

## II

*(Acts whose publication is not obligatory)*

## COMMISSION

## AGREEMENT

**for cooperation in the peaceful uses of nuclear energy between the European Atomic Energy Community (Euratom) and the Government of the Argentine Republic**

(97/738/Euratom)

THE EUROPEAN ATOMIC ENERGY COMMUNITY (EURATOM),

hereinafter referred to as 'the Community',

of the one part, and

THE GOVERNMENT OF THE ARGENTINE REPUBLIC,

hereinafter referred to as 'Argentina',

of the other part,

both also generally referred to hereinafter as the 'Party' or 'Parties', as appropriate,

WHEREAS the Framework Agreement for Trade and Economic Cooperation between the European Economic Community and Argentina, signed at Luxembourg on 2 April 1990, stipulates that the Parties are committed to foster economic cooperation between themselves, *inter alia*, in the energy sector;

WHEREAS cooperation in the peaceful uses of nuclear energy between the Community and Argentina should further enhance economic cooperation;

WHEREAS peaceful nuclear capabilities and applications and, in particular, nuclear power generation, including related activities, are firmly established in the Community and in Argentina as a competitive industrial sector;

WHEREAS Argentina is a party to the Treaty on the Non-Proliferation of Nuclear Weapons and to the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco), and has adhered to the Guidelines for Nuclear Transfers (Nuclear Suppliers' Guidelines); whereas safeguards are applied in Argentina pursuant to the quadripartite agreement between Argentina, the Federative Republic of Brazil, the Brazilian-Argentine Agency for Accounting and Control of Nuclear Material and the International Atomic Energy Agency (IAEA);

WHEREAS all Member States of the Community are Parties to the Treaty on the Non-Proliferation of Nuclear Weapons and have adhered to the Guidelines for Nuclear Transfers (Nuclear Suppliers' Guidelines); whereas safeguards are applied in the Community both under Chapter VII of the Euratom Treaty and under safeguards agreements concluded between the Community, its Member States and the IAEA;

WHEREAS it is appropriate to provide a legal framework for promoting cooperation in all potential peaceful uses of nuclear energy, focusing particularly on present opportunities of mutual benefit,

HAVE AGREED AS FOLLOWS:

## Article 1

### Objectives and principles

The objective of this Agreement is to re-launch and develop, as appropriate, cooperation between the Parties in the peaceful uses of nuclear energy with a view to strengthening the overall cooperative relationship between the Community and Argentina.

Cooperation shall be conducted on the basis of the following principles:

- (a) mutual benefit and reciprocity;
- (b) within the framework of applicable laws and regulations, effective protection of intellectual property and equitable sharing of intellectual property rights, as set out in the Annexes, which form an integral part of this Agreement.

## Article 2

### Scope of cooperation

1. Cooperation under this Agreement shall be carried out within the scope of the respective competences of each Party, and shall include, in particular, the following areas:

(a) Reactor safety research

Review and analysis of safety issues and particularly the impact of reactor safety on nuclear power development; identification of appropriate techniques to improve reactor safety through research and development and evaluation studies on nuclear reactors in operation as well as on new types of nuclear reactors and fuel cycles.

(b) Nuclear waste management and disposal

Assessment and optimization of geological disposal, and scientific aspects of the management of long-lived waste.

(c) Radiation protection

Research, regulatory aspects, development of safety standards, training and education, with particular attention to low-dose effects, industrial exposures and post-accident management.

(d) Decommissioning of nuclear installations

Strategies for decommissioning and dismantling nuclear installations, including radiological aspects.

(e) Controlled thermonuclear fusion

Experimental and theoretical activities in plasma physics and fusion research.

(f) Research into nuclear applications in the fields of agriculture, medicine and industry.

(g) Nuclear safeguards

Development and evaluation of nuclear material measurement techniques and characterization of reference materials for safeguards activities, development of systems of accounting for and control of nuclear materials, prevention of illicit trafficking of nuclear material.

(h) Research into interaction between nuclear energy and the environment

Evaluation of the possibilities to minimize impacts on the environment.

(i) Other areas of mutual interest jointly agreed upon by the Parties.

2. The cooperation referred to in this Article, as between the Parties, may also take place between persons and undertakings established in the respective territories of the Parties.

## Article 3

### Modalities of cooperation

1. Cooperation shall be implemented in particular through:

- participation of Argentinian research entities in research projects carried out in the framework of the relevant Community research programmes and a reciprocal participation of research entities of the Community in Argentinian projects in similar areas of research; as regards Argentinian participation in Community research projects, such participation shall be subject to the rules applicable for the participation of undertakings, research centres and universities in the Community research programmes, as laid down in the Decision of the Council of the European Union of 21 November 1994 concerning the rules for the participation of undertakings, research centres and universities in research and training activities of the European Atomic Energy Community<sup>(1)</sup>;
- exchange of technical information by means of, *inter alia*, reports, visits, seminars, technical meetings;
- exchange of personnel between laboratories and/or bodies involved on both sides, including for training purposes;
- exchange of samples, materials, instruments and apparatus for experimental purposes;
- balanced participation in joint studies and activities.

Joint research projects shall proceed once the participants have concluded a Joint Technology Management Plan (JTMP), as indicated in the Annexes.

<sup>(1)</sup> OJ L 306, 30. 11. 1994, p. 8.

2. To the extent necessary, the Parties, acting through their appropriate authorities, will conclude specific agreements, in the framework and under the conditions of this Agreement, to set out the scope, terms and conditions to implement cooperation activities that may be entered into by the Parties and/or by bodies which either Party may eventually entrust with such activities.

Such specific agreements may cover, *inter alia*, financing provisions, assignment of management responsibilities and detailed provisions on dissemination of information and intellectual property rights.

3. For the purposes of this Agreement, the appropriate authorities will be, in the case of Argentina, the National Commission for Atomic Energy and the National Board of Nuclear Regulation and, in the case of the Community, the European Commission, or such other authority as the Party concerned may at any time notify to the other Party.

4. Any transfers of nuclear material or equipment carried out pursuant to the cooperation referred to in Article 2 shall be made in accordance with the relevant international and multilateral commitments of the Parties and of the Member States of the Community in relation to peaceful uses of nuclear energy. Such transfers will not require the Parties to put in place and maintain specific mechanisms to track transfers or other movements of such nuclear material or equipment.

5. In order to achieve maximum synergies, the Parties shall coordinate their activities under this Agreement with other international activities, related to the aforementioned areas of cooperation, in which they are participants.

#### Article 4

##### Funding

1. Each Party's obligations under this Agreement are subject to the availability of the required funds.

2. Costs resulting from cooperation activities shall be borne by the Party that incurs them, unless otherwise specifically agreed by the parties.

#### Article 5

##### Implementing provisions

1. In so far as the Community is concerned, this Agreement shall apply to the territories in which the Treaty establishing the European Atomic Energy Community applies.

2. Each Party shall use its best efforts, within the applicable laws and regulations, to facilitate the accom-

plishment of formalities involved in the movement of persons, as well as the transfer of instruments and materials coming from the other Party in the framework of this Agreement or of specific agreements entered into by the Parties in accordance with the provisions of Article 3 (2).

3. Compensation for damages incurred during the implementation of this Agreement shall be in accordance with the applicable laws and regulations.

#### Article 6

##### Intellectual property rights

Treatment of information, industrial property and copyright connected with the cooperation activities under this Agreement shall take place in accordance with the Annexes.

#### Article 7

##### Settlement of disputes

1. Subject to the laws and regulations applicable, the Parties shall endeavour to settle all questions connected with this Agreement through negotiations between themselves.

2. Any dispute arising out of the interpretation of this Agreement, including its Annexes, which is not settled by negotiation between the Parties, shall be submitted, at the request of either of them, to an arbitral tribunal which shall be composed of three arbitrators appointed in accordance with the provisions of this Article.

3. Each Party shall designate one arbitrator, who may be a national of Argentina or of a Member State of the Community. The two arbitrators so designated shall elect a third, who shall be a national of a country other than Argentina or a Member State of the Community, and shall be the Chairman.

If, within thirty days of the request of arbitration, a Party has not designated an arbitrator, the other Party may request the President of the International Court of Justice to appoint an arbitrator. The same procedure shall apply if, within thirty days of the designation of the second arbitrator, the third one has not been designated.

4. The majority of the members of the tribunal shall constitute a quorum. All decisions shall be taken by the affirmative vote of the majority of the members of the tribunal. The decisions of the tribunal, including all its decisions related to its own installation and constitution, procedure, jurisdiction and distribution of the expenses of the arbitration among the Parties, shall be mandatory for both Parties and shall be implemented by them.

*Article 8***Joint meetings**

The Parties shall meet at regular intervals, in order

- to review and assess the state of cooperation under this Agreement and prepare periodic reports thereon,
- to determine by mutual agreement the specific tasks to be undertaken under this Agreement, without prejudice to the taking of autonomous decisions by the Parties on their respective programmes,
- to consult on nuclear questions of mutual interest and on any significant matters relating to the envisaged cooperation.

*Article 9***Final provisions**

1. This Agreement shall enter into force on the date which the Parties shall specify, by an exchange of diplomatic notes, and shall remain in force for an initial period of ten years<sup>(1)</sup>.

2. Thereafter, this Agreement shall be automatically renewed for five-year periods, unless either Party, by written notice, requests its termination or renegotation not later than six months prior to the expiry date.

3. In the event of termination or renegotiation, this Agreement shall remain in force in its previous form with respect to cooperation activities effectively entered into prior to the requests for termination or renegotiation until the end of such activities and related implementing arrangements or for one calendar year after the expiry of this Agreement in its previous form, whichever is the earlier.

4. Termination of this Agreement shall not affect the rights and obligations under Article 6.

*Article 10***Authentic languages**

This Agreement shall be drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish and Swedish languages, each text being equally authentic.

<sup>(1)</sup> This Agreement enters into force on 29 October 1997.

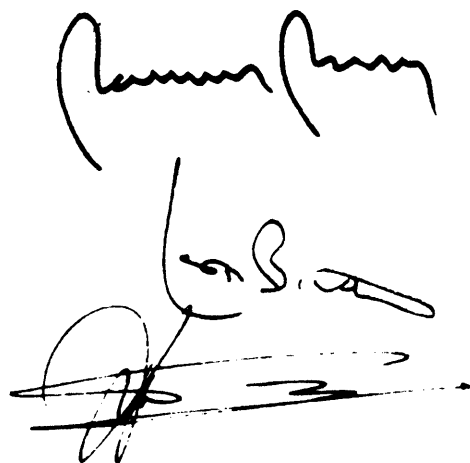
Done at Brussels, 11 June 1996, in duplicate, in the Spanish language,

*For the European Atomic Energy Community*

*For the Government of the Republic of Argentina*

and at Brussels, this twenty-seventh day of June 1997, in duplicate, in the Danish, German, Greek, English, French, Italian, Dutch, Portuguese, Finnish and Swedish languages, all eleven languages being equally authentic.

*For the European Atomic Energy Community*

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the bottom.

*For the Government of the Republic of Argentina*

A handwritten signature in black ink, featuring a large, sweeping stroke that curves upwards and to the right.

## ANNEX I

**Guiding principles on the allocation of intellectual property rights resulting from joint research under the agreement for cooperation in the field of nuclear energy****I. OWNERSHIP, ALLOCATION AND EXERCISE OF RIGHTS**

1. All research carried out pursuant to this Agreement shall be 'joint research'. The participants shall jointly develop joint technology management plans (TMPs) in respect of the ownership and use, including publication, of information and Intellectual Property (IP) to be created in the course of joint research. Those plans shall be approved by the Parties before the conclusion of any specific R&D cooperation contracts to which they refer. The TMPs shall be developed taking into account the aims of the joint research, the relative contributions of the participants, the advantages and disadvantages of licensing by territory or for fields of use, requirements imposed by laws applicable and other factors deemed appropriate by the participants. The rights and obligations concerning the research generated by visiting researchers in respect of IP shall also be addressed in the joint technology management plans.
2. Information or IP created in the course of joint research and not addressed in the technology management plan shall be allocated, with the approval of the Parties, according to the principles set out in the technology management plan. In case of disagreement, such information or IP shall be owned jointly by all the participants involved in the joint research from which the information or IP results. Each participant to whom this provision applies shall have the right to use such information or IP for his own commercial exploitation with no geographical limitation.
3. Each Party shall ensure that the other Party and its participants may have the rights to IP allocated to them in accordance with these principles.
4. While maintaining the conditions of competition in areas affected by the Agreement, each Party shall endeavour to ensure that rights acquired pursuant to this Agreement are exercised in such a way as to encourage in particular:
  - (i) the dissemination and use of information created, disclosed, or otherwise made available, under the Agreement;
  - (ii) the adoption and implementation of international standards.

**II. COPYRIGHT WORKS**

Copyright belonging to the Parties or to their participants shall be accorded treatment consistent with the Berne Convention (1971 Paris Act).

**III. SCIENTIFIC LITERARY WORKS**

Without prejudice to Section IV, unless otherwise agreed in the TMP, publication of results of research shall be made jointly by the Parties or participants to that joint research. Subject to the foregoing general rule, the following procedures shall apply:

1. In the case of publication by a Party, or public bodies of that Party, of scientific and technical journals, articles, reports, books, including video and software, arising from joint research pursuant to this Agreement, the other Party shall be entitled to a worldwide, non-exclusive, irrevocable, royalty-free licence to translate, reproduce, adapt, transmit and publicly distribute such works.
2. The Parties shall ensure that literary works of a scientific character arising from joint research pursuant to this Agreement and published by independent publishers shall be disseminated as widely as possible.
3. All copies of a copyright work to be publicly distributed and prepared under this provision shall indicate the names of the author(s) of the work unless an author or authors expressly declines or decline to be named. They shall also bear a clearly visible acknowledgement to the co-operative support of the Parties.

#### IV. UNDISCLOSED INFORMATION

##### A. Documentary undisclosed information

1. Each Party or its participants, as appropriate, shall identify at the earliest possible moment, and preferably in the technology management plan, the information that it wishes to remain undisclosed in relation to this Agreement, taking account *inter alia* of the following criteria:
  - secrecy of the information in the sense that the information is not, as a body or in the precise configuration or assembly of its components, generally known among, or readily accessible by lawful means to, experts in the field,
  - the actual or potential commercial value of the information by virtue of its secrecy,
  - previous protection of the information in the sense that it has been subject to steps that were reasonable under the circumstances by the person lawfully in control, to maintain its secrecy.

The Parties and the participants may in certain cases agree that, unless otherwise indicated, parts or all of the information provided, exchanged or created in the course of joint research pursuant to the Agreement may not be disclosed.

2. Each party shall ensure that undisclosed information under this Agreement and its ensuing privileged nature is readily recognizable as such by the other Party, for example by means of an appropriate marking or restrictive legend. This also applies to any reproduction of the said information, in whole or in part.

A Party receiving undisclosed information pursuant to the Agreement shall respect the privileged nature thereof. These limitations shall automatically terminate when this information is disclosed by the owner without restriction to experts in the field.

3. Undisclosed information communicated under this Agreement may be disseminated by the receiving Party to persons within or employed by the receiving party, and other concerned departments or agencies in the receiving Party authorized for the specific purposes of the joint research under way provided that any undisclosed information so disseminated shall be pursuant to an agreement of confidentiality and shall be readily recognizable as such, as set out above.
4. With the prior written consent of the Party providing undisclosed information under this Agreement, the receiving Party may disseminate such undisclosed information more widely than otherwise permitted in paragraph 3. The Parties shall cooperate in developing procedures for requesting and obtaining prior written consent for such wider dissemination, and each Party shall grant such approval to the extent permitted by its domestic policies, regulations and laws.

##### B. Non-documentary undisclosed information

Non-documentary undisclosed or other confidential or privileged information provided in seminars and other meetings arranged under this Agreement, or information arising from the attachment of staff, use of facilities, or joint projects, shall be treated by the parties or their participants according to the principle specified for documentary information in the Agreement, provided, however, that the recipient of such undisclosed or other confidential or privileged information has been made aware of the confidential character of the information communicated at the time such communication is made.

##### C. Control

Each Party shall endeavour to ensure that undisclosed information received by it under this Agreement shall be controlled as provided therein. If one of the parties becomes aware that it will be, or may reasonably be expected to become, unable to meet the non-dissemination provisions of paragraphs A and B, it shall immediately inform the other Party. The parties shall thereafter consult to define an appropriate course of action.

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*ANNEX II***DEFINITIONS**

1. 'INTELLECTUAL PROPERTY': shall have the meaning found in Article 2 of the Convention establishing the World Intellectual Property Organization, done at Stockholm on 14 July 1967.
2. 'PARTICIPANT': any natural or legal person, including the parties themselves, participating in a project under this Agreement.
3. 'JOINT RESEARCH': research implemented and/or funded by the joint contributions of the Parties and with collaboration from participants of both Parties, where appropriate.
4. 'INFORMATION': scientific or technical data, results or methods of research and development stemming from the joint research and any other information deemed necessary by the Parties and/or participants engaged in the joint research to be provided or exchanged under this Agreement or research pursuant thereto.

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*ANNEX III***INDICATIVE FEATURES OF A TECHNOLOGY MANAGEMENT PLAN (TMP)**

The TMP is a specific agreement to be concluded between the participants, about the implementation of joint research and the respective rights and obligations of the participants. With respect to intellectual property rights, the TMP will normally address, inter alia: ownership, protection, user rights for R&D purposes, exploitation and dissemination, including arrangements for joint publication, the rights and obligations of visiting researchers and dispute settlements procedures. The TMP may also address foreground and background information, licensing and deliverables.

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