

No. 4699

**JAPAN
and
UNITED STATES OF AMERICA**

**Agreement for co-operation concerning civil uses of atomic
energy (with exchange of notes and memorandum).
Signed at Washington, on 16 June 1958**

Official texts of the Agreement : English and Japanese.

Official text of the exchange of notes and memorandum : English.

Registered by Japan on 2 March 1959.

**JAPON
et
ÉTATS-UNIS D'AMÉRIQUE**

**Accord de coopération concernant l'utilisation de l'énergie
atomique à des fins civiles (avec échange de notes et
mémoire). Signé à Washington, le 16 juin 1958**

Textes officiels de l'Accord : anglais et japonais.

Texte officiel de l'échange de notes et du mémoire : anglais.

Enregistré par le Japon le 2 mars 1959.

No. 4699. AGREEMENT¹ FOR CO-OPERATION BETWEEN THE GOVERNMENT OF JAPAN AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA CONCERNING CIVIL USES OF ATOMIC ENERGY. SIGNED AT WASHINGTON, ON 16 JUNE 1958

Whereas the Government of Japan and the Government of the United States of America, on November 14, 1955, signed an "Agreement for Cooperation Between the Government of Japan and the Government of the United States of America Concerning Civil Uses of Atomic Energy" ;² and

Whereas the Government of Japan has advised the Government of the United States of America of its desire to pursue a research and development program looking toward the realization of peaceful and humanitarian uses of atomic energy including the design, construction, and operation of power-producing reactors ; and

Whereas the Government of the United States of America desires to cooperate with the Government of Japan in such a program as hereinafter provided ; and

Whereas the Parties desire to supersede the "Agreement for Cooperation Between the Government of Japan and the Government of the United States of America Concerning Civil Uses of Atomic Energy", signed on November 14, 1955, with this Agreement which includes the new areas of cooperation ;

The Parties agree as follows :

Article I

A. The "Agreement for Cooperation Between the Government of Japan and the Government of the United States of America Concerning Civil Uses of Atomic Energy", signed on November 14, 1955, is superseded in its entirety on the day this Agreement enters into force.

B. This Agreement shall enter into force on the day on which each Government shall receive from the other Government written notification that it has complied with all statutory and constitutional requirements for the entry into force of such Agreement and shall remain in force for a period of ten (10) years.

¹ Came into force on 5 December 1958, the day on which each Government received from the other Government written notification that it had complied with all statutory and constitutional requirements for the entry into force of the Agreement, in accordance with article I.

² United Nations, *Treaty Series*, Vol. 240, p. 361.

Article II

A. Subject to the provisions of this Agreement, the availability of personnel and material, and the applicable laws, regulations, and license requirements in force in their respective countries, the Parties shall assist each other in the achievement of the use of atomic energy for peaceful purposes.

B. Restricted Data shall not be communicated under this Agreement, and no materials or equipment and devices shall be transferred, and no services shall be furnished, under this Agreement, if the transfer of any such material or equipment and devices or the furnishing of any such service involves the communication of Restricted Data.

C. This Agreement shall not require the exchange of any information which the Parties are not permitted to communicate because the information is privately owned or has been received from another Government.

Article III

Subject to the provisions of Article II, unclassified information including information in the specific fields set out below shall be exchanged between the Parties with respect to the application of atomic energy to peaceful uses, including research and development relating to such uses, and problems of health and safety connected therewith :

(a) The development, design, construction, operation, and use of research, demonstration power, experimental power, and power reactors ;

(b) Health and safety problems related to the operation and use of research, demonstration power, experimental power, and power reactors ;

(c) The use of radioactive isotopes and radiation in physical and biological research, medical therapy, agriculture, and industry.

Article IV

The application or use of any information (including design drawings and specifications) and any material, equipment and devices, exchanged or transferred between the Parties under this Agreement, shall be the responsibility of the Party receiving it, and the other Party does not warrant the accuracy or completeness of such information and does not warrant the suitability of such information, materials, equipment and devices for any particular use or application.

*Article V**A. Research Materials*

Materials of interest in connection with defined research projects related to the peaceful uses of atomic energy as provided by Article III and under the limitations set forth in Article II, including source materials, special nuclear materials, by-product material, other radio-isotopes, and stable isotopes, will be exchanged for research purposes in such quantities and under such terms and conditions as may be agreed when such materials are not available commercially. In no case, however, shall the quantity of special nuclear materials under the jurisdiction of either Party, by reason of transfer under this Article, be, at any one time, in excess of 100 grams of contained U-235, 10 grams of plutonium, and 10 grams of U-233.

B. Research Facilities

Subject to the provisions of Article II, and under such terms and conditions as may be agreed, and to the extent as may be agreed, specialized research facilities and reactor materials testing facilities of the Parties shall be made available for mutual use consistent with the limits of space, facilities, and personnel conveniently available, when such facilities are not commercially available.

Article VI

With respect to the subjects of agreed exchange of information as provided in Article III, it is understood that the Government of Japan or the Government of the United States of America will permit persons under its own jurisdiction to make arrangements to transfer and export materials, including equipment and devices, to, and to perform services for, the other Government and such persons under its jurisdiction as are authorized by the other Government to receive and possess such materials and utilize such services, subject to :

- (a) The limitations in Article II ;
- (b) Applicable laws, regulations, and license requirements of the Government of Japan and the Government of the United States of America.

Article VII

A. The United States Commission will sell or lease, as may be agreed, to the Government of Japan uranium enriched up to twenty per cent (20 %) in the isotope U-235, except as otherwise provided in Paragraph C of this Article, in such quantities as may be agreed, in accordance with the terms, conditions, and delivery schedules set forth in contracts, for fueling defined research, experimental power, demonstration power, and power reactors which the Government of Japan, in consultation with the United States Commission, decides to construct or authorize private organizations to construct in Japan and for experiments required in relation thereto ;

provided, however, that the net amount of any uranium sold or leased hereunder during the period of this Agreement shall not exceed two thousand seven hundred (2,700) kilograms of contained U-235. This net amount shall be the gross quantity of contained U-235 in uranium sold or leased to the Government of Japan during the period of this Agreement less the quantity of contained U-235 in recoverable uranium which has been resold or otherwise returned to the Government of the United States of America during the period of this Agreement or transferred to any other nation or international organization with the approval of the Government of the United States of America.

B. Within the limitations contained in Paragraph A of this Article, the quantity of uranium enriched in the isotope U-235 transferred by the United States Commission under this Article and in the custody of the Government of Japan shall not at any time be in excess of the amount of material necessary for the full loading of each defined reactor project which the Government of Japan or persons under its jurisdiction decide to construct and fuel with United States fuel, as provided herein, plus such additional quantity as, in the opinion of the United States Commission, is necessary to permit the efficient and continuous operation of such reactor or reactors while replaced fuel elements are radio-actively cooling or in transit, or, subject to the provisions of Paragraph E, are being reprocessed in Japan, it being the intent of the United States Commission to make possible the maximum usefulness of the material so transferred.

C. The United States Commission may, upon request and in its discretion, make a portion of the foregoing special nuclear material available as material enriched up to ninety per cent (90 %) for use in a materials testing reactor, capable of operating with a fuel load not to exceed six (6) kilograms of contained U-235 in uranium.

D. It is understood and agreed that although the Government of Japan may distribute uranium enriched in the isotope U-235 to authorized users in Japan, the Government of Japan will retain title to any uranium enriched in the isotope U-235 which is purchased from the United States Commission at least until such time as private users in the United States of America are permitted to acquire title in the United States of America to uranium enriched in the isotope U-235.

E. It is agreed that when any source or special nuclear material received from the United States of America requires reprocessing, such reprocessing shall be performed at the discretion of the United States Commission in either United States Commission facilities or facilities acceptable to the United States Commission, on terms and conditions to be later agreed; and it is understood, except as may be otherwise agreed, that the form and content of any irradiated fuel elements shall not be altered after their removal from the reactor and prior to delivery to the

United States Commission or the facilities acceptable to the United States Commission for reprocessing.

F. With respect to any special nuclear material not owned by the Government of the United States of America produced in reactors fueled with materials obtained from the United States of America which is in excess of the need of Japan for such material in its program for the peaceful uses of atomic energy, the Government of the United States of America shall have and is hereby granted (a) a first option to purchase such material at prices then prevailing in the United States of America for special nuclear material produced in reactors which are fueled pursuant to the terms of an agreement for cooperation with the Government of the United States of America, and (b) the right to approve the transfer of such material to any other nation or international organization in the event the option to purchase is not exercised.

G. Special nuclear material produced in any part of fuel leased hereunder as a result of irradiation processes shall be for the account of the Government of Japan and after reprocessing as provided in Paragraph E hereof shall be returned to the Government of Japan, at which time title to such material shall be transferred to that Government, unless the Government of the United States of America shall exercise the option, which is hereby accorded, to retain, with appropriate credit to the Government of Japan, any such special nuclear material which is in excess of the needs of the Government of Japan for such material in its program for the peaceful uses of atomic energy.

H. Some atomic energy materials which the Government of Japan may request the United States Commission to provide in accordance with this Agreement are harmful to persons and property unless handled and used carefully. After delivery of such materials to the Government of Japan the Government of Japan shall bear all responsibility, in so far as the Government of the United States of America is concerned, for the safe handling and use of such materials. With respect to any special nuclear materials or fuel elements which the United States Commission may, pursuant to this Agreement, lease to the Government of Japan, the Government of Japan shall indemnify and save harmless the Government of the United States of America against any and all liability (including third party liability) for any cause whatsoever arising out of the production or fabrication, the ownership, the lease, and the possession and use of such special nuclear materials or fuel elements after delivery by the United States Commission to the Government of Japan or to any person acting on behalf thereof.

Article VIII

As may be necessary and as may be mutually agreed in connection with the subjects of agreed exchange of information as provided in Article III, and under the limitations set forth in Article II, and under such terms and conditions as may be mutually agreed, specific arrangements may be made from time to time between

the Parties for lease, or sale and purchase, of quantities of materials, other than special nuclear material, greater than those required for research, when such materials are not available commercially.

Article IX

A. The Government of Japan and the Government of the United States of America emphasize their common interest in assuring that any material, equipment or device made available to the Government of Japan pursuant to this Agreement shall be used solely for civil purposes.

B. Except to the extent that the safeguards provided for in this Agreement are supplanted, by agreement of the Parties as provided in Article XI, by safeguards of the International Atomic Energy Agency, the Government of the United States of America, notwithstanding any other provisions of this Agreement, shall have the following rights :

1. With the objective of assuring design and operation for civil purposes and permitting effective application of safeguards to review the design of any

- (i) reactor and
- (ii) other equipment and devices the design of which the United States Commission determines to be relevant to the effective application of safeguards,

which are to be made available to the Government of Japan or persons under its jurisdiction by the Government of the United States of America or any person under its jurisdiction, or which are to use, fabricate, or process any of the following materials so made available : source material, special nuclear material, moderator material, or other material designated by the United States Commission ;

2. With respect to any source or special nuclear material made available to the Government of Japan or any person under its jurisdiction by the Government of the United States of America or any person under its jurisdiction and any source or special nuclear material utilized in, recovered from, or produced as a result of the use of any of the following materials, equipment or device so made available :

- (i) source material, special nuclear material, moderator material, or other material designated by the United States Commission,
- (ii) reactors,
- (iii) any other equipment or device designated by the United States Commission as an item to be made available on the condition that the provision of this subparagraph B 2 will apply,

(a) to require the maintenance and production of operating records and to request and receive reports for the purpose of assisting in ensuring accountability for such material ; and

(b) to require that any such material in the custody of the Government of Japan or any person under its jurisdiction be subject to all of the safeguards provided for in this Article and the guaranties set forth in Article X ;

3. To require the deposit in storage facilities designated by the United States Commission of any of the special nuclear material referred to in subparagraph B 2 of this Article which is not currently utilized for civil purposes in Japan and which is not purchased or retained by the Government of the United States of America pursuant to Article VII, Paragraph F (a) and Paragraph G of this Agreement, transferred pursuant to Article VII, Paragraph F (b) of this Agreement, or otherwise disposed of pursuant to an arrangement mutually acceptable to the Parties ;

4. To designate, after consultation with the Government of Japan, personnel who, accompanied, if either Party so requests, by personnel designated by the Government of Japan, shall have access in Japan to all places and data necessary to account for the source and special nuclear materials which are subject to subparagraph B 2 of this Article to determine whether there is compliance with this Agreement and to make such independent measurements as may be deemed necessary ;

5. In the event of non-compliance with the provisions of this Article, or the guaranties set forth in Article X, and the failure of the Government of Japan to carry out the provisions of this Article within a reasonable time, to suspend or terminate this Agreement and require the return of any materials, equipment and devices referred to in subparagraph B 2 of this Article ;

6. To consult with the Government of Japan in the matter of health and safety.

C. The Government of Japan undertakes to facilitate the application of the safeguards provided for in this Article.

Article X

The Government of Japan guarantees that :

(a) Safeguards provided in Article IX shall be maintained.

(b) No material, including equipment and devices, transferred to the Government of Japan or authorized persons under its jurisdiction pursuant to this Agreement, by lease, sale or otherwise, will be used for atomic weapons or for research on or development of atomic weapons or for any other military purposes, and that no such material, including equipment and devices, will be transferred to unauthorized persons or beyond the jurisdiction of the Government of Japan except as the

United States Commission may agree to such transfer to another nation or an international organization, and then only if in the opinion of the United States Commission such transfer falls within the scope of an agreement for cooperation between the United States of America and the other nation or international organization.

Article XI

The Government of Japan and the Government of the United States of America affirm their common interest in making mutually satisfactory arrangements to avail themselves, as soon as practicable, of the facilities and services to be made available by the International Atomic Energy Agency and to this end :

(a) The Parties will consult with each other, upon the request of either Party, to determine in what respects, if any, they desire to modify the provisions of this Agreement for Cooperation. In particular, the Parties will consult with each other to determine in what respects and to what extent they desire to arrange for the administration by the International Agency of those conditions, controls, and safeguards including those relating to health and safety standards required by the International Agency in connection with similar assistance rendered to a cooperating nation under the aegis of the International Agency.

(b) In the event the Parties do not reach a mutually satisfactory agreement following the consultation provided in subparagraph (a) of this Article, either Party may by notification terminate this Agreement. In the event this Agreement is so terminated, the Government of Japan shall return to the United States Commission all source and special nuclear materials received pursuant to this Agreement and in its possession or in the possession of persons under its jurisdiction.

Article XII

For purposes of this Agreement :

(a) "United States Commission" means the United States Atomic Energy Commission.

(b) "Equipment and devices" and "equipment or device" means any instrument, apparatus, or facility and includes any facility, except an atomic weapon, capable of making use of or producing special nuclear material, and component parts thereof.

(c) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency, or government corporation but does not include the Parties to this Agreement.

(d) "Reactor" means an apparatus, other than an atomic weapon, in which a self-supporting fission chain reaction is maintained by utilizing uranium, plutonium, or thorium, or any combination of uranium, plutonium, or thorium.

(e) "Restricted Data" means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear materials; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the category of Restricted Data by the appropriate authority.

(f) "Atomic weapon" means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

(g) "Special nuclear material" means (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the United States Commission determines to be special nuclear material; or (2) any material artificially enriched by any of the foregoing.

(h) "Source material" means (1) uranium, thorium, or any other material which is determined by either Party to be source material; or (2) ores containing one or more of the foregoing materials, in such concentration as either Party may determine from time to time.

(i) "Parties" means the Government of Japan and the Government of the United States of America, including the United States Commission on behalf of the Government of the United States of America. "Party" means one of the above-mentioned "Parties".

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed pursuant to duly constituted authority.

DONE at Washington, in duplicate, in the Japanese and English languages, both texts being equally authentic, this sixteenth day of June, 1958.

For the Government of Japan :
Koichiro ASAKAI

For the Government of the United States of America :
Walter S. ROBERTSON
Lewis L. STRAUSS
Chairman, United States Atomic Energy Commission

EXCHANGE OF NOTES

I

June 16, 1958

Excellency :

I have the honor to refer to the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, signed today,¹ and to confirm the following understandings which have been reached during the negotiations leading to the conclusion of the Agreement :

1. While the Parties use their best efforts to assure that material and information made available is free from defects and inaccuracies, the application or use of any material, equipment and devices, or use of any information (including design drawings and specifications) made available by the Parties shall, as provided in Article IV of the Agreement, be the responsibility of the Party receiving it, and the Party furnishing such items does not warrant the suitability of such information, material, equipment and devices for any particular use or application.

2. With regard to the transfer of U-235 pursuant to Article VII of this Agreement, the United States Atomic Energy Commission will be able under existing policy only to sell fuel for use in power reactors. The purpose of introducing the possibility of lease of fuel for power reactors is to permit the Parties to consider lease, should existing policy of the United States of America be revised to permit lease, without the necessity of amending the Agreement.

3. With respect to the acceptability of reprocessing facilities, as provided in Article VII E, and the designation of storage facilities, as provided in Article IX B 3, the United States Atomic Energy Commission may wish to consider several factors, but primarily those relating to effective application of controls and safeguards. In the event more than one storage or reprocessing facility could be selected, the United States Atomic Energy Commission will give careful consideration in such selection to the matter of relative costs to the Government of Japan.

4. With respect to the implementation of the rights accorded to the Government of the United States of America under Article IX B 1 and B 2 of the Agreement for Cooperation, it is recognized by the Parties that the rights accorded to the Government of the United States of America were inserted to assure that materials, equipment and devices made available as provided in the Agreement will be utilized solely for civil purposes. Reference is made in this regard to paragraph A of Article IX which recites this principle. Information obtained by personnel in the employ of the Government of the United States of America in exercising the referred to right of inspection will be utilized solely for the purpose of determining that the materials and facilities involved are being employed for civil purposes.

¹ See p. 160 of this volume.

5. With respect to such "other material" as the United States Atomic Energy Commission may designate under Article IX B 1 and B 2, such designation will be made by the United States Atomic Energy Commission upon its determination that such materials should be subject to the controls and safeguards as set forth in Article IX.

6. In case of return of material, equipment and devices and/or source or special nuclear materials as provided in Articles IX B 5 and XI (b), the Government of the United States of America and the Government of Japan shall consult with each other regarding appropriate arrangements related to such return.

7. Representatives of the Government of the United States of America and of the Government of Japan may meet from time to time to consult with each other on matters arising out of the application of the Agreement.

8. The Government of the United States of America understands that the program of the Government of Japan for the development of atomic energy includes the installation of additional demonstration power, experimental power and power reactors. It is understood that the Government of the United States of America and the Government of Japan may amend in accordance with all constitutional and statutory requirements of the Parties the provisions of the Agreement for Cooperation to provide for any additional supplies of special nuclear materials to be used in these additional reactors.

If the Government of Japan concurs, I suggest that the present note and Your Excellency's reply be regarded as placing these understandings on record.

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

For the Secretary of State :
Walter S. ROBERTSON

His Excellency Koichiro Asakai
Ambassador of Japan

II

June 16, 1958

Sir :

I have the honor to refer to your note dated today, regarding the Agreement for Cooperation Between the Government of Japan and the Government of the United States of America Concerning Civil Uses of Atomic Energy signed today, in which you set forth the following understandings which have been reached during the negotiations leading to the conclusion of the Agreement :

[See note I]

I have further the honor to inform you that the Government of Japan concurs in the foregoing understandings and confirms that your note and this reply be regarded as placing these understandings on record.

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

Koichiro ASAKAI
Ambassador of Japan

The Honorable John Foster Dulles
Secretary of State

MEMORANDUM

During the current negotiations between representatives of the United States and the Japanese Governments looking to the conclusion of the Agreement for Cooperation between the Government of the United States and the Government of Japan concerning Civil Uses of Atomic Energy,¹ the representatives of Japan have requested that the United States Government clarify its position with respect to the purchase option provision of Article VII F of the proposed Agreement.

Article VII F (a) of the proposed Agreement reserves to the United States Government the option to purchase from Japan special nuclear material, which is produced in reactors fueled with material obtained from the United States, in excess of the needs of Japan's program for the peaceful uses of atomic energy. The United States Government has proposed the inclusion of this provision in full awareness of the significance of the President's statement of November 18, 1956, which reads in pertinent part as follows :

“One of the steps I have approved is an offer to purchase at specified prices plutonium and uranium 233 produced in reactors abroad that are fueled with material furnished under our agreements for cooperation. The materials so acquired by the United States will be used solely for peaceful purposes.”

This statement has not since been revoked or modified and continues, therefore, to be the policy of the United States in this matter.

It is hoped that the foregoing clarifies the United States Government's position with respect to Article VII F (a).

H. L. P.

Department of State
Washington
May 27, 1958

¹ See p. 160 of this volume.