

AGREEMENT
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE RUSSIAN FEDERATION
ON THE NUCLEAR CITIES INITIATIVE

The Government of the United States of America and the Government of the Russian Federation, hereafter referred to as the Parties,

Taking into account:

The January 14, 1994, Declaration of the Presidents of the United States of America and the Russian Federation on "Nonproliferation of Weapons of Mass Destruction and the Means of Their Delivery";

The Energy Policy Committee report submitted at the 10th session of the U.S.-Russian Commission on Economic and Technological Cooperation, which was held in March 1998;

The July 24, 1998, Joint Statement on U.S.-Russian Cooperation to Implement the Nuclear Cities Initiative.

Have agreed as follows:

Article 1

The purpose of this Agreement is to create a framework for cooperation in facilitating civilian production that will provide new jobs for workers displaced from enterprises of the nuclear complex in the "Nuclear Cities" controlled by the Ministry of the Russian Federation for Atomic Energy,

This cooperation shall be in keeping with the Parties' mutual disarmament and non-proliferation efforts.

The Nuclear Cities Initiative complements other bilateral and multilateral agreements to which the United States and the Russian Federation are Parties, and does not supersede them or otherwise affect their terms and conditions.

Article 2

For purposes of this Agreement:

1. The term "nuclear cities" shall mean administrative territorial units, as defined under the Law of the Russian Federation on Closed Administrative Territorial units, that have

bodies of local municipal self-government and within which are located nuclear enterprises controlled by the Ministry of the Russian Federation for Atomic Energy, not including the territory of the enterprise itself.

2. Diversification of production shall mean the development, in "nuclear cities," of commercially viable enterprises for civilian production at which displaced employees of the nuclear complex can be employed, with emphasis on former nuclear weapon scientists, engineers, technicians, and other specialists.

3. Civilian production shall mean an enterprise of any form of ownership, with an emphasis on private sector ownership development, that is oriented toward manufacturing or services for civilian use.

Article 3

1 . The principal subject areas for the cooperative activities by the Parties may include the following types of activities:

- a) Sharing experience in diversification of production;
- b) Facilitating the selection of promising projects for production diversification and creating the conditions that will enable them to be implemented;
- c) Developing entrepreneurial skills in employees displaced from enterprises of the nuclear complex, training them in how to write a business plan, and facilitating development of such plans;
- d) Facilitating creation of the conditions necessary for attracting investment in the "nuclear cities" for purposes of implementing the projects within the framework of this Agreement;
- e) Facilitating the search for investors for production diversification projects, market analysis, and the marketing of products and services produced as a result of the implementation of those projects;
- f) Facilitating access to existing investment mechanisms, including investment funds; and,
- g) Identifying mechanisms for the funding of projects under this Agreement.

Article 4

1. The Parties shall designate Executive Agents to carry out the provisions of this Agreement. The Executive Agent for the Russian Federation shall be the Ministry of the

Russian Federation for Atomic Energy, and the Executive Agent for the United States of America shall be the U.S. Department of Energy.

2. The Parties shall establish a U.S.-Russian Joint Steering Committee, which shall coordinate work undertaken under this Agreement. Each Party shall designate its own members on the Joint Steering Committee. Decisions of the Joint Steering Committee shall be made on the basis of unanimous consent.

3. The tasks of the Joint Steering Committee shall include:

a) Development of Joint Action Plans to implement this Agreement;

b) Establishment of joint working groups to carry out specific tasks, and coordination of their activities. These groups may be formed based upon specific "nuclear cities" or technical subjects depending on the task to be accomplished;

c) Coordination and review and the making of recommendations for financing and implementation of projects under this Agreement;

d) Resolution of disputes and disagreements that may arise in the course of activities under this Agreement;

e) Review of other matters, as the Executive Agents of the Parties may agree in writing, that are within the scope of this Agreement;

4. A detailed plan for implementing specific production diversification projects within the framework of the Agreement shall be drawn up in the form of specific implementing arrangements.

5. The Parties' Executive Agents may involve other governmental institutions, auditing, marketing, and law firms, research centers, commercial enterprises, universities, institutes, and other organizations of the Parties in joint activities under this Agreement.

Article 5

1. In the implementation of this Agreement, only unclassified information shall be exchanged.

2. In order to prevent access by people and organizations not participating in the implementation of this Agreement to information that is provided by the Parties pursuant to, or is obtained or produced as a result of, implementation of this Agreement and is considered sensitive by the Parties, such information is to be handled as sensitive information. Such information must be clearly designated and marked. The Party transmitting the information will designate information as sensitive in accordance with its

laws and regulations. The Party receiving this information shall assign it a designation that provides a degree of protection at least equivalent to that required by the Party that furnished the information.

3. Sensitive information shall be handled in accordance with the laws and regulations of the Party receiving the information, and this information shall not be disclosed or transmitted to a third party not participating in implementation of this Agreement without the written consent of the Party transmitting the information. According to the norms and regulations of the Russian Federation, such information shall be treated as official information with limited distribution and shall be protected appropriately. According to the norms and regulations of the United States, such information shall be treated as foreign government information provided in confidence. That information shall be protected appropriately.

4. The Parties shall assure effective protection and allocation of rights to intellectual property transmitted or created under this Agreement as set forth in this Agreement and in the Annex to this Agreement which forms an integral part of this Agreement.

5. Information transmitted under this Agreement must be used solely in conformance with the provisions of this Agreement.

6. The number of people having access to sensitive information must be limited to the number necessary to implement a specific program under this Agreement and shall be determined by the respective Executive Agent.

Article 6

1. In the event that a Party awards contracts for the acquisition of articles and services, including construction, to implement this Agreement such contracts shall be awarded in accordance with the laws and regulations of that Party. All activities carried out in the Russian Federation under such contracts shall be performed consistent with Russian Federation law.

2. To the extent necessary for effective implementation of this Agreement the Executive Agent of the Russian Party shall provide assistance, in accordance with Russian Federation law and the regulatory and legal acts of the federal authorities of the Russian Federation, for timely access for those involved in coordinating and implementing this Agreement to the "Nuclear Cities" and to sites where activities related to this Agreement are performed.

Article 7

Equipment, supplies, materials, services and activities provided or acquired by the United States of America, its contractors, subcontractors, and their personnel for the

implementation of this Agreement are free technical assistance and are thus exempt from customs duties and taxes- The Russian Federation shall take all necessary measures to exempt this equipment, shipments, materials, services, and work from all taxes, tariffs, customs duties, and levies of the Russian Federation and its instrumentalities. In carrying out these obligations the Russian Federation, its ministries, agencies and instrumentalities shall act in accordance with Russian Federation law.

Article 8

1 . With the exception of claims against individuals for premeditated damage or injury, the Government of the Russian Federation shall bring no claims or other legal proceedings against the Government of the United States of America and its personnel or its contractors, sub-contractors, consultants, suppliers, or sub-suppliers of equipment or services at any tier and their personnel, in any court or forum, for any damage, including indirect, direct, or consequential damage, arising from activities undertaken pursuant to this Agreement to property owned by the Russian Federation. This paragraph shall not apply to legal actions brought by the Government of the Russian Federation to enforce the provisions of contracts to which it or a Russian national or other legal entity is a party.

2. With the exception of claims against individuals for premeditated damage Or injury, the Government of the Russian Federation shall provide for the adequate defense of, shall indemnify, and shall bring no claims or other legal proceedings against the Government of the United States of America and its personnel or its contractors, sub-contractors, consultants, suppliers, or sub-suppliers of equipment or services at any tier and their personnel, in connection with third-party claims, in any court or forum, for any injury or damage, including indirect, direct, or consequential injury or damage, arising from activities undertaken pursuant to this Agreement, occurring within or outside the territory of the Russian Federation. Nothing in this paragraph shall be construed as acknowledging the jurisdiction of any court or forum over third-party claims to which this paragraph applies, nor shall it be construed as waiving the sovereign immunity of either Party with respect to third-party claims that may be brought against it.

3, The Parties may, as necessary, conduct consultations regarding claims and legal proceedings concerning this Article.

4. The provisions of this Article shall not prevent the Parties from providing compensation in accordance with their national laws.

5. Nothing in this Article shall be interpreted to prevent legal proceedings or claims against nationals of the Russian Federation or permanent residents of the Russian Federation.

Article 9

1. The joint activities under this Agreement may be supported by funds appropriated for those purposes by the Russian Federation and the United States of America and by materials, equipment, and manpower provided free of charge by them. The joint activities may also be supported partially or wholly directly from other sources, including non-government and private sector funds.

2. In all cases, the activities of, and financial support provided by, the United States of America under this Agreement are subject to the availability of appropriated funds. In all cases, the activities of, and financial support provided by, the Russian federation under this Agreement are subject to the availability of appropriated funds.

Article 10

1. Representatives of the United States of America shall have the right, upon giving notice, to perform coordinated inspections of, and to audit, the use of support or assistance provided by the U.S. Government within the framework of cooperation under this Agreement during the life of this Agreement and for three years thereafter. Such inspections may be conducted at sites or locations that are determined by mutual agreement of the Parties' Executive Agents and that are subject to this Agreement.

2. The Parties' Executive Agents shall, within the framework of the Joint Steering Committee, develop appropriate procedures for conducting the inspections of the use of assistance and support provided within the framework of this Agreement.

Article 11

All questions regarding the interpretation or application of the provisions of this Agreement shall be resolved by means of consultation between the Parties.

Article 12

1. This Agreement shall enter into force on the date of signature and shall remain in force for five years. The Agreement may be extended for successive five-year periods with the written consent of both Parties after joint review before the end of each five-year period. The Agreement may be amended by written agreement of the Parties.

2. This Agreement may be terminated by either Party by sending written notice through diplomatic channels of its intent to terminate the Agreement, in which case the Agreement shall terminate six months from the date of the notification.

3. If the Agreement is terminated by either Party, the Parties may agree upon the full implementation of existing contracts and projects and will settle any outstanding costs by

mutual agreement If this Agreement is terminated or expires, the Parties agree that all sensitive information and intellectual property obtained or created in the course of implementation of the Agreement shall continue to be treated in conformance with Article 3 of this Agreement, unless other arrangements are made by written agreement of the Parties.

DONE AT VIENNA this 22nd day of September, 1998 in two copies each, in the English and in Russian languages, each text being equally authentic

FOR THE GOVERNMENT OF THE UNITED STATES:

FOR THE GOVERNMENT OF THE RUSSIAN FEDERATION:

ANNEX
TO THE AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENT OF THE RUSSIAN FEDERATION
ON THE NUCLEAR CITIES INITIATIVE

Intellectual Property

Pursuant to Article 5 of this Agreement:

The Parties shall ensure adequate and effective protection of intellectual property created or furnished under this Agreement and relevant implementing agreements. The Parties agree to notify one another in a timely fashion of any inventions or copyrighted works resulting from scientific and technological work performed 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 Executive Agents.
- 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, license agreements or other legal documents, if necessary. This Annex does not otherwise alter or prejudice the allocation between a Party and its nationals or other legal entities, which shall be determined by that Party's 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 Executive Agents. Upon mutual agreement of the Parties, a dispute shall be submitted to an arbitral tribunal for binding arbitration in accordance with the Agreement and with the applicable rules of international law.

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

II. Allocation of Rights

a. Each Party shall be entitled to a nonexclusive, irrevocable, royalty-free license in all countries to translate, reproduce, and publicly distribute scientific and technical journal articles, papers, 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 Paragraph I.A. above, shall be allocated as follows:

1. Visiting researchers shall receive intellectual property rights under the policies of the host institution. In addition, each visiting researcher named as an inventor or author shall be entitled 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 country. Rights and interests in third countries will be determined in implementing agreements. If research is not designated as "joint research" in the relevant implementing agreement, rights to intellectual property arising from the research will be allocated in accordance with paragraph b.1. above. In addition, each person named as an inventor or author shall be entitled to receive awards in accordance with the policies of the participating institutions.

(b) Notwithstanding paragraph II.b.2(a) above, if a type of intellectual property is available under the laws of one Party but not the other Party, the Party whose laws

provide for this type of protection shall be entitled to all rights and interests worldwide. Persons named as inventors or authors of the property shall nonetheless be entitled to awards, bonuses, benefits or any other rewards in accordance with the policies of the participating institution of the Party obtaining rights.

III. Business Confidential Information

In the event that information identified in a timely fashion as business-confidential is furnished or created under this Agreement, 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, 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.