter into force in accordance with the provisions of Article X.

ARTICLE VIII

Each Party shall implement the provisions of this Agreement and of any related implementing arrangement in accordance with the internal legislation of that Party's State and with the international agreements to which the Party's State is party.

ARTICLE IX

1. This Agreement may be amended by the written agreement of the Parties.
2. Any amendment shall enter into force in accordance with the provisions of Article X.

ARTICLE X

1. This Agreement shall enter into force on the date of signature and shall remain in force for the duration of the Counterproliferation Agreement.
2. This Agreement may be terminated by the Parties' mutual agreement in writing, or by either Party upon at least 90 days' prior written notification to the other Party.
3. Notwithstanding the expiration of the Counterproliferation Agreement or this Agreement, the obligation under Article V, paragraph 4 of this Agreement shall continue to apply without regard to time.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective governments, have signed this Agreement.

DONE at Bucharest, in duplicate, on the 10 day of December, 2009, in the English and Romanian languages, both texts being equally authentic.



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

FOR
THE NATIONAL COMMISSION FOR
NUCLEAR ACTIVITIES CONTROL
OF ROMANIA:

