

NUCLEAR ENERGY

Safety

**Agreement Between the
UNITED STATES OF AMERICA
and JAPAN**

Amending Agreement of March 9, 2012

Effectuated by Exchange of Notes at Washington

June 25, 2019

Entered in force June 25, 2019



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.”

Translation

Washington, June 25, 2019

Excellency,

I have the honor to refer to the recent discussions between the representatives of the Government of Japan and the Government of the United States of America concerning the exchange of classified information in the field of research and development of nuclear security.

In consideration of the continuing mutually beneficial cooperation between the two Governments for strengthening nuclear security, and taking into account the arrangement between the Government of Japan and the Government of the United States of America concerning the terms and conditions for cooperation between their appropriate agencies in the field of research and development of: nuclear safety; nuclear regulatory matters; response to nuclear incidents; radioactive waste management; decontamination relating to radioactive substances, and decommissioning of nuclear facilities; nuclear security; nuclear nonproliferation, including safeguards; advanced nuclear reactors and their fuels, materials, and equipment; and the nuclear fuel cycle, effected by the Exchange of Notes of March 9, 2012 (hereinafter referred to as "the 2012 Notes"), and the Agreement between the Government of Japan and the Government of the United States of America Concerning Security Measures for the Protection of Classified Military Information, signed at Tokyo on August 10, 2007, I have the further honor to propose, on behalf of the Government of Japan, the following amendments to the 2012 Notes:

1. The following paragraph shall be added immediately after paragraph 3 of the 2012 Notes and paragraphs 4, 5, 6, and 7 of the 2012 Notes shall be renumbered as paragraphs 5, 6, 7, and 8, respectively:

His Excellency
Mr. Michael R. Pompeo
The Secretary of State
of the United States of America

4. The Cooperation in the field of research and development of nuclear security in the form of exchange of classified information shall be conducted in accordance with the following terms and conditions:

(a) For the purpose of this paragraph:

(i) "nuclear security" means the prevention and detection of and response to, theft, sabotage, unauthorized access, illegal transfer or other malicious acts involving nuclear material, other radioactive substances or their associated facilities; and

(ii) "Classified Nuclear Security Information" means any information in the field of research and development of nuclear security that is generated by or for the use of or held by an agency of either Government and that requires protection in the interests of national security of the Government of the releasing agency, except for "Classified Military Information" as defined in Article 1 of the Agreement between the Government of Japan and the Government of the United States of America Concerning Security Measures for the Protection of Classified Military Information, signed at Tokyo on August 10, 2007 (hereinafter referred to as "the 2007 Classified Military Information Protection Agreement"). Such information may be in any form, including oral, visual, electronic, magnetic, or documentary form.

(b) Notwithstanding this paragraph, "restricted data" or "sensitive nuclear technology" as defined in Article 1 of the Agreement shall not be exchanged under the present arrangement.

(c) The exchange of Classified Nuclear Security Information up to the classification level of "Gokuhi" or "Secret" is permitted under the present arrangement.

- (d) Classified Nuclear Security Information shall be designated with a security classification and, to the extent possible, an appropriate indication to identify such information as Classified Nuclear Security Information. For the agencies of the Government of Japan, Classified Nuclear Security Information shall be marked as "Gokuhi" or "Hi". For the agencies of the Government of the United States of America, Classified Nuclear Security Information shall be marked as "Secret" or "Confidential".

Equivalent classifications shall be as follows:

Japan	United States of America
Gokuhi 極秘	Secret
Hi 秘	Confidential

To the extent possible, each recipient agency shall stamp or mark the name of the Government of the releasing agency on all Classified Nuclear Security Information. To the extent possible, exchanged Classified Nuclear Security Information shall also be marked with the equivalent security classification of the Government of the recipient agency.

- (e) Each Government shall notify the other Government through diplomatic channels of its agencies referred to in (a)(ii) of this paragraph.
- (f) Each Government shall notify the other Government through diplomatic channels of any changes to the applicable laws and regulations in force that would affect the protection of Classified Nuclear Security Information under the present arrangement.
- (g) For the purpose of this paragraph, subparagraph (c) of Article 1, Article 2 and Articles 6 through 18 of the 2007 Classified Military Information Protection Agreement are hereby incorporated into and form part of this present arrangement, mutatis mutandis.

- (h) Nothing in the present arrangement shall be interpreted as requiring agencies of either Government to exchange Classified Nuclear Security Information with agencies of the other Government.
- (i) Notwithstanding sub-paragraph 3(a), the agencies of each Government conducting the exchange of Classified Nuclear Security Information in accordance with this paragraph shall not be required to conclude an implementing arrangement or implementing arrangements setting forth detailed terms and conditions that shall apply to the exchange of such information, unless the agencies determine that concluding an implementing arrangement setting forth further detailed terms and conditions is appropriate for a particular exchange of such information.

2. The following sentence shall be added at the end of renumbered paragraph 8:

Notwithstanding the termination of the present arrangement, all Classified Nuclear Security Information exchanged pursuant to the present arrangement shall continue to be protected in accordance with the provisions of the present arrangement.

I have the further honor to propose that, if the foregoing proposals are acceptable to the Government of the United States of America, this Note and Your Excellency's Note in reply shall constitute an agreement between the two Governments to amend the 2012 Notes, which shall enter into force on the date of Your Excellency's Note in reply.

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

For the Ambassador Extraordinary
and Plenipotentiary of Japan
to the United States of America

Kazutoshi Aikawa

書簡をもって啓上いたします。本使は、核セキュリティの研究開発の分野における秘密情報の交換に關し、日本国政府の代表者とアメリカ合衆国政府の代表者との間で行われた最近の討議に言及する光榮を有します。

本使は、更に、核セキュリティの強化のための相互に有益な協力が両政府間において繼續していることを考慮し、並びに二千十二年三月九日の交換公文によつて行われた原子力の安全、原子力の規制、原子力事故への対応、放射性廃棄物管理、放射性物質に關連する汚染の除去及び原子力施設の廃止、核セキュリティ、核不拡散（保障措置を含む。）、先進的な原子炉並びにその燃料、資材及び設備並びに核燃料サイクルの研究開発の分野における日本国政府の適当な機関とアメリカ合衆国政府の適当な機関との間の協力の條件に關する日本国政府とアメリカ合衆国政府との間の取極（以下「二千十二年の交換公文」という。）及び二千七年八月十日に東京で署名された秘密軍事情報の保護のための秘密保持の措置に關する日本国政府とアメリカ合衆国政府との間の協定を考慮して、日本国政府に代わつて二千十二年の交換公文に対する次の改正を提案する光榮を有します。

1 二千十二年の交換公文中7を8とし、4から6までを一ずつ繰り下げ、3の次に次の4を加える。

4 核セキュリティの研究開発の分野における秘密情報の交換の形態により行うこの協力は、次の条件に従って行われる。

(a) この4の規定の適用上、

(i) 「核セキュリティ」とは、核物質その他の放射性物質又はこれらの関連施設に係る窃取、妨害行為、許可されない出入、不法な移転又は他の悪意のある行為の防止及び探知並びにこれらの行為への対応をいう。

(ii) 「核セキュリティ秘密情報」とは、いずれか一方の政府の機関により作成され、当該機関の使用のために作成され、又は当該機関により保持されている核セキュリティの研究開発の分野における情報であつて、当該情報を提供する機関の政府の国家安全保障のために保護を必要とするものをいう。ただし、二千七年八月十日に東京で署名された秘密軍事情報の保護のための秘密保持の措置に関する日本国政府とアメリカ合衆国政府との間の協定（以下「二千七年の秘密軍事情報保護協定」という。）第一条に定義する「秘密軍事情報」を除く。核セキュリティ秘密情報は、口頭、映像、電子、磁気又は文書の形態を含むあらゆる形態をとることができる。

(b) この4の規定にかかわらず、協定第一条に定義する「秘密資料」又は「機微な原子力技術」は、この取極の下では交換してはならない。

(c) 核セキュリティ秘密情報の交換は、この取極の下で「極秘」又は「Secret」の秘密指定の水準まで認められる。

(d) 核セキュリティ秘密情報については、秘密指定及び、可能な範囲内で、当該情報が核セキュリティ秘密情報であることを識別するための適当な表示を付して指定する。日本国政府の機関にあつては、核セキュリティ秘密情報は、「極秘」又は「秘」と表示される。アメリカ合衆国政府の機関にあつては、核セキュリティ秘密情報は、「Secret」又は「Confidential」と表示される。

同等の秘密指定は、次のとおりとする。

日本国

アメリカ合衆国

Gokuhi 極秘

Secret

III 秘

Confidential

核セキュリティ秘密情報を受領するそれぞれの機関は、可能な範囲内で、全ての核セキュリティ秘

密情報に核セキュリティ秘密情報を提供する機関の政府名を押印し、又は表示する。また、交換された核セキュリティ秘密情報には、可能な範囲内で、核セキュリティ秘密情報を受領する機関の政府の同等の秘密指定が表示される。

(e) それぞれの政府は、(a)(ii)に規定する機関を外交上の経路を通じて他方の政府に通報する。

(f) それぞれの政府は、この取極の下での核セキュリティ秘密情報の保護に影響を及ぼす施行されている法令のいかなる変更についても、外交上の経路を通じて他方の政府に通報する。

(g) この4の規定の適用上、二千七年の秘密軍事情報保護協定第一条(c)、第二条及び第六条から第十八条までの規定は、必要な変更を加えた上で、この取極に組み込まれ、この取極の一部を成す。

(h) この取極のいかなる規定も、いずれか一方の政府の機関が他方の政府の機関と核セキュリティ秘密情報を交換することを要求するものと解してはならない。

(i) 3(a)の規定にかかわらず、この4の規定に従って核セキュリティ秘密情報の交換を実施するそれぞれの政府の機関は、特定の核セキュリティ秘密情報の交換のために更に詳細な条件を定める実施取決めの締結が適当であると判断する場合を除くほか、核セキュリティ秘密情報の交換に適用される詳細

な条件を定める実施取決めを締結することを要求されない。

2 8に次のように加える。

この取極の終了の後においても、この取極に従って交換された全ての核セキュリティ秘密情報は、引き続きこの取極の規定に従って保護される。

本使は、更に、前記の提案がアメリカ合衆国政府にとって受諾し得るものであるときは、この書簡及び閣下の返簡が二千十二年の交換公文を改正する両政府間の合意を構成し、その合意が閣下の返簡の日付の日に効力を生ずるものとすることを提案する光栄を有します。

本使は、以上を申し進めるに際し、ここに重ねて閣下に向かって敬意を表します。

二千十九年六月二十五日にワシントンで

アメリカ合衆国駐在

日本国特命全權大使に代わる

相川一俊

アメリカ合衆国國務長官

マイケル・R・ポンペオ閣下

DEPARTMENT OF STATE

WASHINGTON

June 25, 2019

Excellency,

I have the honor to acknowledge the receipt of Your Excellency's Note of today's date, which reads as follows:

"I have the honor to refer to the recent discussions between the representatives of the Government of Japan and the Government of the United States of America concerning the exchange of classified information in the field of research and development of nuclear security.

In consideration of the continuing mutually beneficial cooperation between the two Governments for strengthening nuclear security, and taking into account the arrangement between the Government of Japan and the Government of the United States of America concerning the terms and conditions for cooperation between their appropriate agencies in the field of research and development of: nuclear safety; nuclear regulatory matters; response to nuclear incidents; radioactive waste management; decontamination relating to radioactive substances, and decommissioning of nuclear facilities; nuclear security; nuclear nonproliferation, including safeguards; advanced nuclear reactors and their fuels, materials, and equipment; and the nuclear fuel cycle, effected by the Exchange of Notes of March 9, 2012 (hereinafter referred to as "the 2012 Notes"), and the Agreement between the Government of Japan and the Government of the United States of America Concerning Security Measures for the Protection of Classified Military Information, signed at Tokyo on August 10, 2007, I have the further honor to propose, on behalf of the Government of Japan, the following amendments to the 2012 Notes:

His Excellency

Shinsuke Sugiyama,

Ambassador of Japan.

DIPLOMATIC NOTE

1. The following paragraph shall be added immediately after paragraph 3 of the 2012 Notes and paragraphs 4, 5, 6, and 7 of the 2012 Notes shall be renumbered as paragraphs 5, 6, 7, and 8, respectively:

4. The Cooperation in the field of research and development of nuclear security in the form of exchange of classified information shall be conducted in accordance with the following terms and conditions:

(a) For the purpose of this paragraph:

(i) “nuclear security” means the prevention and detection of and response to, theft, sabotage, unauthorized access, illegal transfer or other malicious acts involving nuclear material, other radioactive substances or their associated facilities; and

(ii) “Classified Nuclear Security Information” means any information in the field of research and development of nuclear security that is generated by or for the use of or held by an agency of either Government and that requires protection in the interests of national security of the Government of the releasing agency, except for “Classified Military Information” as defined in Article 1 of the Agreement between the Government of Japan and the Government of the United States of America Concerning Security Measures for the Protection of Classified Military Information, signed at Tokyo on August 10, 2007 (hereinafter referred to as “the 2007 Classified Military Information Protection Agreement”). Such information may be in any form, including oral, visual, electronic, magnetic, or documentary form.

(b) Notwithstanding this paragraph, “restricted data” or “sensitive nuclear technology” as defined in Article 1 of the Agreement shall not be exchanged under the present arrangement.

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Information shall be marked as “Gokuhi” or “Hi”. For the agencies of the Government of the United States of America, Classified Nuclear Security Information shall be marked as “Secret” or “Confidential”.

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- (e) Each Government shall notify the other Government through diplomatic channels of its agencies referred to in (a)(ii) of this paragraph.
- (f) Each Government shall notify the other Government through diplomatic channels of any changes to the applicable laws and regulations in force that would affect the protection of Classified Nuclear Security Information under the present arrangement.
- (g) For the purpose of this paragraph, sub-paragraph (c) of Article 1, Article 2 and Articles 6 through 18 of the 2007 Classified Military Information Protection Agreement are hereby incorporated into and form part of this present arrangement, *mutatis mutandis*.
- (h) Nothing in the present arrangement shall be interpreted as requiring agencies of either Government to exchange Classified Nuclear Security Information with agencies of the other Government.
- (i) Notwithstanding sub-paragraph 3(a), the agencies of each Government conducting the exchange of Classified Nuclear Security Information in accordance with this paragraph shall not be required to conclude an implementing arrangement or implementing arrangements setting forth detailed terms and conditions that shall apply to the exchange of such information, unless the agencies determine that concluding an

implementing arrangement setting forth further detailed terms and conditions is appropriate for a particular exchange of such information.

2. The following sentence shall be added at the end of renumbered paragraph 8:

Notwithstanding the termination of the present arrangement, all Classified Nuclear Security Information exchanged pursuant to the present arrangement shall continue to be protected in accordance with the provisions of the present arrangement.

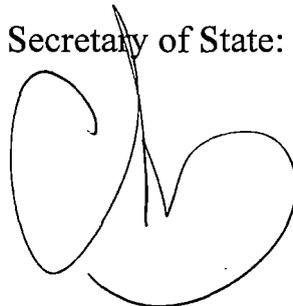
I have the further honor to propose that, if the foregoing proposals are acceptable to the Government of the United States of America, this Note and Your Excellency's Note in reply shall constitute an agreement between the two Governments to amend the 2012 Notes, which shall enter into force on the date of Your Excellency's Note in reply.

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

I have the further honor to confirm that the proposals contained in Your Excellency's Note are acceptable to the Government of the United States of America and to confirm that Your Excellency's Note and this Note in reply shall constitute an agreement between the two Governments to amend the 2012 Notes, which shall enter into force on the date of this Note.

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

For the Secretary of State:

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a vertical line and a large, rounded flourish.