



COOPERATION AGREEMENT

N° 14445-1998-11 S0PC ISP BR

BETWEEN

THE BRAZILIAN-ARGENTINE AGENCY FOR ACCOUNTING AND CONTROL
OF NUCLEAR MATERIALS (ABACC)

AND

THE EUROPEAN ATOMIC ENERGY COMMUNITY

The Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials (ABACC), represented by its Secretariat, Mr. Elías Palacios

and

The European Atomic Energy Community, hereinafter referred to as "the Community", represented by the Commission of the European Communities, hereinafter referred to as "the Commission", represented by Mr. Herbert J. ALLGEIER, Director General of the Joint Research Centre,

both referred to as "the parties"

sharing the desire to stimulate cooperation on Research and Development in the field of nuclear safeguards between them.

HEREBY AGREE AS FOLLOWS:

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ARTICLE 1 – Objective

The objective of this Agreement is the cooperation between ABACC and the Community on mutually agreed Research and Development topics and the training of nuclear safeguards inspectors and specialists in the field of nuclear safeguards. Cooperation between the parties to this Agreement shall be on the basis of mutual benefit, equality, and reciprocity.

ARTICLE 2 – Areas of Cooperation

The areas of cooperation in the field of nuclear safeguards Research and Development covered by this Agreement shall mainly focus on:

- Measurement and accountancy-control technology for nuclear material and performance evaluation.
- Containment and surveillance technology for nuclear material and nuclear facilities.
- Nuclear safeguards training courses for inspectors and specialists.
- Nuclear material accountancy.
- Procurement, characterisation and use of standards nuclear material.

The areas of cooperation in the field of operational Safeguards aspects focus on:

- Role and interaction of Regional Safeguards Systems (RSS).
- Safeguards criteria and guidelines.
- Specific Safeguards approaches for facility types like
 - Enrichment plants
 - CANDU Reactors
 - Fabrication Facilities
- Planning and evaluation of inspection.
- Material accountancy and data transmission.
- Cooperation in the application of HPTA/ES techniques.
- Unattended Measurement Systems and Remote Monitoring.

Other areas of cooperation may be added by mutual written agreement.

ARTICLE 3 – Forms of Cooperation

Cooperation under this Agreement may include, but is not limited to the following forms:

- Projects in which the parties hereto agree to share costs, subject in each case to a separate written agreement including an individual action sheet. The relative contribution to costs shall be determined in each case allowing for the efforts invested by each party and for the value of background information, infrastructure or support work contributed by each party.



- Exchange of scientists, engineers and other specialists, researchers and trainers for agreed periods for participation in activities conducted by the parties hereto or their contractors. Such exchange of staff shall be in accordance with Article 9 of this Agreement.
- Exchange of scientific and technical information and results of Research and Development. Such exchange of information shall be in accordance with Article 5 to 8 of this Agreement.
- Exchange of samples, materials and equipment for testing, subject in each case to a separate written agreement.
- Seminars and other meetings on specific topics.
- Short visits by specialist teams or individuals to facilities for which a development is foreseen or in progress in the framework of this Agreement.
- Studies dealing with the areas of cooperation referred to in Article 2.

Other forms of cooperation may be added by mutual written agreement.

ARTICLE 4 – Management

The parties hereto shall each appoint in writing one individual to act as Coordinator in order to supervise the execution of this Agreement.

- 4.1 The Coordinators shall meet, on an annual basis with the meetings held alternatively either at the ABACC headquarters or at the Commission headquarters. On such an occasion the Coordinators shall:
- evaluate the status of cooperation under this Agreement,
 - define the specific tasks to be undertaken in each of the areas of cooperation as described in Article 2 on this Agreement. A first list of Fields of Cooperation is given in Annex I.
- 4.2 All cooperative projects are defined and listed on Action Sheets. Any new cooperative projects can be defined and added to this list after written approval being granted by the Coordinators. The parties hereto shall also appoint technical responsible persons who shall be in charge of the technical aspects of individual projects covered by this Agreement. These action sheets shall specify the tasks to be undertaken, the time schedule and the resources involved on either side.



- 4.3 The evaluation of the status of cooperation shall include a comprehensive review of each Party's Research and Development activities related to nuclear safeguards, which are performed under this Agreement.

ARTICLE 5 – Availability and Dissemination of Information

- 5.1 Subject to applicable laws and regulations and to its obligations to third parties, and to provisions of this Agreement, each party and its designees shall undertake to make freely available to the other party and its designees any information at its disposal which is required for the execution of the Agreement.
- 5.2 The parties hereto shall support the widest possible dissemination of information for which they have the right to disclose, either in their possession or available to them, and which is either developed jointly or intended to be provided or exchanged pursuant to this Agreement, subject to the need to protect documentary undisclosed information and the need to protect intellectual property arising under this Agreement.

ARTICLE 6 – Disclaimer

Information transmitted by one party to the other party under this Agreement shall be accurate to the best knowledge and belief of the transmitting party, but the transmitting party does not warrant the suitability of the information transmitted for any particular use or application by the receiving party or by any third party. Information developed jointly by the parties hereto shall be accurate to the best knowledge and belief of both such parties. Neither party warrants the suitability of the jointly developed information for any particular use or application by either party or by any third party.

ARTICLE 7 – Classified Information

Information which is considered classified by either party for security reasons shall not be exchanged hereunder.

ARTICLE 8 – Intellectual Property Rights

Rights related to any form of intellectual property arising under this Agreement will be allocated in conformity with the rules and procedures set out in the Intellectual Property Rights Annex II and in the Technology Management Plan Annex III hereby attached.



ARTICLE 9 – Attachment of Staff

- 9.1 Each party shall designate for the performance of this Agreement, the personnel necessary for the proper execution of the tasks devolving upon it.
Each party may second to the other party, with the latter's consent, personnel of its choice. Such consent may be withheld only where there are serious grounds for so doing. The procedure governing secondment and the effects thereof on the performance of the agreement shall be determined by agreement between the parties.
- 9.2 Each party shall be responsible for the salaries, insurance, and allowance to be paid to its staff while attached to the other party unless otherwise agreed.
- 9.3 Each party shall pay for the travel and living of its staff while attached to the other party unless otherwise agreed as well as for the cost of attending a meeting.
- 9.4 The attached personnel of each party shall conform to the general rules of work and safety regulations in force at the host establishment.

ARTICLE 10 – Transfer of Equipment

- 10.1 By mutual written agreement, the parties hereto may decide to transfer to each other equipment to be utilized under this Agreement. In such cases, the sending party shall supply, as soon as possible, a detailed list of equipment to be provided together with the relevant specifications and appropriate technical and information documentation relating to use, maintenance and repair of such equipment.
- 10.2 Equipment and necessary spare parts supplied by the sending party for use in joint activities shall remain its own personal property and shall be returned to the sending party upon completion of the joint activity, unless otherwise agreed.
- 10.3 The above mentioned equipment shall be brought into operation at a receiving establishment after mutual written agreement having been drawn up between the Coordinators, action sheet holders or their authorized representatives at the interested establishments of the parties hereto.
- 10.4 The receiving establishment shall provide the necessary premises for the equipment, shall provide for utilities such as electric power, water and gas, and normally shall provide materials to be tested in accordance with technical requirements which shall be mutually agreed upon in writing.
- 10.5 The responsibility and expenses for each transport of equipment and materials between the parties hereto by plane or ship to a mutually agreed destination set out in writing, including responsibility for its safekeeping and insurance en route shall rest with the shipper until receiver or his agent takes custody of the shipment.



- 10.6 The equipment provided by the sending party for carrying out activities pursuant to this Agreement shall be considered to be scientific and as having a non commercial character, for the purposes of designation and import/export declarations.
- 10.7 The receiving party shall cooperate for the duty free entry into its territory of any equipment mentioned in 10.6 for which is foreseen a development in the framework of this Agreement.
- 10.8 If either party wishes to acquire equipment made available under a cooperative task, such transfer of equipment may be performed according to the provisions of a separate specific agreement drawn up between the Parties hereto. Such parties will apply to each other the most advantageous conditions and charge, if so required, only the residual cost price incurred.

ARTICLE 11 – Settlement of disputes

- 11.1 Subject to the laws and regulations applicable, the Parties shall endeavour to settle all questions connected with this Agreement through negotiations between themselves.
- 11.2 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.
- 11.3 Each Party shall designate one arbitrator, who can be national of one of the States Parties of ABACC 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 the States Parties of ABACC 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.

- 11.4 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 12 – Costs

Except where otherwise specifically agreed, all costs resulting from cooperation under this Agreement shall be borne by the party that incurs them. It is understood that the ability of the parties hereto to carry out their obligations shall be subject to the appropriation of funds by the appropriate authority where necessary.

ARTICLE 13 – Entry into force, Duration and Termination

This Agreement shall enter into force upon its signing by the parties hereto and shall remain in force for five years and be automatically renewed for further five-year periods, unless either party notifies the other in writing six months prior to the conclusion of the first five year period or each succeeding five year period of its intent to terminate this Agreement.

ARTICLE 14 – Amendments or Additions

The provisions of this Agreement and the annexes hereto may be amended or supplemented only by means of a supplementary agreement duly signed by the parties hereto.

ARTICLE 15 – Administrative provisions

- 15.1 All correspondence concerning the performance of this Agreement shall be addressed as indicated in Annex I, item 1.
- 15.2 The persons indicated in Annex I, item 2 are empowered to supervise the performance of this Agreement as Coordinators as required in Article 4:
- 15.3 Annex I may be modified by means of written communication between the Parties hereto.



ARTICLE 16 – Annexes

The following is appended to and shall form integral part of this Agreement:

- Annex I: Administrative Provisions and First List of Fields of Cooperation
- Annex II: Intellectual Property Rights
- Annex III: Technology Management Plan

Done at Brussels, in the English and Spanish languages.

On 10 February 1999

For ABACC

For the Commission

CARLOS FEU ALVIM
Secretary

Elías PALACIOS
Secretary

Herbert J. ALLGEIER
Director General
of the Joint Research Centre

Note:

The Agreement between the Federative Republic of Brazil and the Republic of Argentina for the Exclusively Peaceful Use of Nuclear Energy, which created the Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials (ABACC) establishes in its Article XII paragraph 2: "The senior staff of the nationality of each Party shall take in turns each year to act as Secretary of the ABACC". Therefore, Dr. Carlos Feu Alvim has substituted Mr. Elías Palacios as Secretary of ABACC from 12 December 1998 to 12 December 1999.



ANNEX I TO COOPERATION AGREEMENT N. 14445-1998-11 S0PC ISP BR

Administrative Provisions and First List of Fields of Cooperation

Item 1: Directions

For the Commission

For administrative questions
European Commission
Joint Research Centre
Contracts Unit
I-21020 – ISPRA (Varese) Italy
To the att. of Mrs. G. Capuano

For technical questions
European Commission
Joint Research Centre
ISIS Institute
I-21020 – ISPRA (Varese) Italy
To the att. of Mr. S. Guardini

For Operations Safeguards aspects
European Commission
Euratom Safeguards Directorate (ESD)
L-2920 Luxembourg
Grand-Duchy of Luxembourg

For ABACC

For administrative questions
Secretary of ABACC
Av. Rio Branco, 123 grupo 515
Rio de Janeiro, RJ
20040-005 – Brazil
To the att. of Mrs. A.C. Raffo

For technical questions
Secretary of ABACC
Av. Rio Branco, 123 grupo 515
Rio de Janeiro, RJ
20040-005 – Brazil
To the att. of Mrs. L. Palhares

Item 2: Coordinators

for ABACC: Mr. ELÍAS PALACIOS
for the Commission (JRC): Mr. S. GUARDINI
for the Commission (ESD): Mr. W. KLOECKNER

Item 3: First list of fields of cooperation

- Area 1:** Training
- Area 2:** Procurement, characterization and use of nuclear material standards
- Sub Area 1: NDA Reference Materials and Calibration
- Sub Area 2: DA Reference Materials
- Area 3:** Measurements
- Sub Area 1: Non Destructive Analysis (NDA)
- Sub Area 2: Destructive analysis (DA)
- Sub Area 3: Environmental Monitoring
- Sub Area 4: International Intercomparison Exercises
- Area 4:** Containment and Surveillance (C/S) and Integrated Systems
- Sub Area 1: Seals
- Sub Area 2: Surveillance Systems
- Sub Area 3: Sensors
- Sub Area 4: Remote monitoring
- Sub Area 5: Integrated systems
- Area 5:** Nuclear Material Accountancy

Intellectual Property Rights


Pursuant to Article 8 of this agreement: Rights to intellectual property created or furnished under this agreement shall be allocated as provided in this Annex.

I. Ownership, Allocation and Exercise of Rights

1. This annex is applicable to all cooperative activities undertaken pursuant to this Agreement, except as otherwise specifically agreed by the Parties
2. For purposes of this Agreement, intellectual property shall have the meaning found in Article 2 of the Convention establishing the World Intellectual Property Organisation, done at Stockholm, July 14, 1967
3. This Annex addresses the allocation of rights interests and royalties between the Parties. Each Party shall ensure that the other Party may obtain the rights to intellectual property allocated to it in accordance with this Annex. *This Annex does not otherwise alter or prejudice the allocation between a Party and its nationals*, which shall be determined by that Party's laws and practices
4. Disputes concerning intellectual property shall be resolved in accordance with Article 12(1) of this Agreement
5. Termination or expiration of this Agreement shall not affect rights or obligations under this Annex
6. Intellectual property arising from joint research i. e., cooperative research supported by both Parties and whose scope is agreed in advance by them, shall be treated according to the principles of the technology management plan set forth in Annex III unless otherwise agreed by the Parties. This plan shall also cover the treatment of scientists visiting primarily for their education or training (i e, visiting researchers).

II Scientific Literary Work

Subject to the treatment provided for undisclosed information in section III, the following procedures shall apply:

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1. Each Party shall be entitled to a non exclusive, irrevocable, royalty-free licence in all countries to translate, reproduce and publicly distribute information contained in scientific and technical journals, articles, reports, books or other media, directly arising from joint research pursuant to this agreement.

2. 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. They also bear a clearly visible acknowledgment of the cooperative support of the Parties.

III Undisclosed Information

A. Documentary undisclosed information

1. Each Party or its designees shall identify at the earliest possible moment the information that it wishes to remain undisclosed in relation to this Agreement, taking account, inter alia, or 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 or readily accessible by lawful means;
 - 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 or their designees 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 this Agreement may not be disclosed.

2. Each Party shall ensure that undisclosed information under the Agreement and its ensuing privileged nature is readily recognisable 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 such agreement shall respect the privileged nature thereof. These limitations shall automatically terminate when this information is disclosed by the owner without restriction.

3. Undisclosed information communicated under this Agreement may be disseminated by the receiving Party to persons employed by the receiving Party including its contractors and other concerned departments of the Party authorised for the specific purposes of the joint research underway, provided that any undisclosed information so disseminated shall be protected to the extent provided by each Party's laws and regulations and shall be readily recognisable as such, as set out above.

B. Non Documentary Undisclosed Information.

Non-documentary undisclosed or other confidential or privileged information provided in seminars and other meetings arranged under the Agreement, or information arising from the attachment of staff, use of facilities, or joint projects, will be treated by the parties or their designees according to the principles specified for documentary information in the Agreement, provided, however, that the recipients of those undisclosed or other confidential or privileged information has been made aware in writing of the confidential character of the information communicated not later than the time such a 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 herein. If one of the Parties becomes aware that it will be, or may be reasonably expected to become, unable to meet the non-dissemination provisions of paragraphs A and B above, it shall immediately inform the other Party. The Parties shall thereafter consult to define an appropriate course of action.

Technology Management Plan

1. The parties hereto shall notify each other within a reasonable time of any intellectual property rights arising under this Agreement (or relevant implementing arrangements)
2. Economic rights deriving from intellectual property under this Agreement shall belong to the party on the behalf of which the creator is performing the work . All such economic rights shall be the sole property of either one or the other of the two parties hereto. Joint economic rights belonging to both the parties hereto may only be admissible should such rights be the result of work carried out by a joint team of researchers, operating together on any of the sites mentioned in this Agreement and should no individual creator be traceable
3. The parties hereto may agree to allocate and exploit rights differently from what is provided for under paragraph 2
4. Each party hereto shall seek protection for the intellectual property to which it obtains economic rights and interests under the Technology Management Plan in a timely fashion
5. In the case of intellectual property resulting from joint team work performed under this Agreement and which is traceable to an individual creator employed by either one of the two parties hereto, the party which then becomes the owner of the economic rights deriving from such intellectual property may grant to the other party hereto a non-exclusive, irrevocable, royalty-free license, for research and development purposes only
6. Intellectual property rights awarded to visiting researchers (as defined in paragraph I.6 of Annex II) in consideration of their work carried out under this Agreement, shall be recognised as such under the same terms and conditions as are applicable to dependant agents of either party hereto.