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**Australia
and
United States of America**

Agreement between the Government of Australia and the Government of the United States of America concerning peaceful uses of nuclear energy (with agreed minute). New York, 4 May 2010

Entry into force: *22 December 2010 by notification, in accordance with article 16*

Authentic text: *English*

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**Australie
et
États-Unis d'Amérique**

Accord entre le Gouvernement de l'Australie et le Gouvernement des États-Unis d'Amérique relatif à l'utilisation de l'énergie nucléaire à des fins pacifiques (avec procès-verbal approuvé). New York, 4 mai 2010

Entrée en vigueur : *22 décembre 2010 par notification, conformément à l'article 16*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *Australie, 13 février 2012*

[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT BETWEEN THE GOVERNMENT OF AUSTRALIA AND
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
CONCERNING PEACEFUL USES OF NUCLEAR ENERGY**

**THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE UNITED
STATES OF AMERICA,**

CONSIDERING their close cooperation in the development, use and control of peaceful uses of nuclear energy pursuant to the *Agreement for Cooperation between the Government of the Commonwealth of Australia and the Government of the United States of America concerning the Civil Uses of Atomic Energy*, signed on 22 June 1956, as amended (hereinafter referred to as “the 1956 Agreement”), and the *Agreement between Australia and the United States of America concerning Peaceful Uses of Nuclear Energy*, signed on 5 July 1979 (hereinafter referred to as “the 1979 Agreement”);

REAFFIRMING their commitment to ensuring that the international development and use of nuclear energy for peaceful purposes are carried out under arrangements which will, to the maximum possible extent, further the objectives of the *Treaty on the Non-Proliferation of Nuclear Weapons* done on 1 July 1968 and entering into force on 5 March 1970 (hereinafter referred to as “the Treaty”);

MINDFUL that both Australia and the United States are Parties to the Treaty;

RECOGNIZING that Australia, a non-nuclear-weapon State, has, under the Treaty, undertaken not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, and that it has entered into the *Agreement between Australia and the International Atomic Energy Agency for the Application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons*, signed on 10 July 1974, and the *Protocol Additional to the Agreement between Australia and the International Atomic Energy Agency for the Application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968*, signed on 23 September 1997 (hereinafter collectively referred to as “the Australia-IAEA Safeguards Agreement”);

RECOGNIZING that the United States, a nuclear-weapon State, entered into the *Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America*, signed on 18 November 1977, and the *Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America*, signed on 12 June 1998, hereinafter collectively referred to as “the United States-IAEA Safeguards Agreement”;

AFFIRMING their support for the objectives of the *Statute of the International Atomic Energy Agency* done on 26 October 1956, and their desire to promote universal adherence to the Treaty;

RECOGNIZING the ongoing mutual obligations of the Parties contained in the *Exchanges of Notes between the Parties of 2 August 1985* (Embassy of Australia’s Note number 336, 337, 338, 339, 340 and 341 of 2 August 1985, and Department of State Note of 2 August 1985 in response, hereinafter referred to as “the 1985 Exchanges of Notes”) and the *Exchange of Notes between the Parties of 13 December 1989* (Embassy of Australia’s Note number 366 of 13 December 1989, and Department of State Note of 13 December 1989 in response, hereinafter referred to as “the 1989 Exchange of Notes”); and

DESIRING to continue their close cooperation in the development, use and control of peaceful uses of nuclear energy under the 1979 Agreement;

HAVE AGREED as follows:

Article 1

Scope of cooperation

1. Australia and the United States shall cooperate, by the transfer of information, material, equipment and components and by assignment of experts, in the use of nuclear energy for peaceful purposes in accordance with the provisions of this Agreement and their applicable treaties, national laws, regulations and license requirements.
2. Cooperation under this Agreement may be undertaken directly between the Parties or through authorized persons under their jurisdiction. Such cooperation shall be subject to this Agreement and to such additional terms and conditions as may be determined by the Parties.
3. Cooperation under this Agreement shall require the application of safeguards by the International Atomic Energy Agency (hereinafter referred to as "the Agency"):
 - (a) with respect to all nuclear activities within the territory of Australia, under its jurisdiction or carried out under its control anywhere, in accordance with the provisions of the *Australia-IAEA Safeguards Agreement*;
 - (b) within the territory of the United States, in accordance with the provisions of the *United States-IAEA Safeguards Agreement*.

Article 2

Definitions

For the purposes of this Agreement:

- (a) "by-product material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;
- (b) "component" means a component part of equipment or other item, as mutually determined by the Parties;
- (c) "equipment" means any production or utilization facility (including uranium enrichment and nuclear fuel reprocessing facilities), or any facility for the production of heavy water or the fabrication of nuclear fuel containing plutonium, or any other item as mutually determined by the Parties;
- (d) "high enriched uranium" means uranium enriched to twenty percent or greater in the isotope 235;
- (e) "intellectual property" shall have the meaning set out in Article 2 of the *Convention Establishing the World Intellectual Property Organization*, done at Stockholm on 14 July 1967, as amended on 28 September 1979, and may include other subject matter as mutually determined by the Parties;

(f) "low enriched uranium" means uranium enriched to less than twenty percent in the isotope 235;

(g) "major critical component" means any part or group of parts essential to the operation of a sensitive nuclear facility;

(h) "material" means source material, special nuclear material or by-product material, radioisotopes other than by-product material, moderator material, or any other such substance as mutually determined by the Parties;

(i) "moderator material" means any heavy water, or graphite or beryllium of purity suitable for use in a reactor to slow down high velocity neutrons and increase the likelihood of further fission, or any other such material as mutually determined by the Parties;

(j) "parties" means the Government of Australia and the Government of the United States of America;

(k) "peaceful purposes" includes the use of information, material, equipment and components in such fields as research, energy and power generation, medicine, agriculture and industry but does not include use in, research on or development of any nuclear explosive device, or any military purpose;

(l) "person" means any individual or any entity subject to the jurisdiction of either Party but does not include the Parties to this Agreement;

(m) "production facility" means any nuclear reactor designed or used primarily for the formation of plutonium or uranium 233, any facility designed or used for the separation of the isotopes of uranium or plutonium, any facility designed or used for the processing of irradiated materials containing special nuclear material or any other item as mutually determined by the Parties;

(n) "reactor" means any apparatus, other than a nuclear weapon or other nuclear explosive device, in which a self-sustaining fission chain reaction is maintained by utilising uranium, plutonium or thorium, or any combination thereof, or any other apparatus as mutually determined by the Parties;

(o) "restricted data" means all data concerning:

- (i) design, manufacture or utilization of nuclear weapons;
- (ii) the production of special nuclear material; or
- (iii) the use of special nuclear material in the production of energy;

but shall not include data of a Party which it has declassified or removed from the category of restricted data;

(p) "sensitive nuclear facility" means any facility designed or used primarily for uranium enrichment, reprocessing of nuclear fuel, heavy water production or fabrication of nuclear fuel containing plutonium;

(q) "sensitive nuclear technology" means any information (including information incorporated in equipment or an important component) which is not in the public domain and which is important to the design, construction, fabrication, operation or maintenance of any sensitive nuclear facility, or such other information as mutually determined by the Parties;

(r) "source material" means;

- (i) uranium, thorium, or any other material as mutually determined by the Parties; or

- (ii) ores containing one or more of the foregoing materials, in such concentration as mutually determined by the Parties from time to time;
- (s) “special nuclear material” means:
 - (i) plutonium, uranium 233, or uranium enriched in the isotope 235; or
 - (ii) any other material as mutually determined by the Parties;
- (t) “uranium enriched in the isotope 235 or 233” means uranium containing the isotopes 235 or 233, or both, in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature;
- (u) “utilization facility” means any reactor other than one designed or used primarily for the formation of plutonium or uranium 233.

Article 3

Transfer of information

1. Information concerning the use of nuclear energy for peaceful purposes may be transferred. The transfer of information may be accomplished through various means, including reports, data banks, computer programs, conferences, visits and assignments of experts and staff to facilities. Fields which may be covered include, but shall not be limited to, the following:
 - (a) development, design, construction, operation, maintenance and use of reactors and reactor experiments;
 - (b) the production, preparation and use of materials in physical and biological research, medicine, agriculture and industry;
 - (c) the nuclear fuel cycle, including mining, mineral exploration, ore processing, processing and use of special nuclear material and by-product material and management of waste material, and studies of the ways to meet future worldwide civil nuclear needs, including multilateral approaches to guaranteeing nuclear fuel supply;
 - (d) safeguards and physical security of materials and equipment;
 - (e) health, safety and environmental considerations;
 - (f) assessing national energy needs and the role that nuclear energy may play therein; and
 - (g) nuclear forensics.
2. This Agreement does not require the transfer of any information which the Parties are not permitted to transfer.
3. Restricted data shall not be transferred under this Agreement.
4. Sensitive nuclear technology shall not be transferred under this Agreement unless specifically provided for by an amendment to this Agreement or by a separate agreement.