

MEMORANDUM OF COOPERATION
BETWEEN
THE UNITED STATES
NUCLEAR REGULATORY COMMISSION
AND
THE NUCLEAR REGULATION AUTHORITY OF JAPAN
FOR THE EXCHANGE OF TECHNICAL INFORMATION
AND
COOPERATION IN NUCLEAR REGULATORY MATTERS

February 2021

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The United States Nuclear Regulatory Commission and the Nuclear Regulation Authority of Japan, hereinafter referred to the two together as the "Participants" and individually referred to as a "Participant",

Recognizing the Agreement for Cooperation between the Government of the United States of America and the Government of Japan Concerning Peaceful Uses of Nuclear Energy, signed on November 4, 1987 (hereinafter referred to as "the Agreement");

Recognizing the arrangement between the Government of the United States of America and the Government of Japan concerning cooperation in the field of nuclear energy-related research and development, effected by the exchange of notes of March 9, 2012, as amended on June 25, 2019 (hereinafter referred to as "the Exchange of Notes");

Having a mutual interest in a continuing exchange of information pertaining to regulatory matters and of standards required or recommended by their organizations for the regulation of safety, security, the implementation of safeguards, and the environmental impact of nuclear facilities; and

Having similarly cooperated under the terms of prior arrangements for the exchange of technical information and cooperation in nuclear safety matters, most recently the Implementing Arrangement signed on September 14, 2015, as extended, which by its terms will expire on March 14, 2021,

Have decided as follows:

I. SCOPE OF THIS MEMORANDUM OF COOPERATION

A. Unclassified Technical Information Exchange

To the extent that the Participants are permitted to do so under the laws, regulations, and policies of their respective countries, they may cooperate and exchange unclassified technical information relating to: the regulation and oversight of safety and security for nuclear facilities and radioactive materials; the implementation of safeguards; the environmental impact of nuclear facilities and radioactive materials; and nuclear safety research programs. Examples of such information include:

1. Topical reports written by or for one of the Participants as a basis for, or in support of, regulatory decisions and policies.
2. Documents relating to significant licensing actions and decisions for safety, security, and environment affecting nuclear facilities and radioactive materials.
3. Detailed documents describing a Participant's process for licensing and regulating nuclear facilities and radioactive materials.
4. Information in the field of nuclear safety research either in the possession of one of the Participants or available to it. Each Participant intends to make its best efforts to transmit immediately to the other information concerning research results that requires early attention in the interest of public safety, along with an indication of significant implications.
5. Reports on operating experience for nuclear facilities and/or experience with radioactive materials, such as reports on nuclear incidents, accidents, shutdowns, and compilations of historical reliability data on components and systems.
6. Regulatory and oversight procedures for safety and security for nuclear facilities and radioactive materials, implementation of safeguards (nuclear materials accountancy and control), and environmental impact evaluations for nuclear facilities.
7. Early notification of important incidents and emerging technical issues that are of immediate interest to the Participants.

B. Cooperation in Nuclear Safety Research

The terms of cooperation for joint programs and projects of nuclear safety research and development, or those programs and projects under which activities are divided between the Participants, including the use of test facilities and/or computer code sharing programs owned by either Participant, may be

considered on a case-by-case basis and may be the subject of a separate

arrangement.

C. Exchange of Experts

The exchange of experts and cooperation between the Participants may be enhanced, insofar as it is permitted under the laws, regulations, or policies of their respective countries, by mutual consent of the Participants with a view to facilitating the exchange of information under this Memorandum.

The Participants may exchange information on staff training and intend to try to assist each other by providing certain training and experience for nuclear regulators and/or nuclear safety personnel, within the limits of available resources and subject to the availability of appropriated funds. In addition, temporary assignments of personnel by one Participant to the other Participant may also be considered on a case-by-case basis and may require a separate arrangement between the Participants. Unless otherwise mutually determined by the Participants, costs of salary, allowances, and travel of personnel are expected to be paid by the Participant that incurs them.

D. Designees

Subject to the approval of the other Participant, each Participant may designate non-governmental institutes or organizations (hereinafter referred to as "the designees") to assist in the implementation of cooperation under this Memorandum, provided that each Participant is expected to ensure by contract with its own designees or otherwise that its own designees are under its control with respect to the implementation of cooperation under this Memorandum.

II. ADMINISTRATION

- A. The exchange of information under this Memorandum may be accomplished through letters, reports, and other documents, and by visits and meetings arranged in advance on a case-by-case basis. Periodic meetings may be held to review the exchange of information and cooperation under this Memorandum, and to discuss topics within the scope of the cooperation. The time, place, and agenda for such meetings are expected to be determined in advance.
- B. An administrator is expected to be designated by each Participant to coordinate its exchange activities under this Memorandum. The administrators are expected to be the recipients of all documents transmitted under the exchange, including copies of all letters, unless otherwise determined or unless otherwise provided herein. The administrators are expected to be responsible for development and coordination of the scope of any exchange. One or more technical coordinators may be appointed as direct contacts for specific disciplinary areas. These technical coordinators are expected to ensure that both administrators receive copies of all transmittals.
- C. The application or use of any information exchanged between the Participants under this Memorandum is intended to be the responsibility of the receiving

Participant, and the transmitting Participant does not warrant the suitability of such information for any particular use or application.

- D. Recognizing that some information of the type covered in this Memorandum is not available within the jurisdiction of the Participants to this Memorandum, but is available from other agencies of the United States of America or Japan, each Participant intends to assist the other, to the extent possible, in obtaining information from other agencies within their respective governments. The foregoing is not intended to constitute a commitment of a Participant to furnish such information.

III. EXCHANGE AND USE OF INFORMATION

A. General

The Participants support the widest possible dissemination of information exchanged under this Memorandum, subject to the requirements of each Participant's national laws, regulations, and policies, and the need to protect proprietary and other confidential or privileged information. However, consistent with these national laws, regulations, and policies, the Participants may request, on a case-by-case basis, additional restrictions on the dissemination of information beyond those identified in this Section.

In the event that scientific and technological research activities under this Memorandum are expected to result in the creation of intellectual property, the allocation of rights in such allocation of property is expected to be addressed in separate agreements for such activities.

B. Definitions

1. The term "information" means unclassified technical information relating to: the regulation and oversight of safety and security for nuclear facilities and radioactive materials; the implementation of safeguards; the environmental impact of nuclear facilities and radioactive materials; and nuclear safety research programs. It also includes scientific or research data, methods of assessment, or any other knowledge or information provided, created, or exchanged under this Memorandum.
2. The term "proprietary information" means information that is provided, created, or exchanged under this Memorandum that contains trade secrets or other privileged or confidential commercial information (such that the person possessing the proprietary information may derive an unfair commercial advantage over those persons not possessing it).
3. The term "other confidential or privileged information" means information other than "proprietary information" that is protected from public disclosure under the laws, regulations, or policies of the country of the Participant transmitting the information under this Memorandum.

C. Documentary Proprietary Information

1. A Participant receiving documentary proprietary information is expected to respect the privileged nature of such information.
2. Marking Procedures for Documentary Proprietary Information
 - a. A Participant transmitting documentary proprietary information under this Memorandum intends to clearly mark proprietary information on each page of the document with the following restrictive legend:

“Proprietary Information: Do not share without the written consent of (insert name of transmitting Participant)”
 - b. The receiving Participant intends not to make public any documentary proprietary information bearing this restrictive legend or otherwise disseminate the documentary proprietary information in any manner inconsistent with or contrary to the terms of this Memorandum without the prior written consent of the transmitting Participant.
 - c. The receiving Participant is expected to confirm that this restrictive legend appears on any photocopy or other reproduction of documents containing documentary proprietary information made by the receiving Participant.
 - d. In the event that the transmitting Participant shares documentary proprietary information without the required restrictive legend, the transmitting Participant intends to inform the receiving Participant at the earliest possible opportunity and provide the receiving Participant with properly marked documents bearing the restrictive legend.
 - e. The receiving Participant is expected to make its best efforts to gather and prevent the further dissemination of the improperly marked documents containing proprietary information and replace them with properly marked documents.
 - f. In the event that the receiving Participant shares documentary proprietary information in a manner that is inconsistent with or contrary to the terms of this Memorandum, the receiving Participant is expected to promptly notify the transmitting Participant.
3. Dissemination of Documentary Proprietary Information
 - a. The receiving Participant may disseminate documentary proprietary information received under this Memorandum without the prior consent of the transmitting Participant to employees of the receiving Participant, and to other agencies and departments of the government of the receiving Participant, provided that:

- i. A case-by-case determination documents that such employees and other government agencies and departments have a need-to-know for the information to perform their official duties;
 - ii. The receiving Participant ensures that such employees and other government agencies and departments do not intend to use the documentary proprietary information for any non-governmental or private commercial purpose;
 - iii. Such documentary proprietary information bears the restrictive legend set forth in Section III.C.2.a of this Memorandum; and
 - iv. The information is proprietary to the transmitting Participant and not a third party. If the information is not proprietary to the transmitting Participant, dissemination outside of the receiving Participant is expected to have the prior written consent from the originator of the information.
- b. The receiving Participant may disseminate documentary proprietary information more widely than otherwise permitted under the terms set forth in this Memorandum, including to contractors and consultants of the receiving Participant, and to permittees or licensees of the receiving Participant, with the prior written consent of the transmitting Participant or originator of the information. The Participants intend to grant such approval to the extent permitted by their respective national laws, regulations, and policies, and provided that:
 - i. A case-by-case determination documents that such recipients have a need-to-know for the documentary proprietary information to carry out work solely within the scope of their work assignment, contract, permit, or license with the receiving Participant;
 - ii. Such recipients have executed a non-disclosure agreement;
 - iii. Such recipients do not use such documentary proprietary information for any non-governmental or private commercial purpose; and
 - iv. Such recipients use the documentary proprietary information only for activities carried out under or within the terms of their specific work assignment, contract, permit or license.
- c. The Participants consent mutually to consult and seek written clarification when questions arise as to the proper handling and dissemination of documentary proprietary information provided under this Memorandum.

D. Other Confidential or Privileged Information of a Documentary Nature

1. A Participant receiving other confidential or privileged information of a documentary nature intends to respect the confidential nature of such information.
2. Marking Procedures for Other Confidential or Privileged Information of a Documentary Nature
 - a. A Participant transmitting other confidential or privileged information under this Memorandum intends to confirm that any document containing such information is appropriately and clearly marked on each page of the document with the restrictive legend applicable to the type of other confidential or privileged information being transmitted subject to the transmitting Participant's national laws, regulations, and policies. The marking is expected to include the following restrictive legend:

“Confidential Information: Do not share without the written consent of (insert name of transmitting Participant)”

- b. The receiving Participant intends to confirm that the appropriate restrictive legend appears on any photocopy or other reproduction of documents containing other confidential or privileged information made by the receiving Participant.
 - c. The transmitting Participant intends to confirm that any other confidential or privileged information of a documentary nature transmitted under this Memorandum is accompanied by the following (or substantially similar) restrictive legend on the cover or transmittal page of the document:

“Information in this document shall be protected from public disclosure by the national laws, regulations, or policies of the government of (insert name of the country of the transmitting Participant) and is being provided under the condition that the (insert name of the receiving Participant) shall afford the information substantially the same degree of protection afforded this information by the government of (insert name of country of the transmitting Participant).”

- d. In the event that the transmitting Participant shares other confidential or privileged information of a documentary nature without the appropriate required restrictive legend for the type of information being transmitted, the transmitting Participant intends to inform the receiving Participant at the earliest possible opportunity and provide the receiving Participant with properly marked documents bearing the restrictive legend.
 - e. The receiving Participant is expected to make its best efforts to gather and prevent the further dissemination of the improperly marked documents containing other confidential or privileged information and replace them with properly marked documents.

- f. In the event that the receiving Participant shares other confidential or privileged information of a documentary nature in a manner that is inconsistent with or contrary to the terms of this Memorandum, the receiving Participant is expected to promptly notify the transmitting Participant.

3. Dissemination of Other Confidential or Privileged Information of a Documentary Nature

- a. The receiving Participant may disseminate other confidential and privileged information of a documentary nature received under this Memorandum without the prior consent of the transmitting Participant to employees of the receiving Participant, and to other agencies and departments of the government of the receiving Participant, provided that:
 - i. A case-by-case determination documents that such employees and other government agencies and departments have a need-to-know for the information to perform their official duties;
 - ii. The receiving Participant is expected to confirm that such employees and other government agencies and departments shall not use the other confidential and privileged information contained in the documents for any non-governmental or private commercial purpose; and
 - iii. Such documents containing the other confidential and privileged information bear the appropriate restrictive legend subject to the provisions of Section III.D.2.a of this Memorandum.
- b. The receiving Participant may disseminate the documents containing the other confidential or privileged information more widely than otherwise permitted under the terms set forth in this Memorandum, including to contractors and consultants of the receiving Participant, and to permittees or licensees of the receiving Participant, with the prior written consent of the transmitting Participant. The receiving Participant consents to abide by any restrictions on the dissemination of other confidential or privileged information of a documentary nature to third parties established by the transmitting Participant.
- c. The Participants consent mutually to consult and seek written clarification when questions arise as to the proper handling and dissemination of other confidential or privileged information of a documentary nature shared under this Memorandum.

E. Non-Documentary Proprietary or Other Confidential or Privileged Information

Non-documentary proprietary or other confidential or privileged information provided, obtained, or transmitted under this Memorandum is expected to be treated by the Participants according to the principles specified for proprietary information in Section III.C. and as specified for other confidential or privileged

information in Section III.D. of this Memorandum, provided, however, that the transmitting Participant has placed the receiving Participant on notice as to the character of the proprietary or other confidential or privileged information disseminated.

F. Consultation

If, for any reason, one of the Participants becomes aware that it will be, or may reasonably be expected to become, unable to meet any commitments under Section III of this Memorandum, it is expected to immediately inform the other Participant. The Participants intend thereafter to consult to determine an appropriate course of action.

G. Other

Nothing contained in this Memorandum precludes a Participant from using or disseminating information received without restriction from sources outside of this Memorandum.

IV. FINAL SECTION

- A. The Participants intend to cooperate under this Memorandum in accordance with their respective laws, regulations, and policies. Should any conflict arise between the terms of this Memorandum and those laws, regulations, or policies, the Participants consent mutually to consult before any action is taken. The Participants do not intend to exchange nuclear information related to proliferation-sensitive technologies under this Memorandum.
- B. Unless otherwise mutually determined, all costs resulting from cooperation pursuant to this Memorandum are the responsibility of the Participant that incurs them. The ability of the Participants to carry out their commitments is subject to the appropriation of funds by the appropriate governmental authority and to the laws, regulations, and policies applicable to the Participants.
- C. Any dispute or questions between the Participants concerning the interpretation or application of this Memorandum should be settled by mutual consultation of the Participants.
- D. This Memorandum becomes effective upon signature by both Participants and, subject to paragraph F of this Section, is intended to remain effective for a period of 5 years and may be extended for a further period of time by written consent of the Participants.

The Memorandum may be modified at any time by written consent of both of the Participants, provided the modifications are not contrary to the Agreement, the Exchange of Notes, and the law and regulations of the respective countries. The modifying instrument should specify the date upon which the modification becomes effective.

- E. All information protected under this Memorandum, including but not limited to

proprietary information and other confidential or privileged information, should continue to be protected consistent with the terms of this Memorandum after this Memorandum is no longer effective, has expired, or has been discontinued, unless the Participants determine otherwise in writing.

- F. This Memorandum discontinues upon the termination of the Agreement. Either Participant may cease its cooperation under this Memorandum by providing written notice to the other Participant of its intent to cease cooperation under this Memorandum, which it should provide at least 180 days in advance of the date it intends to cease its cooperation.


SIGNED in duplicate in the English language.

FOR THE UNITED STATES NUCLEAR
REGULATORY COMMISSION:



Christopher T. Hanson
Chairman

FOR THE NUCLEAR REGULATION
AUTHORITY OF JAPAN:



Toyoshi Fuketa
Chairman

DATE:

PLACE: Feb 22, 2021
Rockville, Maryland
United States of America

DATE:

PLACE: Feb 5, 2021
Tokyo
Japan