

ATOMIC ENERGY

Peaceful Uses of Nuclear Energy

Agreement Between the
UNITED STATES OF AMERICA
and the **PEOPLE'S REPUBLIC OF CHINA**

Signed at Beijing June 29, 1998

with

Annex



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . . the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

PEOPLE'S REPUBLIC OF CHINA

Atomic Energy: Peaceful Uses of Nuclear Energy

*Agreement signed at Beijing June 29, 1998;
Entered into force June 29, 1998.
With annex.*

**AGREEMENT BETWEEN
THE DEPARTMENT OF ENERGY OF THE UNITED STATES OF AMERICA
AND THE
STATE DEVELOPMENT PLANNING COMMISSION OF
THE PEOPLE'S REPUBLIC OF CHINA
ON
COOPERATION CONCERNING
PEACEFUL USES OF NUCLEAR TECHNOLOGIES**

The Department of Energy (DOE) of the United States of America and the State Development Planning Commission of the People's Republic of China (hereinafter referred to as the "Parties"):

Recognizing that the United States of America and the People's Republic of China are parties to the Treaty on the Non-Proliferation of Nuclear Weapons;

Reaffirming the Agreement for Cooperation Between the Government of the United States of America and the Government of the People's Republic of China Concerning Peaceful Uses of Nuclear Energy , signed on July 23, 1985; and

Noting the Agreement of Intent on Cooperation Concerning Peaceful Uses of Nuclear Technology Between the Department of Energy of the United States of America and the State Planning Commission of the People's Republic of China, signed on October 29, 1997; and

Wishing to enter into long-term cooperation in the peaceful uses of nuclear technologies;

Have agreed as follows:

ARTICLE I

1. Cooperation between the Parties in activities supporting peaceful nuclear technologies shall be directed towards exchanging information on, and finding solutions to mutually agreed problems. This cooperation may include the exchange of experience and results of theoretical, experimental, and conceptual design programs, and mutually agreed research and development projects. Cooperation between the two Parties shall be on the basis of mutual benefit, equality, and reciprocity.
2. Cooperation under this Agreement shall be carried out subject to the Agreement for Cooperation Between the Government of the United States of America and

the Government of the People's Republic of China Concerning Peaceful Uses of Nuclear Energy, signed July 23, 1985, and shall be in accordance with the laws and regulations of the respective countries.

3. Any technology transferred or acquired pursuant to this Agreement shall be used only for peaceful purposes.

ARTICLE II

The areas of cooperation covered by this Agreement may include the following:

1. Current and advanced light-water nuclear power reactors technologies including:
 - Reactor neutronics analysis and experimentation, including reactor and plant shielding and nuclear data;
 - Reactor and plant safety, including safety standards, system safety analysis, severe accidents analysis, and accident management;
 - Fuels and materials, including structural, component, absorber and circuit materials, long-life fuel and clad materials, reduced enrichment research reactor fuels and fuels which could tend to reduce or eliminate the production of material directly usable in nuclear explosive devices;
 - Nuclear steam supply systems and their associated components and equipment, including design standard, component, equipment, and system design, thermal hydraulics and structural analysis;
 - Engineered safety features and their associated components, including design standard, component and system design, structural analysis;
 - Reactor building, including containment design, structural and architectural analysis;
 - Instrumentation and control, application of computer science, including advanced digitization control and protection systems;
 - Quality assurance, non-destructive inspection practices and in-service inspection technologies;
 - Plant operation and management technology;
 - Economic methodology and evaluation technology;

- Plant aging and life extension;
 - Reactor deactivation and decommissioning, including fuel treatment and storage;
 - Nuclear material transportation, including transportation of spent fuel, and shipping casks;
 - Irradiation technology and advanced techniques in isotope production;
 - Technology and programs to enhance nuclear safety, including associated nuclear and environmental impact assessments;
2. Prevention and treatment of radiation occupational disease, and application of radiation technology and radioactive isotopes to medicine;
 3. Radiation protection/health physics;
 4. Environmental remediation, radioactive and chemical waste management, and spent fuel management;
 5. Export control of nuclear and nuclear related materials, equipment and technologies; nuclear materials protection, control and accounting; physical security of nuclear materials, equipment and technologies; and technology development for enhancement of international nuclear safeguards;
 6. Such other related areas of cooperation as may be added by written agreement of the Parties.

ARTICLE III

Cooperation under this Agreement with respect to the areas listed in Article II, may include but is not limited to the following forms:

1. Exchange of views and information;
2. Organization of, and participation in, seminars, workshops, and other meetings;
3. Exchange of scientists, engineers, and other specialists for agreed periods of time for cooperative training, participation in experiments, analysis, design, and other research, development and demonstration activities at scientific centers, academic institutions, nuclear reactor facilities, laboratories, engineering offices, and other facilities of the Parties or of contractors of the Parties;

4. Exchange, provision, or loan of samples, materials, instruments, components, and equipment for experiments, testing, and evaluation;
5. Short-term visits by specialist teams or individual staff to the civil nuclear facilities and non-nuclear facilities in support of the programs of the other Party, as may be agreed by the Parties, subject to the prior written agreement on each occasion by the Receiving Party;
6. The use by one Party of the facilities owned or operated by the other Party. Such use of facilities shall be the subject of separate written agreements between the Parties;
7. Joint projects, including research and development, in which the Parties agree to share the work and/or costs. Each such joint project shall be the subject of an itemized written implementing arrangement between the Parties in accordance with Article VI in this Agreement; and
8. Such other specific forms of cooperation as may be agreed by the Parties and approved by the Joint Coordinating Committee established pursuant to Article V.

ARTICLE IV

The Parties may invite additional public or private organizations within their respective countries or organizations within the other country with permission of the other Party to participate in activities under this Agreement. The related expenses will be set in the itemized written implementing arrangement.

ARTICLE V

1. To supervise and coordinate the implementation of this Agreement, a Joint Coordinating Committee on Cooperation in Peaceful Uses of Nuclear Technologies shall be established. Each Party will have one vote in the Joint Coordinating Committee and each Party may designate up to five members to participate in any Joint Coordinating Committee meeting. The Committee shall meet alternately in China and the United States, as mutually agreed by the Joint Coordinating Committee. The Head of the Delegation of the Host Party shall act as Chairman during meetings of the Committee. In addition, each Party shall have the right to invite advisors to such meetings, as necessary.
2. At its meetings, the Joint Coordinating Committee shall develop, review, and approve proposals for cooperation under this Agreement and evaluate their status.
3. For the detailed management of the cooperation, joint working groups may be appointed by the Joint Coordinating Committee to cover cooperation undertaken in areas listed in

Article II. Each joint working group shall agree on specific plans for cooperation in its respective area, within guidelines set by the Joint Coordinating Committee.

ARTICLE VI

The Parties shall conclude an itemized written implementing arrangement for each joint project which they agree to undertake pursuant to Article III(7). Each such itemized written implementing arrangement shall be subject to the provisions of this Agreement and shall contain appropriate provisions, on technical scope, management, costs, cost sharing, liability, and schedule.

ARTICLE VII

1. The Parties shall exchange, as agreed on a mutually beneficial basis, scientific and technical information and results of research and development carried out under this Agreement. Such information shall be limited to that which they have the right to disclose, either in their possession or available to them, from the areas described in Article II.
2. Seminar proceedings and reports of joint scientific and technical activities carried out under this Agreement shall be published as joint publications, as mutually agreed by the Parties.
3. The scientific and technical information developed and exchanged under this Agreement is to be given wide distribution. Such information, except as noted in Annex I of this Agreement, may be made available to the public by either Party through customary channels and in accordance with normal procedures of that Party.
4. Copyrights of either Party or of cooperating organizations and persons shall be accorded treatment consistent with internationally recognized standards of protection treaties and conventions to which both the United States of America and the People's Republic of China are parties. As to copyrights of material within the scope of Annex I, owned or controlled by a Party, each Party shall make efforts to grant to the other a license to reproduce copyrighted materials.
5. The application or use of any scientific and technical information exchanged or transferred between the Parties under this Agreement shall be the responsibility of the Party receiving it, and the transmitting Party does not warrant the suitability of such information for any particular use or application.
6. Protection and distribution of intellectual property rights and other rights of a "business confidential" nature are set forth in Annex I. Annex I is applicable to any cooperative

activities under this Agreement, except as otherwise specifically agreed by the Parties in implementing arrangements.

ARTICLE VIII

Before the related international convention on compensation for nuclear damage is in force for both the United States of America and the People's Republic of China, with respect to a nuclear incident resulting from activities undertaken pursuant to this Agreement, the Party in whose territory the nuclear incident occurs shall:

1. Be solely responsible for and deal with, in accordance with its laws or regulations, the compensation for legal liability for nuclear damage to third parties resulting from the nuclear incident.
2. Ensure that the other Party, its organizations and personnel, its contractors and subcontractors, at any tier, are held harmless and do not incur any costs, in any court or forum, as a result of the nuclear incident.
3. Bring no claims or other legal proceedings, in any court or forum, against the other Party, its organizations and personnel, its contractors and subcontractors, at any tier, for the compensation for legal liability for nuclear damage resulting from the nuclear incident.

ARTICLE IX

The following provisions shall apply to assignment or exchanges of personnel:

1. Each Party shall ensure that qualified personnel are selected for assignment to the other Party. Each personnel exchange shall be the subject of a separate itemized written implementing agreement between the Parties.
2. The Assigning Party shall be responsible for its personnel's salaries and insurance. Each itemized written implementing arrangement shall make specific provisions for other expenses of personnel.
3. Each Party shall arrange for adequate accommodations for the other Party's assigned personnel and their families on a mutually agreeable, reciprocal basis.
4. Each Party shall provide all necessary assistance to assigned personnel and their families as regards administrative formalities.
5. Itemized written implementing agreements shall address general rules of work and safety of assigned personnel.

ARTICLE X

1. Except when the Parties otherwise agree in writing, each Party shall bear the costs of its participation in the activities under this Agreement.
2. Cooperation under this Agreement shall be subject to the availability of personnel and funds.

ARTICLE XI

1. This Agreement shall enter into force upon signature, remain in force for five years, and be automatically renewed for further five-year periods unless either Party notifies the other in writing at least six months prior to the expiration of the first five-year period or each succeeding five-year period of its intent to terminate the Agreement.
2. Any questions of interpretation or implementation relating to this Agreement arising during its term shall be resolved by agreement of the Parties.
3. The Agreement may be amended by mutual written agreement of the Parties.
4. Upon consultation, this Agreement may be terminated at any time by either Party, upon one year's advance notification in writing. Such termination shall be without prejudice to the rights which may have accrued under this Agreement to either Party up to the date of such termination.
5. Joint activities not completed at the termination of this Agreement may, if agreed by the Parties, be continued until their completion under the terms of the Agreement.

Done, in duplicate, at *Beijing*, in the English and Chinese texts, both versions being equally authentic, this *27th* day of *June*, 1998.

FOR THE DEPARTMENT OF ENERGY OF THE UNITED STATES OF AMERICA:	FOR THE STATE DEVELOPMENT PLANNING COMMISSION OF THE PEOPLE'S REPUBLIC OF CHINA:
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[Signature]

[Signature]

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ANNEX I - INTELLECTUAL PROPERTY

Pursuant to Article VII of this Agreement;

The Parties shall ensure adequate and effective protection of intellectual property created or furnished under this Agreement and relevant implementing arrangements. 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 Annex.

I. SCOPE

A. This Annex 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 Annex 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 Annex, by obtaining those rights from its own participants through contracts or other legal means, if necessary. Between a Party and its nationals, the ownership of rights and interests in intellectual property will be determined in accordance with that Party's national 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 international arbitration rules. Unless the Parties or their designees agree otherwise in writing, the arbitration rules of UNCITRAL shall govern.

E. In order to protect copyrighted works created under this Agreement, both Parties shall protect unpublished works against their unauthorized publication and guarantee that, when published, copies of works will be marked with an agreed upon, distinguishing indication as provided in Appendix I to this Intellectual Property Annex. If one Party, according to its laws, cannot provide protection to the other's works published in non-member countries of the Berne Convention or the UCC, the participating institution of that Party shall make the best efforts to assist the other Party in publishing in a Berne or UCC member within 30 days of publication, unless copies of the published work are not received by that institution in a timely manner.

F. For purposes of this Agreement, the term "published works" means works published with the consent of their authors, whatever may be the means of the manufacture of the copies, provided that the availability of such copies has been such as to satisfy the reasonable requirements of the public, having regard to the nature of the work.

G. Termination or expiration of this Agreement shall not affect rights or obligations under this Annex.

H. Provision of any computer program, whether in application program or operating systems format and whether in source or object code, by one Party [the Providing Party] to the other Party [the Receiving Party] under this Agreement is contingent on the availability of copyright protection for that program in the territory of the Receiving Party that is generally equivalent to the protection to which it is entitled in the territory of the Providing Party.

II. 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 Section II.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 to 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 participating personnel have agreed in advance on the scope of work, each Party shall be entitled to obtain all rights and interests in its own territory. Rights and interests in third countries will be determined in implementing arrangements. If the research is not designated as "joint research" in the relevant implementing arrangements, rights to intellectual property arising from the research will be allocated in accordance with paragraph II.B.1. In addition, persons named as inventors shall be entitled to national treatment with regard to awards, bonuses, benefits, or any other rewards in accordance with the policies of the participating institutions.

[b] Notwithstanding the first paragraph above, if a type of intellectual property is protected under the laws of one Party but not the other Party, unless other allocation arrangements are agreed upon by both Parties, the Party whose laws provide for protection shall be entitled to all rights and interests in the Party's own territory and in third countries. Persons named as inventors shall nonetheless be entitled to national treatment with regard to awards, bonuses, benefits, or any other rewards in accordance with the policies of the participating institution of the Party obtaining rights.

3. [a] For inventions made as a result of a program of cooperative activity that involves only the transfer or exchange of information between the Parties, such as by joint meetings, seminars or the exchange of technical reports or papers, the Party whose personnel make the invention (the inventing Party) has the right to obtain all rights and interests in the invention in all countries.

[b] In any country where the inventing Party decides not to obtain such rights and interests, the other Party has the right to do so.

III. BUSINESS-CONFIDENTIAL INFORMATION

In the event that information identified in a timely fashion as business-confidential is furnished or created under the Agreement, each Party and its participants shall protect such information in accordance with applicable laws, regulations, and administrative practice. 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.

APPENDIX I

The United States of America marking for the People's Republic of China works:

"This work [or article, book, computer program, etc. as appropriate] first published (date), in (country), was created in cooperative activities under the Agreement Between the Department of Energy of the United States of America and the State Development Planning Commission of the People's Republic of China on Cooperation Concerning Peaceful Uses of Nuclear Technologies. The authors authorize reproduction of this work, for scholarship, research, and private study, subject to any licenses granted under this Agreement."

The People's Republic of China marking for the United States of America works:

"This work [or article, book, computer program, etc. as appropriate] first published (date), in (country), was created in cooperative activities under the Agreement Between the State Development Planning Commission of the People's Republic of China and the Department of Energy of the United States of America on Cooperation Concerning Peaceful Uses of Nuclear Technologies. The authors authorize reproduction of this work, for scholarship, research, and private study, subject to any licenses granted under this Agreement."

**中华人民共和国国家发展计划委员会
和美利坚合众国能源部
和平利用核技术合作协定**

中华人民共和国国家发展计划委员会和美利坚合众国能源部（下称双方）：

认识到中华人民共和国和美利坚合众国均是《不扩散核武器条约》的缔约国；

重申中华人民共和国政府和美利坚合众国政府于 1985 年 7 月 23 日签署的和平利用核能合作协定；

注意到中华人民共和国国家计划委员会和美利坚合众国能源部于 1997 年 10 月 29 日签署的关于和平利用核技术合作的意向性协议；

希望在和平利用核技术方面进行长期合作；

双方同意：

第一条

- 1、双方在和平利用核技术的活动中的合作应旨在就双方议定的问题交换信息和寻找解决办法。该合作可以包括在理论、实验和概念设计以及双方议定的研究和开发项目方面交流经验和成果。双方的合作应建立在互利、平等和互惠

的基础上。

- 2、实施本协定下的合作应符合中华人民共和国政府和美利坚合众国政府于 1985 年 7 月 23 日签署的和平利用核能合作协定，并且应遵循各自国家的法律和法规。
- 3、任何根据本协定转让或获得的技术只能用于和平目的。

第二条

本协定可包括如下合作领域：

- 1、现有的和先进的核动力轻水反应堆技术，包括：
 - 反应堆中子物理分析和实验，包括反应堆和电厂的屏蔽及核数据；
 - 反应堆及核电厂安全，包括安全标准、系统安全分析、严重事故分析及事故管理；
 - 燃料和材料，包括结构材料、部件材料、吸收体材料及回路材料；长寿期燃料和包壳材料；低浓化研究堆燃料以及能减少或消除直接用于核爆炸装置的材料生产的燃料；
 - 核蒸汽供应系统及其相关部件和设备，包括设计标准、部件、设备和系统设计、热工水力分析和结构分析；
 - 工程安全设施及其相关设备，包括设计标准、设备和系统设计，结构分析；
 - 反应堆厂房，包括安全壳的设计及结构分析和建筑分析；
 - 仪表和控制、计算机科学的应用，包括先进的数字化控制及保护系统；
 - 质量保证、无损检测和在役检查技术；

- 核电厂运行和管理技术;
 - 经济分析方法和评价技术;
 - 电厂老化和寿命延长;
 - 反应堆去污和退役, 包括燃料处理和存贮;
 - 核材料的运输, 包括乏燃料运输及运输容器;
 - 辐照技术和同位素的先进生产技术;
 - 加强核安全的技术和计划, 包括与核有关的核安全和环境影响评价;
- 2、辐射职业病防治, 辐射技术及放射性同位素在医学上的应用;
 - 3、辐射防护/保健物理学;
 - 4、环境补救、放射性和化学废物管理和乏燃料管理;
 - 5、核及与核有关的材料、设备和技术的出口控制; 核材料保护、控制和衡算; 核材料、设备和技术的实体保护; 以及促进国际核保障监督的技术开发;
 - 6、双方可通过书面协议而增加的其他相关合作领域。

第三条

根据第二条所列范围, 本协定的合作可包括但不限于下列形式:

- 1、交流观点和信息;
- 2、组织及参加研讨会、专题讨论会及其它会议;
- 3、在议定的时限内, 互换科学家、工程师和其他专家, 以便进行合作培训及在双方的或双方签约人的科研中心、学术机构、核反应堆设施、实验室、工程部门及其它设施, 参

与实验、分析、设计和其它科研、开发和演示活动;

- 4、交换、提供或借用用于实验、试验和评估的样品、材料、仪器、设备和装备等;
- 5、在每次与接待一方事先达成书面协议的情况下,一方可派遣专家组或工作人员对另一方的民用核设施和非核设施进行短期访问,以支持另一方的计划;
- 6、一方使用另一方拥有或运行的设施。此种设施的使用应由双方另行达成的书面协议规定;
- 7、联合研究和开发项目,双方同意分担工作和/或开支,并将根据本协定第六条对每个联合项目另行达成分项书面实施安排。
- 8、双方议定并经本协定第五条设立的联合协调委员会批准的此类其它具体的合作形式。

第四条

双方可以邀请本国的或在另一方同意下邀请另一国的其他公有或私人组织参加本协定中的活动。有关费用在分项书面实施安排中另行确定。

第五条

- 1、为监督和协调本协定的实施,设立一个关于和平利用核技术合作的联合协调委员会。在该委员会中双方各有一票表决权,并各指定最多五人参加委员会会议。委员会会议在委员会同意的情况下在中国和美国轮流举行。东道国代表团团长担任委员会会议的主席。另外,如有必

要，各方有权邀请顾问出席该会。

- 2、联合协调委员会将在会议上提出、审议和批准本协定下的合作提案并对其状况进行评估。
- 3、在合作的具体管理问题上，联合协调委员会可以任命联合工作组从事第二条所列的合作领域的合作。根据联合协调委员会制定的原则，联合工作组应在各自的领域内对具体计划取得一致。

第六条

根据第三条第七款，双方应为其同意进行的每个联合项目达成一项分项书面实施安排。每项分项书面实施安排应符合本协定条款，还应包括关于技术范围、管理、费用、费用分摊、责任和时间表的适当规定。

第七条

- 1、双方同意在互利的基础上，交换科技信息及根据本协定开展的研究和开发成果。此种信息仅限于那些在第二条所列范围内的，双方本身拥有的或可得到的且有权透露的信息。
- 2、经双方同意，根据本协定执行的研讨会文集和联合科技活动报告可作为联合出版物出版。
- 3、根据本协定开发和交流的科技信息应得到广泛传播。任何一方可以通过通常的渠道并遵照各自的正常程序，公布除本协定附件一所列之外的信息。
- 4、任何一方或合作组织及人员的版权应得到与国际公认的、

中华人民共和国和美利坚合众国共同参加的条约和公约的保护标准相一致的待遇。至于在附件一范围内的、不论是由一方拥有或控制的资料的版权，一方应努力向对方发放许可证，以再版受版权保护的资料。

- 5、应用或使用任何双方根据本协定交换或转让的科技信息应是接受方的责任，提供方不保证此类信息对任何特定用途具有适用性。
- 6、附件一规定了知识产权和其它带有商业秘密性质的权利的保护和传播。附件一适用于在本协定下的任何合作活动，除非双方在实施安排中另有具体商定。

第八条

在有关的核损害赔偿国际公约对中华人民共和国和美利坚合众国都生效以前，仅对根据本协定进行的活动所引起的核事故，该事故发生地所在方应：

- 1、根据本国的法律或法规，对由核事故造成的对第三方的核损害的法律赔偿责任负完全责任并进行处理；
- 2、保证对方及对方的各类组织和各级人员、合同方、分合同方不因这一核事故而在任何法院或法庭受到伤害及蒙受损失。
- 3、不在任何法院或法庭对对方及对方的各类组织和各级人员、合同方、分合同方，对由核事故造成的核损害而引发的法律责任赔偿，提出索赔或其他法律诉讼。

第九条

下列条款适用于人员派遣或交流：

- 1、一方应保证为另一方选派合格的人员。每一次人员交流计划都应由双方在每一个分项书面实施安排中另行规定。
- 2、派遣方应负责为其人员提供工资和保险。在每一个分项书面实施安排中应对人员的其它费用确定具体条款。
- 3、一方应在双方同意的互惠基础上为对方派遣的人员及其家属安排足够的住房。
- 4、每一方应在行政手续上向派遣人员及其家属提供所有必要的帮助。
- 5、在分项书面实施安排中将规定被派人员的工作及安全守则。

第十条

- 1、除非双方另有明文同意，每一方应承担其在本协定下参与活动的费用。
- 2、本协定下的合作取决于能否获得人员和资金。

第十一条

- 1、本协定自签字之日起生效，有效期五年。除非一方在协定第一个五年期失效前或以后的每一个五年期失效前至少六个月以书面通知对方其终止本协定的意向，本协定将自动延续五年。

- 2、对本协定在有效期内有关的条款的解释及执行中所产生的任何问题由双方协商一致解决。
- 3、在双方书面协议下，可对本协定进行修改。
- 4、在磋商之后，只要以书面形式提前一年通知，任何一方可在任何时候终止本协定。终止协定不应损害任何一方在终止日期前由本协定产生的权利。
- 5、如双方同意，在协定终止时尚未完成的联合活动可以继续，直至按本协定条款完成为止。

本协定于一九九八年六月二十九日在北京签订，一式两份，每份都用中文和英文写成，两种文本同等作准。

中华人民共和国
国家发展计划委员会

代 表

张同宝

98-29/6

美利坚合众国
能 源 部

代 表

Robert F. Anderson

附件 一 知 识 产 权

根据本协定第七条：

双方保证对本协定和有关实施协议下产生或提供的知识产权予以充分、有效的保护。双方同意将本协定下产生的发明或版权作品及时通知对方，以寻求对该知识产权的适时保护。该知识产权根据本附件的规定分配。

一、范 围

（一）本附件适用于根据本协定进行的所有合作活动，但双方或其指定者另有专门协议的除外。

（二）本协定所称的“知识产权”是指一九六七年七月十四日在斯德哥尔摩缔结的《建立世界知识产权组织公约》第二条所包含的内容。

（三）本附件规定了权利和利益在双方之间的分配办法。任何一方应保证另一方能够获得根据本附件享有知识产权的权利，必要时可以通过合同或其他法律手段从本国参与者处取得有关权利。在一方和其公民之间，知识产权的所有权和利益的归属，根据本国法律和惯例决定。

（四）本协定下知识产权争议应当由参加合作的机构之间通过协商解决。必要时也可以通过双方或其指定者讨论解决。经双方同意，可将争议提交仲裁法庭根据适用的国际仲裁规则进行有约束力的仲裁。除双方或其指定者另有书面协

议外，仲裁适用联合国国际贸易法委员会仲裁规则。

（五）为了保护本协定下产生的版权作品，双方应防止非授权出版未发表的作品，并保证作品发表的版本上注以本附件的附录一所约定的识别标记。如一方，根据其法律，不能对另一方在非《伯尔尼公约》或《世界版权公约》成员国出版的作品提供保护，此方的参与机构应尽最大努力协助另一方在三十个出版日内在《伯尔尼公约》或《世界版权公约》成员国出版该作品，除非参与机构未能及时收到作品复制件。

（六）本协定所称的“发表作品”，其含义是指经作者同意发表的作品，不论该作品以何种方式复制，其可获得性应当根据作品的性质满足公众合理的需要。

（七）本协定终止或期满不影响本附件下的权利或义务。

（八）本协定下一方（提供方）向另一方（接受方）所提供的计算机程序，不论是应用程序还是操作系统程序，也不论是源码形式还是目标码形式，在接受方领土内得到的版权保护应基本相当于提供方领土内的版权保护。

二. 权 利 分 配

（一）在本协定的合作中直接产生的科技刊物论文、报告和书籍，各方在所有国家享有非独占的、不可撤销的、免收版税的翻译权、复制权和公开发行人权，所有根据本条公开发行的版权作品版本应注明作者姓名，但作者明示不署名的除外。

(二) 除上述第二部分的第(一)条所规定的权利外,各种形式的知识产权按照以下规定分配:

1、访问研究人员,例如以进修为主的访问科技人员,应当按照东道研究机构的政策取得知识产权。此外,每一个被认定为发明者的访问研究人员应根据东道机构政策在奖励、津贴、福利和其他的报酬方面享有国民待遇。

2、之一,在合作研究中产生的知识产权,例如双方或其参加的机构、人员事先约定了工作范围的合作研究,各方在本国领土内有权获得该知识产权的所有权益,在第三国的权益通过实施协议决定。如果相关的实施安排中未约定研究为“合作研究”,研究中产生的知识产权则按照上述第1项的规定分配。此外,被认定为发明者的人员有权按参与机构的政策,在奖励、津贴、福利和其他的报酬方面享有国民待遇。

之二,虽有上述第2项之一的规定,但如果对某种知识产权,一方的法律对其提供保护,另一方的法律不提供保护,除双方就权利分配另有约定外,法律提供保护的一方享有该知识产权在本国和第三国的所有权益。但被认定为发明者的人员根据参与机构的政策,在奖励、津贴、福利和其他的报酬方面享有国民待遇。

3、之一,如果一项发明是合作活动的产物,但这一合作仅仅涉及双方通过诸如联合会议、研讨会、交换技术报告或论文的形式进行的信息交换传递,发明人所属的一方(发明方)有权在所有国家取得该项发明的一切权益。

之二,在任何国家,发明方决定不获取该项权益的,则另一方有权取得。

三. 商业秘密信息

如果被及时确认为商业秘密的信息是在本协定下提供或产生的，各方及其参加合作者应根据所适用的法律、法规和行政惯例对其进行保护。符合以下条件的信息可以确认为商业秘密：该信息的拥有者可以从中获得经济利益或据此取得对非拥有者的竞争优势；该信息是非普遍知晓的或不能从其他公开渠道获得；该信息的所有者未曾在没有及时作出保密义务安排的情况下将其提供他人。

附录一

中华人民共和国在美国作品上标明:

本作品（文章、书籍、计算机程序，或其他适当作品），第一次出版于（日期），（国家），是根据《中华人民共和国国家发展计划委员会和美利坚合众国能源部和平利用核技术合作协定》所进行的合作活动所创。作者授权为学术、研究、个人研究而再版此作品，接受由本协定所授予的任何许可证制约。

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