NUCLEAR ENERGY

Safety

Arrangement Between the
UNITED STATES OF AMERICA
and the CZECH REPUBLIC

with Annex

Signed at Vienna September 18, 2019
Entered into force September 18, 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."

ARRANGEMENT

BETWEEN

THE UNITED STATES
NUCLEAR REGULATORY COMMISSION

AND

THE CZECH REPUBLIC
STATE OFFICE FOR NUCLEAR SAFETY

FOR

THE EXCHANGE OF TECHNICAL INFORMATION

AND

COOPERATION IN NUCLEAR SAFETY MATTERS

September 18, 2019

ARRANGEMENT
BETWEEN
THE UNITED STATES NUCLEAR REGULATORY COMMISSION
AND
THE CZECH REPUBLIC STATE OFFICE FOR NUCLEAR SAFETY
FOR
THE EXCHANGE OF TECHNICAL INFORMATION
AND
COOPERATION IN NUCLEAR SAFETY MATTERS

The United States Nuclear Regulatory Commission and the Czech Republic State Office for Nuclear Safety, the two together hereinafter referred to as the Parties;

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, and the environmental impact of nuclear facilities;

Having similarly cooperated under the terms of prior arrangements for the exchange of technical information and cooperation in nuclear safety matters, most recently in the Arrangement signed on September 24, 2014;

Have agreed as follows:

I. SCOPE OF THE ARRANGEMENT

A. Unclassified Technical Information Exchange

To the extent that the Parties are permitted to do so under the laws, regulations, and policies of their respective countries, they may 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 Parties as a basis for, or in support of, regulatory decisions and policies.

2. Documents relating to significant licensing actions and safety and environmental decisions affecting nuclear facilities.

3. Detailed documents describing a Party's process for licensing and regulating nuclear facilities and radioactive materials.

4. Information in the field of reactor safety research either in the possession of one of the Parties or available to it. Each Party shall 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, the 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 Parties.

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 two Parties, including the use of test facilities and/or computer code sharing programs owned by either Party, shall be considered on a case-by-case basis and may be the subject of a separate agreement.

C. Training and Assignments

Within the limits of available resources and subject to the availability of appropriated funds, the Parties may cooperate in providing certain training and experiential opportunities for each other's personnel. In addition, temporary assignments of personnel by one Party to the other Party shall also be considered on a case-by-case basis and shall, in general, require a separate agreement between the Parties. Unless otherwise agreed, costs of salary, allowances, and travel of participants shall be paid by the Party that incurs them.

II. ADMINISTRATION

A. The exchange of information under this Arrangement 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 Arrangement, and to discuss topics within the scope of the cooperation. The time, place, and agenda for such meetings shall be agreed upon in advance.

B. An administrator shall be designated by each Party to coordinate its exchange activities under this Arrangement. The administrators shall be the recipients of all documents transmitted under the exchange, including copies of all letters, unless otherwise agreed or unless otherwise provided herein. The administrators shall 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 shall ensure that both administrators receive copies of all transmittals.

C. The application or use of any information exchanged between the Parties under this Arrangement shall be the responsibility of the receiving Party, and the transmitting Party does not warrant the suitability of such information for any particular use or application.

D. To the extent possible, each Party shall assist the other in obtaining information from other agencies within their respective governments.

III. EXCHANGE AND USE OF INFORMATION

A. General

The Parties support the widest possible dissemination of information exchanged under this Arrangement, subject to the requirements of each Party's national laws, regulations, and policies, and the need to protect proprietary and other confidential and privileged information. However, consistent with these national laws, regulations, and policies, the Parties reserve the right to impose, on a case-by-case basis, additional restrictions on the dissemination of information beyond those identified in this Article.

The treatment of intellectual property provided, created, or exchanged under this Arrangement is provided for in the Intellectual Property Rights Annex, which shall apply to all activities conducted under this Arrangement unless agreed otherwise by the Parties in writing.

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 Arrangement.

2. The term "proprietary information" means information that is provided, created, or exchanged under this Arrangement that contains trade secrets or other 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 Party transmitting the information under this Arrangement.

C. Documentary Proprietary Information

1. A Party receiving documentary proprietary information shall respect the privileged nature of such information.

2. Marking Procedures for Documentary Proprietary Information

   a. A Party transmitting documentary proprietary information under this Arrangement shall ensure that the proprietary information is clearly marked on each page of the document with the following (or substantially similar) restrictive legend:

      "Proprietary Information: Do not share without the written consent of (insert name of transmitting Party)"

   b. The receiving Party shall not make documentary proprietary information bearing this restrictive legend public or otherwise disseminate the documentary proprietary information in any manner inconsistent with or contrary to the terms of this Arrangement without the prior written consent of the transmitting Party.

c. The receiving Party shall ensure that this restrictive legend appears on any photocopy or other reproduction of documents containing documentary proprietary information made by the receiving Party.

d. In the event that the transmitting Party shares documentary proprietary information without the required restrictive legend, the transmitting Party shall inform the receiving Party at the earliest possible opportunity and provide the receiving Party with properly marked documents bearing the restrictive legend.

e. The receiving Party shall 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 Party shares documentary proprietary information in a manner that is inconsistent with or contrary to the terms of this Arrangement, the receiving Party shall promptly notify the transmitting Party.

3. Dissemination of Documentary Proprietary Information

a. The receiving Party may disseminate documentary proprietary information received under this Arrangement without the prior consent of the transmitting Party to employees of the receiving Party, and to other agencies and departments of the government of the receiving Party, 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 Party ensures that such employees and other government agencies and departments shall not use the documentary proprietary information for any non-governmental or private commercial purpose; and

iii. Such documentary proprietary information bears the restrictive legend set forth in Article III.C.2.a of this Arrangement.

b. The receiving Party may only disseminate documentary proprietary information more widely than otherwise permitted under the terms set forth in this Arrangement, including to contractors and consultants of the receiving Party, and to permittees or licensees of the receiving Party, with the prior written consent of the transmitting Party. The Parties shall endeavor 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 Party;

ii. Such recipients have executed a non-disclosure agreement;

iii. Such recipients shall not use such documentary proprietary information for any non-governmental or private commercial purpose; and

iv. Such recipients agree to 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 Parties agree to consult and seek written clarification when questions arise as to the proper handling and dissemination of documentary proprietary information provided under this Arrangement.

D. Other Confidential or Privileged Information of a Documentary Nature

1. A Party receiving other confidential or privileged information of a documentary nature shall respect the confidential nature of such information.

2. Marking Procedures for Other Confidential or Privileged Information of a Documentary Nature

a. A Party transmitting other confidential or privileged information under this Arrangement shall ensure 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 in accordance with the transmitting Party's national laws, regulations, and policies.

b. The receiving Party shall ensure that the appropriate restrictive legend appears on any photocopy or other reproduction of documents containing other confidential or privileged information made by the receiving Party.

c. The transmitting Party shall ensure that any other confidential or privileged information of a documentary nature transmitted under this Arrangement is accompanied by a statement that the information being transmitted is protected from public disclosure by the national laws, regulations, or policies of the government of the transmitting Party and is being provided under the condition that the receiving Party shall afford the information substantially the same degree of protection afforded the information by the government of the transmitting Party.

d. In the event that the transmitting Party 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 Party shall inform the receiving Party at the earliest possible opportunity and provide the receiving Party with properly marked documents bearing the restrictive legend.

e. The receiving Party shall 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 Party shares other confidential or privileged information of a documentary nature in a manner that is inconsistent with or contrary to the terms of this Arrangement, the receiving Party shall promptly notify the transmitting Party.

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

a. The receiving Party may disseminate other confidential and privileged information of a documentary nature received under this Arrangement without the prior consent of the transmitting Party to employees of the receiving Party, and to other agencies and departments of the government of the receiving Party, 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 Party shall ensure 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 bears the appropriate restrictive legend in accordance with the provisions of Article III.D.2.a of this Arrangement.

b. The receiving Party may only disseminate the documents containing the other confidential or privileged information more widely than otherwise permitted under the terms set forth in this Arrangement, including to contractors and consultants of the receiving Party, and to permittees or licensees of the receiving Party, with the prior written consent of the transmitting Party. The receiving Party agrees 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 Party.

c. The Parties agree 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 Arrangement.

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 Arrangement shall be treated by the Parties according to the principles specified for proprietary information in Article III.C. and as specified for other confidential or privileged information in Article III.D. of this Arrangement; provided, however, that the transmitting Party has placed the receiving Party 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 Parties becomes aware that it will be, or may reasonably be expected to become, unable to meet any obligations under Article III of this Arrangement, it shall immediately inform the other Party. The Parties shall thereafter consult to determine an appropriate course of action.

G. Other

Nothing contained in this Arrangement shall preclude a Party from using or disseminating information received without restriction from sources outside of this Arrangement.

IV. FINAL PROVISIONS

A. Nothing contained in this Arrangement shall require either Party to take any action that would be inconsistent with its existing laws, regulations, or policies. Should any conflict arise between the terms of this Arrangement and those laws, regulations, or policies the Parties agree to consult before any action is taken. No nuclear information related to proliferation-sensitive technologies shall be exchanged under this Arrangement.

B. Unless otherwise agreed, all costs resulting from cooperation pursuant to this Arrangement shall be the responsibility of the Party that incurs them. The ability of the Parties to carry out their obligations is subject to the appropriation of funds by the appropriate governmental authority and to the laws, regulations and policies applicable to the Parties.

C. Any dispute or questions between the Parties concerning the interpretation or application of this Arrangement shall be settled by mutual agreement of the Parties.

D. This Arrangement shall enter into force upon signature and, subject to paragraph F of this Article, shall remain in force for a period of 5 years.

E. All information protected under this Arrangement, including but not limited to proprietary information and other confidential or privileged information, shall continue to be protected in accordance with the terms of this Arrangement after this Arrangement has expired or has been terminated, unless the Parties agree otherwise in writing.

F. Either Party may terminate this Arrangement by providing the other Party written notice at least 180 days prior to its intended date of termination.

DONE at Vienna, Austria, on this 18th day of September 2019, in duplicate, in the English language.

FOR THE UNITED STATES NUCLEAR REGULATORY COMMISSION:

Kristine L. Svinicki
Chairman

FOR THE CZECH REPUBLIC STATE OFFICE FOR NUCLEAR SAFETY:

Dana Drábová
Chairperson

INTELLECTUAL PROPERTY RIGHTS ANNEX

I. General Obligation

The Parties shall ensure adequate and effective protection of intellectual property created or furnished under this Arrangement and relevant implementing arrangements. Rights to such intellectual property shall be allocated as provided in this Annex.

II. Scope

A. This Annex is applicable to all cooperative activities undertaken pursuant to this Arrangement, except as otherwise specifically agreed by the Parties or their designees.

B. For purposes of this Arrangement, "intellectual property" shall mean the subject matter listed in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm, July 14, 1967, and may include other subject matter as agreed by the Parties.

C. Each Party shall ensure, through contracts or other legal means with its own participants, if necessary, that the other Party can obtain the rights to intellectual property allocated in accordance with this Annex. This Annex does not otherwise alter or prejudice the allocation between a Party and its participants, which shall be determined by that Party's laws and practices.

D. Except as otherwise provided in this Arrangement, disputes concerning intellectual property arising under this Arrangement shall 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 rules of international law. Unless the Parties or their designees agree otherwise in writing, the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL) shall govern.

E. Termination or expiration of this Arrangement shall not affect rights or obligations under this Annex.

III. Allocation of Rights

A. Each Party shall be entitled to a worldwide, non-exclusive, irrevocable, royalty-free license to translate, reproduce, and publicly distribute monographs, scientific and technical journal articles, reports, and books directly arising from cooperation under this Arrangement. All publicly distributed copies of a copyrighted work prepared under this Arrangement 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 paragraph III.A above, shall be allocated as follows:

(1) Prior to participation in cooperative activities under this Arrangement by a visiting researcher, the host Party or its designee and the Party or its designee employing or sponsoring the visiting researcher may discuss and determine the allocation of rights to any intellectual property created by the visiting researcher. Absent such a determination,

visiting researchers shall receive rights, awards, bonuses and royalties in accordance with the policies of the host institution. For purposes of this Arrangement, a visiting researcher is a researcher visiting an institution of the other Party (host institution) and engaged in work planned solely by the host institution.

(2) (a) Any intellectual property created by persons employed or sponsored by one Party under cooperative activities other than those covered by Paragraph III.B(1) shall be owned by that Party. Intellectual property created by persons employed or sponsored by both Parties shall be jointly owned by the Parties. In addition, each creator shall be entitled to awards, bonuses and royalties in accordance with the policies of the institution employing or sponsoring that creator.

(b) Unless otherwise agreed in an implementing or other arrangement, each Party shall have within its territory a right to exploit and allow others to exploit intellectual property created in the course of the cooperative activities.

(c) The rights of a Party outside its territory shall be determined by mutual agreement considering, for example, the relative contributions of the Parties and their participants to the cooperative activities, the degree of commitment in obtaining legal protection and licensing of the intellectual property and such other factors deemed appropriate.

(d) Notwithstanding paragraphs III.B(2)(a) and (b) above, if either Party believes that a particular project is likely to lead to or has led to the creation of intellectual property not protected by the laws of the other Party, the Parties shall immediately hold discussions to determine the allocation of rights to the intellectual property. If an agreement cannot be reached within three months of the date of the initiation of the discussions, cooperation on the project in question shall be terminated at the request of either Party. Creators of intellectual property shall nonetheless be entitled to awards, bonuses and royalties as provided in paragraph III.B(2)(a).

(e) For each invention made under any cooperative activity, the Party employing or sponsoring the inventor(s) shall disclose the invention promptly to the other Party together with any documentation and information necessary to enable the other Party to establish any rights to which it may be entitled. Either Party may ask the other Party in writing to delay publication or public disclosure of such documentation or information for the purpose of protecting its rights in the invention. Unless otherwise agreed in writing, the delay shall not exceed a period of six months from the date of disclosure by the inventing Party to the other Party.

IV. Business Confidential Information

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