

10/23/93

AGREEMENT BETWEEN THE GOVERNMENT OF THE
UNITED STATES OF AMERICA AND THE GOVERNMENT OF UKRAINE
CONCERNING OPERATIONAL SAFETY
ENHANCEMENTS, RISK REDUCTION MEASURES
AND NUCLEAR SAFETY REGULATION
FOR CIVILIAN NUCLEAR FACILITIES IN UKRAINE

The Government of the United States of America and the
Government of Ukraine, hereinafter referred to as the Parties;

Desiring to support the implementation of the Multilateral
Nuclear Safety Initiative announced at the May 23, 1992, Lisbon
meeting for the coordination of assistance to the States that
were formerly a part of the Soviet Union;

Intending to build upon the framework for cooperation set
forth in the Agreement Between the Government of the United
States of America and the Government of Ukraine Regarding
Humanitarian and Technical Economic Cooperation of May 7, 1992
(the "Cooperation Agreement");

Have agreed as follows:

ARTICLE I

1. The Parties shall cooperate in order to assist Ukraine in achieving the following objectives:

(a) providing further operational safety enhancements by expediting development of emergency operating procedures, performance based training, and administrative and operational controls for VVER-440, VVER-1000 and RBMK civilian nuclear power reactors in Ukraine;

(b) reducing the risks associated with the operation of VVER-440, VVER-1000 and RBMK civilian nuclear power reactors in Ukraine; and

(c) developing consistent and effective safety standards and procedures for use by regulatory authorities in Ukraine responsible for the safety of civilian nuclear facilities.

2. Any assistance provided under this Agreement by the United States of America shall be used only for agreed upon purposes.

3. Cooperation may include, but is not limited to:

(a) improving nuclear plant equipment servicing and maintenance practices;

(b) improving diagnostic methods and hardware, and training for technical support personnel, including a full-scope simulator for operators;

- (c) implementing safety analysis methodologies;
- (d) improving confinement performance in case of severe accidents;
- (e) developing methods to prevent uncontrolled hydrogen explosions in confinements;
- (f) installing dedicated emergency diesels and feedwater pumps in protected areas;
- (g) performing technical and fire safety assessments;
- (h) improving basic fire prevention, detection, and response capabilities;
- (i) designing reactor trip mechanisms for high risk failure modes;
- (j) training in regulatory methods and procedures, inspection techniques and evaluation, regulatory law, and the use of radioactivity monitoring equipment; and
- (k) improving regulatory effectiveness by developing appropriate regulatory standards, requirements, procedures and equipment.

ARTICLE II

1. The Parties shall coordinate and review implementation of this Agreement through the Joint Coordinating Committee for Civilian Nuclear Reactor Safety (the "JCCNRS"), reporting to

the Joint Committee on Cooperation in the Peaceful Uses of Atomic Energy (the "JCC"), established under the Agreement Between the United States of America and the Union of Soviet Socialist Republics on Scientific and Technical Cooperation in the Field of the Peaceful Uses of Atomic Energy of June 1, 1950 (the "Peaceful Uses Agreement") and the Memorandum of Cooperation in the Field of Civilian Nuclear Reactor Safety Between the United States of America and the Union of Soviet Socialist Republics of April 26, 1955 (the "CNRS-MOC").

2. If the Peaceful Uses Agreement or the CNRS-MOC expires or otherwise terminates before the expiration or termination of this Agreement, the JCCCNRS and JCC shall remain in effect during the period this Agreement is in force for the purposes set forth in Paragraph 1 of this Article.

ARTICLE III

1. Articles I ("Taxes and Other Charges"), II ("Status of Personnel"), III ("Inspection and Audit"), and IV ("Use of Assistance") of the Cooperation Agreement, Article III (relating to the JCCCNRS) of the CNRS-MOC, and Article 6 (relating to the JCC) of the Peaceful Uses Agreement shall apply to any assistance provided by the United States under this Agreement.

2. The Parties may enter into implementing agreements to accomplish the objectives set forth in Article I of this Agreement.

3. In case of any inconsistency between this Agreement and any implementing agreement, the provisions of this Agreement shall prevail.

ARTICLE IV

1. The Government of Ukraine shall, in respect of legal proceedings and claims, other than contractual claims, hold harmless and bring no legal proceedings against the Government of the United States of America and its personnel, or against contractors and contractors' personnel of the Government of the United States of America, for damage to property owned by Ukraine, or death or injury to any personnel of Ukraine, arising out of activities pursuant to this Agreement.

2. Claims by third parties, arising out of the acts or omissions of the Government of the United States of America or its personnel, or of contractors or contractors' personnel of the Government of the United States of America, done in the performance of official duty, or arising out of any act, omission or occurrence for which the United States of America is otherwise legally responsible under the law of Ukraine, shall be the responsibility of the Government of Ukraine.

3. The provisions of this Article shall not prevent the Parties from providing compensation in accordance with their national laws.

4. Nothing in this Article shall be interpreted to prevent legal proceedings or claims against nationals of Ukraine or permanent residents of Ukraine in connection with activities within the framework of this Agreement.

ARTICLE V

Assistance of the Government of the United States of America, in accordance with this agreement, shall be provided in accordance with the national laws and regulations of each Party, and shall be subject to the availability of appropriated funds and the mutual agreement of the Parties.

ARTICLE VI

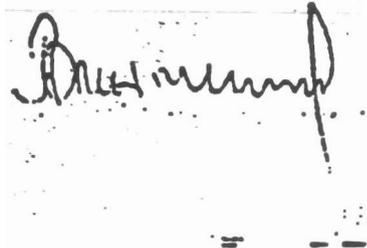
This Agreement shall enter into force upon signature and shall remain in force for a period of five (5) years. This Agreement may be terminated prior to its expiration by either Party upon six (6) months written notice to the other Party of its intention to do so. In either event, the provisions of Articles II, III and IV of this Agreement shall continue to apply with respect to assistance furnished before the date of expiration or termination of this Agreement, unless otherwise agreed by the Parties in writing.

DONE at Kiev, this 23th day of October, 1993,
in duplicate, each in the English and Ukrainian languages, both
texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:



FOR THE GOVERNMENT OF
UKRAINE:



DEPARTMENT OF STATE
WASHINGTON
October 25, 1993

Excellency:

I have the honor to refer to the Agreement signed today between the Government of the United States of America and the Government of Ukraine Concerning Operational Safety Enhancements, Risk Reduction Measures and Nuclear Safety Regulation for Civilian Nuclear Facilities in Ukraine (the "Agreement"). In this connection, the Government of the United States of America wishes to propose to the Government of Ukraine the following understandings:

The term "contractors" includes all persons and organizations engaged in carrying out contracts entered into by the Government of the United States of America pursuant to the Agreement, including sub-contractors, consultants, suppliers and sub-suppliers of equipment and services at any tier.

Article IV(1) is a waiver of claims for direct, indirect and consequential damages and applies to claims brought by the Government of Ukraine; it does not apply to third-party claims. The term "contractual claims" contained in Article IV(1) refers only to claims brought in order to enforce

His Excellency

Anatoliy M. Slenko,

Minister of Foreign Affairs of Ukraine,

Kiev.

contracts to which the Government of Ukraine or Ukrainian nationals are party. The term "contractual claims" does not refer to claims for property damage, including consequential damages, nor for death or personal injury, nor to claims relating to contracts between the Government of the United States of America and other persons for the implementation of the Agreement.

The term "official duty" contained in Article IV(2) encompasses all activities undertaken pursuant to the Agreement by employees of the Government of the United States of America, or by its contractors and their employees.

The "responsibility of the Government of Ukraine" referred to in Article IV(2) includes the obligation to provide for the adequate defense of, to indemnify and to hold harmless the Government of the United States and its employees, as well as its contractors and their employees, in connection with any claim brought against any of them in any court or other forum in any country in connection with activities undertaken pursuant to the Agreement.

Obligations undertaken by Ukraine pursuant to Article IV relating to civilian nuclear power reactors that Ukraine owns at the time the Agreement enters into force shall remain in effect regardless of any subsequent transfer of ownership of those reactors, and pursuant to Article VI, shall remain in effect notwithstanding the termination or expiration of the Agreement.

If the Government of Ukraine agrees to the
aforementioned proposal, this note and your note to that
effect shall constitute an understanding between our
governments, and shall form an integral part of the
Agreement.

Accept, Excellency, the renewed assurances of my
highest consideration.

W. Averell Harriman