



**MINISTRY: FINANCE
REPUBLIC OF SOUTH AFRICA**

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Ref: M4/1/6(951/18)

N.F Shivambu MP

EFF Deputy President and Chief Whip

Office M442, 4th floor

Marks Building

Parliament of South Africa

CAPE TOWN

8000

***Minister's alleged involvement in the GUPTA capture and interference at the
Public Investment Corporation (PIC):***

Dear Honourable Shivambu

Your letter dated 22 May 2018 refers.

I would like to apologise that I am only responding to your letter now.

Before responding to the specific questions posed, it is important to clarify two important points, namely the role of the Deputy Minister in relation to the PIC and the delegations in terms of approvals of investment proposals at the PIC.

By virtue of being appointed as Deputy Minister of Finance, the incumbent serves as a Non-Executive Director and Chairperson of the Board of the PIC. The accompanying table provides clarity on the delegation of authority on investments.

Table1: PIC delegation of authority extracts – investments

Delegation of authority extracts – investments		
Approving Committee	Listed investments	Unlisted investments
Portfolio Management committee	Up to R10 billion (depending on exposure and structure)	Up to R500 million
Fund Investment Panel	N/A	> R500 million to R2 billion (Private Placement Memorandum PPMs)
Investment Committee	Above R10 billion	Up to R10 billion(including Unlisted debt and private placement)
Board	Above R10 billion (depending on the nature of the transaction)	Above R10 billion including Unlisted debt private placement
Client (GEPF)		Above R2 billion (PPM)
Social and Ethics Committee	Where there are some reputational Risk and Political Exposed Person (PEP) issues	Where there are some reputational Risk and PEP issues

In terms of the questions posed in your correspondence, my response is as follows:

1. During your tenure as Deputy Minister of Finance, did you meet with any member of the Gupta family?

Yes, I met some members of the Gupta family during government functions, specifically the dinner hosted by the Presidency after the presentation of the State of the Nation address. On one occasion, I was invited to tour the Midrand offices of Sahara Computer offices.

- 2. Did you discuss business dealing and particularly PIC funding with any member of the Gupta family?**

No. I was once approached regarding a transaction involving the Independent News media group that they were considering; I advised that they should contact the PIC directly in this regard.

- 3. Did you write a letter to the PIC instructing the Investment Committee to award a certain contract in favour of the Gupta business network?**

No. Table 1 sets out clearly the delegations in terms of investments decisions by the PIC.

- 4. As Minister of Finance, did members of the Gupta family contacted you to make follow up on the commitments you gave whilst Deputy Minister of Finance?**

No.

- 5. Have you ever been involved in negotiating business deals for people who needed funding from the PIC?**

In both my role as Minister of Finance and my previous position as Deputy Minister of Finance, I have been approached by numerous individuals and companies asking for my assistance in securing finance, specifically from the PIC. In all instances, these individuals and companies were informed that they should approach the PIC directly through its formal channels.

- 6. After being fired as Minister of Finance, which business dealings were you directly or indirectly involved in?**

Refer to response in 7.

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7. Which boards did you sit in, and were you allocated any shares and, if yes, what is their worth and where?

a) I served in the following capacities:

- Resident advisor at Thebe Investments;
- Non-Executive Director of Allan Gray;
- Non-Executive Chairperson of Arise; and
- Acting Head of the Wits Business School.

b) When one of the shareholders sold its shareholding in Thebe Investments, I formed part of Thebe's management team that bought a portion of Absa's shareholding. I was appointed Minister of Finance this year before the details of this arrangement were concluded and am therefore not in a position to provide further details.

I trust you will find the above in order.

Kind regards



NHLANHLA NENE, MP
MINISTER OF FINANCE

DATE: 12/6/2018

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MINISTER
ENERGY
REPUBLIC OF SOUTH AFRICA



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Mr Llewellyn Claasen

Clerk of the Papers

Parliament of the Republic of South Africa

CAPE TOWN

8000



Dear Mr Llewellyn Claasen

**TABLING OF THE INTERNATIONAL AGREEMENTS FOR THE DEPARTMENT
OF ENERGY**

I, Ms. Tina Joemat-Pettersson, the Minister of Energy hereby give Mr Malusi Ndlovu, Parliamentary Liaison Officer permission to submit the Department of Energy International Agreements in accordance with Section 231 (3) of the Constitution of the Republic of South Africa Act, 1996 (Act No 108 of 1996), for tabling in Parliament.

The remainder of the documents will be delivered to the Papers Stores in Parliament for further distribution.

The following International Agreements will be tabled:

1. Agreement between the Government of the Korea and the Government of the Republic of South Africa regarding Cooperation in the Peaceful Uses of Nuclear Energy;
2. Agreement for Cooperation between the Government of the Republic of South Africa and the United States of America concerning Peaceful Uses of Nuclear Energy;

3. Agreement between the Government of the Republic of South Africa and the Government of the Russian Federation on Strategic Partnership and Cooperation in the fields of Nuclear Power and Industry;
4. Agreement between the Government of the Republic of South Africa and the Government of the French Republic on Cooperation in the Development of Peaceful Uses of Nuclear Energy;
5. Agreement between the Government of the Republic of South Africa and the Government of the People's Republic of China on Cooperation in the field of Civil Nuclear Energy Projects;

Yours respectfully



**(MS) TINA JOEMAT-PETTERSSON, MP
MINISTER OF ENERGY**

DATE: 10/6/2015.

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AGREEMENT

BETWEEN

**THE GOVERNMENT OF THE REPUBLIC OF
SOUTH AFRICA**

AND

**THE GOVERNMENT OF THE
FRENCH REPUBLIC**

ON COOPERATION

**IN THE DEVELOPMENT OF PEACEFUL USES
OF NUCLEAR ENERGY**

The Government of the Republic of South Africa and the Government of the French Republic (hereinafter referred to as the "Parties" or a "Party");

AFFIRMING their determination to develop the traditional ties of friendship existing between the two countries;

NOTING with satisfaction the fruitful outcome of economic, technical and scientific cooperation between the two countries;

RECALLING the Agreement on Co-operation regarding the Koeberg Nuclear Power Units I and II, between France and South Africa and which entered into force on 29 October 1976, and the Agreement between the International Atomic Energy Agency, the Government of the French Republic and the Government of the Republic of South Africa for the Application of Safeguards to the Koeberg Nuclear Power Station and to the Nuclear Material to be used therein, and which entered into force on 16 December 1976;

CONSIDERING the Agreement on Cooperation in the Field of Energy, between France and South Africa and which entered into force on 28 February 2008;

NOTING that both Parties are IAEA Member States;

CONSIDERING the participation of the two states in the Nuclear Suppliers Group (hereinafter referred to as "the NSG");

RECOGNIZING the respective nuclear disarmament and non-proliferation commitments of the French Republic and the Republic of South Africa, particularly the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968 (hereinafter referred to as "the NPT") signed by the French Republic as a nuclear weapons State Party and by the Republic of South Africa as a non-nuclear weapons State Party, as well as the African Nuclear-Weapon-Free zone treaty (Pelindaba Treaty), done on 11 April 1996 and entered into force on 15 July 2009;

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NOTING the Agreement for the Application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons, which entered into force on 16 September 1991, and the Protocol Additional to the Agreement between the Government of the Republic of South Africa and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, which entered into force on 13 September 2002;

NOTING the Agreement of 27 July 1978 between France, the European Atomic Energy Community and the International Atomic Energy Agency for the Application of Safeguards in France, which entered into force on 12 September 1981, and the Protocol Additional to the Agreement between France, the European Atomic Energy Community and the International Atomic Energy Agency for the Application of Safeguards in France, which entered into force on 30 April 2004;

NOTING the Agreement between the Government of the Republic of South Africa and the European Atomic Energy Community (EURATOM) for Cooperation in the Peaceful Uses of Nuclear Energy, signed on 18 July 2013;

CONSIDERING further the determination of the Parties to adopt the provisions within their jurisdictions required for the safe and responsible development of nuclear energy in compliance with the principles and provisions under the Convention on Nuclear Safety, the Convention on the Physical Protection of Nuclear Material, the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, the Convention on Early Notification of a Nuclear Accident, and the Convention on Assistance in the case of Nuclear Accident or Radiological Emergency;

SEEKING to broaden and deepen the mutually beneficial economic scientific and technical cooperation between the two Parties on the basis of mutual respect for each other's internal affairs;

HEREBY AGREE as follows:



**ARTICLE 1
DEFINITIONS**

For the purposes of this Agreement:

- (a) "equipment" shall mean any facility, equipment, or component listed in sections 1 and 3 to 7 of Annex B of the NSG Guidelines;
- (b) "facilities" shall mean plants referred to in Annex B, sections 1, 3, 4, 5, 6 and 7 of the most recently published NSG Guidelines;
- (c) "Guidelines" shall mean the NSG Guidelines for Nuclear Transfers published by the IAEA under INFCIRC/254/Rev.10/Part1 and their subsequent amendments as agreed to by the Parties;
- (d) "information" shall mean any piece of information, documentation or data of whatever nature, which relates to material, equipment, facilities or technology subject to this Agreement, but excluding information, documentation and data accessible to the public;
- (e) "intellectual property" shall have the meaning given in Article 2 of the Convention Establishing the World Intellectual Property Organization, signed at Stockholm on 14 July 1967, and which entered into force for South Africa on 23 March 1975 and for France on 18 October 1974;


The definition may be broadened as agreed by the Parties;

- (f) "material" shall mean non-nuclear material for reactors listed in Annex B of the NSG Guidelines;
- (g) "nuclear material" shall mean any special fissionable material or source material in accordance with the definitions in Article XX of the Statute of the IAEA;

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- (h) "person" shall mean any individual or legal entity subject to the territorial jurisdiction of one of the Parties, but shall not include the Parties to this Agreement;
- (i) "technology" shall mean the specific information necessary for the "development", "production" or "use" of any item listed in Annex B of the NSG Guidelines as updated from time to time, except data made available to the public, for instance data published in reviews or books, or which have become available internationally without any restrictions on dissemination.

This information can either be in the form of "technical data" or of "technical assistance";

- (j) "development" shall mean all phases preceding "production", including studies, research pertaining to the design, assembly and tests of prototypes and as-built drawings;
- (k) "production" shall mean all production phases;
- (l) "use" shall mean operation, installation (including on-site installation), maintenance, repairs, refurbishing and overhauling;
- (m) "technical assistance" may take different forms including instruction, skills, training, working knowledge, and consulting services;
- (n) "technical data" may consist of tracings, diagrams, blue-prints, manuals and instructions written or recorded on other media such as disks, magnetic tapes or storage units;
- (o) "use for peaceful purposes" shall mean peaceful and non-explosive applications.
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**ARTICLE 2
OBJECTIVES**

In accordance with this Agreement, the Parties shall, in compliance with the laws and regulations in force in each country and on the basis of mutual benefit, equality and reciprocity, develop and strengthen scientific, technical, industrial and economic cooperation in the field of peaceful uses of nuclear energy in accordance with the principal needs and priorities of their national nuclear programs and with the international agreements and commitments in the field of nuclear non-proliferation to which they are respectively parties.

**ARTICLE 3
SCOPE OF COOPERATION**

Cooperation mentioned in Article 2 may cover the following areas:

- (a) fundamental and applied research and development in the field of energy, not including the supply to research reactors of uranium enriched to twenty (20) per cent or more in the U 235 isotope;
 - (b) use of nuclear energy for electricity generation, including the design, construction, operation and decommissioning of nuclear power plants in the Republic of South Africa, with total installed capacity of about 9.6 GW, and the fabrication of nuclear fuel;
 - (c) nuclear spent fuel and radioactive waste management;
 - (d) nuclear safety, radiation protection and radiological environmental protection;
 - (e) accounting, control and physical protection of nuclear material;
 - (f) manufacturing and application of radioisotopes;
 - (g) radiation technology and its applications;
 - (h) controlled nuclear fusion, plasma physics and plasma technologies;
 - (i) exchange of information on legislation and regulation in the nuclear field;
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- (j) decommissioning and decontamination of and supply of equipment to sites and nuclear facilities;

or any other areas of cooperation agreed upon by the Parties.

ARTICLE 4 FORMS OF COOPERATION

The cooperation stipulated in this Agreement may be undertaken in the following forms:

- (a) exchange of experts, scientific and technological information, organization of scientific seminars and conferences and training of administrative, scientific and technological personnel;
- (b) manufacturing and supply of material, nuclear material, equipment, facilities and related technologies (hereinafter referred to as "nuclear items and technologies") and services;
- (c) consultations on research and technological issues and performing joint research under programmes agreed by the Parties;

or any other form of cooperation agreed to by the Parties.

ARTICLE 5 IMPLEMENTATION OF THE AGREEMENT

1. The Parties may agree on the participation of public or private organizations of the two States (hereinafter referred to as "organizations") in the implementation of cooperation under this Agreement.
2. The conditions of implementation of cooperation as defined in Articles 3 and 4 shall be specified on a case-by-case basis and in compliance with the provisions of this Agreement:

[Handwritten initials]

- (a) by specific agreements between the Parties or by arrangements between organizations designated by each of the Parties, for instance to specify the programmes and conditions of scientific and technical exchanges;
- (b) by contracts signed between organizations designated by each of the Parties on industrial developments and the supply of material, nuclear material, equipment, facilities or technology.

ARTICLE 6
COMPETENT AUTHORITIES

1. The Competent Authorities responsible for the implementation of this Agreement shall be:
 - (a) for the Government of the Republic of South Africa, the Department of Energy; and
 - (b) for the Government of the French Republic, the Ministry in charge of Energy;
2. The Competent Authorities may agree to involve organizations of both countries to participate in the implementation of this Agreement.
3. The Parties shall take the necessary measures to ensure the proper implementation of the Agreement as well as of specific agreements and contracts referred to in Article 5(2), in accordance with their respective laws, regulations and international obligations

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ARTICLE 7
ESTABLISHMENT OF A JOINT COORDINATING COMMITTEE
AND WORKING GROUPS

1. The Parties shall establish a Joint Coordinating Committee composed of the representatives appointed by the competent authorities to-
 - (a) review the implementation of this Agreement;
 - (b) to consider issues arising from its implementation and
 - (c) to hold consultations on issues of mutual interest related to the peaceful uses of nuclear energy.

2. The competencies and procedures of this Committee shall be defined jointly by the Competent Authorities.

3. The Joint Coordinating Committee meetings shall be held as necessary alternately in the French Republic and in the Republic of South Africa or as mutually agreed upon.

4. Each Party shall be responsible for its own travel and accommodation costs when attending meetings of the Joint Coordinating Committee.

5. The Competent Authorities may, if necessary, establish Working Groups to discuss further steps on implementing this Agreement and to exchange information on the progress of joint projects and programs and other issues of mutual interest.

6. Each Party shall bear the cost of participation in the Joint Coordinating Committee, subject to the limits of the budgets available to the Parties.

[Handwritten initials]

ARTICLE 8
SAFETY AND SECURITY

The Parties shall ensure in the cooperation carried out under this Agreement the achievement and maintenance of the highest level of nuclear safety and security in accordance with the principles and provisions of the Convention on Nuclear Safety, the Convention on the Physical Protection of Nuclear Material, the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, the Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the case of a Nuclear Accident or Radiological Emergency.

ARTICLE 9
PROTECTION OF INFORMATION

1. Information provided under this Agreement or resulting from the implementation thereof and treated by any Party in accordance with their national laws and regulations as sensitive or classified shall be clearly defined and marked as such.
2. As cooperation develops, the Parties may consider the conclusion of a Security Agreement for the exchange of classified information, bearing in mind the following principles:
 - (a) The Parties shall protect the classified information and material to which they may have access under this Agreement in accordance with their respective national laws and regulations;
 - (b) The classified information and material shall only be sent through official channels or through agreed procedures between the Parties;
 - (c) No classified information or material received by one of the Parties under this Agreement may be in any way be transferred, disseminated or disclosed to third parties or to entities not authorized by the other Party and without its prior consent.

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**ARTICLE 13
RESTRICTIONS**

1. In accordance with this Agreement, the transfer of material, nuclear material, equipment, facilities and technologies referred to in Article 12 shall be performed in compliance with the commitments of the Parties under the Guidelines and other international agreements which are binding on the Parties.

2. Should one of the Parties consider the retransfer to a third State of material, nuclear material, equipment, facilities and technology referred to in Article 12, or the transfer of material, nuclear material, equipment and technology referred to in Article 12, originating from equipment or facilities transferred originally or produced by means of transferred equipment, facilities or technology, that Party shall only do so after having obtained the same assurances from the recipient of these transfers as those laid down by this Agreement and with the consent of the other Party. Retransfers beyond the jurisdiction of the Parties of material, nuclear material, equipment, facilities and technology transferred under this Agreement or derived from those originally transferred shall take place in accordance with the NSG Guidelines (INFCIRC/254/Rev.10 /Part.I), as amended, and respective legislation.

3. Within the European Union, transfers and retransfers of items and products are subject to Chapter IX of the Treaty of 25 March 1957 establishing the European Atomic Energy Community on the nuclear common market, without prejudice to the provisions of Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items.

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ARTICLE 14
SAFEGUARDS

1. Nuclear material held or imported by the Republic of South Africa, and all successive generations of nuclear material recovered or produced as a by-product, shall be subject to safeguards by the IAEA under the terms of the Agreement signed by the Republic of South Africa and the IAEA on 16 September 1991, for Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, supplemented by an Additional Protocol which entered into force on 13 September 2002, which applies to all nuclear material in all nuclear activities carried out in the territory of the Republic of South Africa, under its jurisdiction or undertaken under its control wherever that may be.

2. All nuclear material transferred to the French Republic under this Agreement and notified as such by the supplying Party, and nuclear material recovered or produced as a by-product, shall be managed in accordance with the provisions of Chapter 7 of the Euratom Treaty on Safeguards and of the Agreement between France, the European Atomic Energy Community and the IAEA for the application of Safeguards in France signed on 20 and 27 July 1978, as supplemented by the Additional Protocol signed on 22 September 1998.

3. In the event of the IAEA Safeguards referred to in this Article of the Agreement not being applicable within the territory of either Party, the Parties shall undertake to consult each other with a view to subjecting, as soon as possible, nuclear material transferred or produced under this Agreement, and all successive generations of nuclear material recovered or produced as a by-product, to a mutually agreed Safeguards system, the effectiveness and scope of which being comparable to those previously applied by the IAEA for such nuclear material.



ARTICLE 15
PHYSICAL PROTECTION

1. Each Party shall ensure that the material, nuclear material, equipment, facilities and technology referred to in Article 12 of this Agreement are exclusively held by persons under its jurisdiction and authorized to do so.
2. Each Party shall ensure that, within its territory, or should the occasion arise, outside its territory up to the point where that responsibility is taken over by the other Party or by a third State, adequate measures are adopted to ensure the physical protection of the material, nuclear material, equipment and facilities referred to in this Agreement, in accordance with its national legislation and the international commitments to which it has subscribed.
3. Physical protection shall be ensured with respect to material, nuclear material, equipment, facilities and technologies transferred in accordance with this Agreement as well as with regard to material, nuclear material, equipment, facilities and technologies derived from those originally transferred or as a result of the use thereof at a level not lower than the level set out in IAEA recommendations document INFCIRC/225/Rev.5 as well as in any subsequent amendments thereto accepted by the Parties.
4. Under the three previous sub-Articles of this Article, each Party shall be responsible for the implementation and maintenance of physical protection measures in its territory.
5. Amendments to IAEA recommendations relating to physical protection shall be effective under this Agreement only after mutual written notification of acceptance of such amendments by both Parties.

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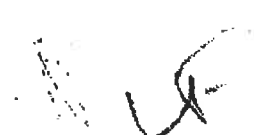
ARTICLE 16
DURATION OF APPLICATION

1. Material, nuclear material, equipment, technologies and facilities referred to in Article 12 shall remain subject to this Agreement until:
 - (a) these items have been transferred beyond the jurisdiction of the receiving Party in accordance with the provisions of Article 13; or
 - (b) in this framework, a determination is made in the case of material, nuclear material, equipment, facilities and technologies that they are no longer usable nor practicably recoverable for processing into a form usable for any nuclear activity relevant as regards the safeguards referred to in Article 14 of this Agreement. Both Parties shall accept a determination made by the IAEA in accordance with the provisions for the termination of safeguards under the relevant Safeguards Agreements to which the IAEA is a party; or
 - (c) otherwise agreed upon by the Parties.

2. Technology shall remain subject to this Agreement until the Parties mutually agree otherwise.

ARTICLE 17
RIGHTS AND OBLIGATIONS UNDER OTHER AGREEMENTS

Nothing in this Agreement shall be interpreted as affecting the rights and obligations which, on the date of signature thereof, result from the participation of either Party in other international agreements on the use of nuclear energy for peaceful purposes, including, as regards the French Party, from its membership of the European Union and the European Atomic Energy Community and, as regards the South African Party, from its participation to the Euratom- South Africa Agreement signed on July 18, 2013.



ARTICLE 18
SETTLEMENT OF DISPUTES

Any dispute arising out of the interpretation, application or implementation of this Agreement shall be settled amicably between the Parties through negotiations, consultation, mediation or conciliation.

ARTICLE 19
AMENDMENTS

This Agreement may be amended by mutual consent of the Parties through an Exchange of Notes between the Parties through the diplomatic channel. Such amendment shall enter into force on the date on which the Parties have notified each other in writing that their respective internal procedures required for its entry into force have been completed.

ARTICLE 20
ENTRY INTO FORCE, DURATION AND TERMINATION

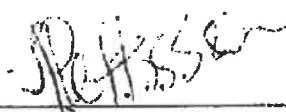
1. Both Parties shall notify each other in writing through the diplomatic channel of the completion of the internal procedures required to give effect to this Agreement. The date of entry into force shall be on the day the latest notification is received.
2. This Agreement shall remain in force for a period of 10 (ten) years, whereafter it shall automatically be renewed for successive ten-year periods. It may be terminated by either Party at any time giving six (6) months written notice in advance through the diplomatic channel of its intention to terminate this Agreement.
3. In the event of this Agreement expiring or being terminated in accordance with the procedure referred to in sub-Article (1) of this Article:

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- the relevant provisions of this Agreement shall remain applicable to the specific agreements and contracts in force signed under Article 5, until expiration for whatever reason, unless otherwise mutually agreed to by the Parties;
- the provisions of Articles 8, 9, 10, 11, 12, 13, 14, 15 and 16 shall continue to apply to the material, nuclear material, equipment, facilities and technology referred to in Article 12 and transferred pursuant to this Agreement, as well as to nuclear material recovered or obtained as by-products.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed and sealed this Agreement in two originals in the English and French languages, all texts being equally authentic.

DONE at Paris on this 14 day of October 2014.



**FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA**



**FOR THE GOVERNMENT OF
THE FRENCH REPUBLIC**

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PRESIDENT'S MINUTE NO. 314

In terms of section 231 of the Constitution of the Republic of South Africa, 1996, I hereby approve that the attached Agreement between the Government of the Republic of South Africa and the Government of the French Republic on Cooperation in the Development of Peaceful Uses of Nuclear Energy be entered into, and I hereby authorise the Minister of Energy to sign the Agreement.

Given under my Hand and the Seal of the Republic of South Africa at
Pretoria on this 10th day of October, Two Thousand and Fourteen.

A handwritten signature in black ink, appearing to be "Jacob Zuma".

PRESIDENT

A handwritten signature in black ink, appearing to be "Fikile Mkhosana".

MINISTER OF THE CABINET

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PRESIDENT'S MINUTE NO. 314

In terms of section 231 of the Constitution of the Republic of South Africa, 1996, I hereby approve that the attached Agreement between the Government of the Republic of South Africa and the Government of the French Republic on Cooperation in the Development of Peaceful Uses of Nuclear Energy be entered into, and I hereby authorise the Minister of Energy to sign the Agreement.

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A handwritten signature in black ink, appearing to be "J. Ma", written over a circular stamp.

PRESIDENT

A handwritten signature in black ink, appearing to be "M. Basson", written in a cursive style.

MINISTER OF THE CABINET

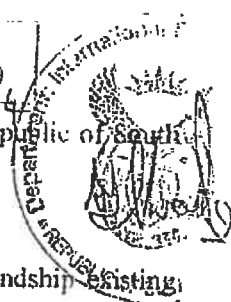
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AGREEMENT
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF SOUTH
AFRICA
AND
THE GOVERNMENT OF THE FRENCH REPUBLIC
ON COOPERATION
IN THE DEVELOPMENT OF PEACEFUL USES OF
NUCLEAR ENERGY

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STATE LAW ADVISER
(INTERNATIONAL LAW)

14.11.2014



The Government of the French Republic and the Government of the Republic of South Africa (hereinafter referred to as the "Parties" or a "Party");

AFFIRMING their determination to develop the traditional ties of friendship existing between the two countries;

NOTING with satisfaction the fruitful outcome of economic, technical and scientific cooperation between the two countries;

RECALLING the Agreement on Co-operation regarding the Koeberg Nuclear Power Units I and II, between France and South Africa and which entered into force on 29 October 1976, and the Agreement between the International Atomic Energy Agency, the Government of the French Republic and the Government of the Republic of South Africa for the Application of Safeguards to the Koeberg Nuclear Power Station and to the Nuclear Material to be used therein, and which entered into force on 16 December 1976;

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SEEKING to broaden and deepen the mutually beneficial economic scientific and technical cooperation between the two Parties on the basis of mutual respect for each other's internal affairs;

HEREBY AGREE as follows:

ARTICLE 1 DEFINITIONS

For the purposes of this Agreement:

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- (f) "material" shall mean non-nuclear material for reactors listed in Annex B of the NSG Guidelines;
- (g) "nuclear material" shall mean any special fissionable material or source material in accordance with the definitions in Article XX of the Statute of the IAEA;
- (h) "person" shall mean any individual or legal entity subject to the territorial jurisdiction of one of the Parties, but shall not include the Parties to this Agreement;
- (i) "technology" shall mean the specific information necessary for the "development", "production" or "use" of any item listed in Annex B of the

NSG Guidelines as updated from time to time, except data made available to the public, for instance data published in reviews or books, or which have become available internationally without any restrictions on dissemination.

This information can either be in the form of "technical data" or of "technical assistance";

- (j) "development" shall mean all phases preceding "production", including studies, research pertaining to the design, assembly and tests of prototypes and as-built drawings;
- (k) "production" shall mean all production phases;
- (l) "use" shall mean operation, installation (including on-site installation), maintenance, repairs, refurbishing and overhauling;
- (m) "technical assistance" may take different forms including instruction, skills, training, working knowledge, and consulting services;
- (n) "technical data" may consist of tracings, diagrams, blue-prints, manuals and instructions written or recorded on other media such as disks, magnetic tapes or storage units;
- (o) "use for peaceful purposes" shall mean peaceful and non-explosive applications.

ARTICLE 2 OBJECTIVES

In accordance with this Agreement, the Parties shall, in compliance with the laws and regulations in force in each country and on the basis of mutual benefit, equality and reciprocity, develop and strengthen scientific, technical, industrial and economic cooperation in the field of peaceful uses of nuclear energy in accordance with the principal needs and

priorities of their national nuclear programs and with the international agreements and commitments in the field of nuclear non-proliferation to which they are respectively parties.

ARTICLE 3 SCOPE OF COOPERATION

Cooperation mentioned in Article 2 may cover the following areas:

- (a) fundamental and applied research and development in the field of energy, not including the supply to research reactors of uranium enriched to twenty (20) per cent or more in the U 235 isotope;
- (b) use of nuclear energy for electricity generation, including the design, construction, operation and decommissioning of nuclear power plants in the Republic of South Africa, with total installed capacity of about 9.6 GW, and the fabrication of nuclear fuel;
- (c) nuclear spent fuel and radioactive waste management;
- (d) nuclear safety, radiation protection and radiological environmental protection;
- (e) accounting, control and physical protection of nuclear material;
- (f) manufacturing and application of radioisotopes;
- (g) radiation technology and its applications;
- (h) controlled nuclear fusion, plasma physics and plasma technologies;
- (i) exchange of information on legislation and regulation in the nuclear field;
- (j) decommissioning and decontamination of and supply of equipment to sites and nuclear facilities;

or any other areas of cooperation agreed upon by the Parties.

ARTICLE 4 FORMS OF COOPERATION

The cooperation stipulated in this Agreement may be undertaken in the following forms:

- (a) exchange of experts, scientific and technological information, organization of scientific seminars and conferences and training of administrative, scientific and technological personnel;
- (b) manufacturing and supply of material, nuclear material, equipment, facilities and related technologies (hereinafter referred to as "nuclear items and technologies") and services;
- (c) consultations on research and technological issues and performing joint research under programmes agreed by the Parties;

or any other form of cooperation agreed to by the Parties.

ARTICLE 5 IMPLEMENTATION OF THE AGREEMENT

1. The Parties may agree on the participation of public or private organizations of the two States (hereinafter referred to as "organizations") in the implementation of cooperation under this Agreement.
2. The conditions of implementation of cooperation as defined in Articles 3 and 4 shall be specified on a case-by-case basis and in compliance with the provisions of this Agreement:
 - (a) by specific agreements between the Parties or by arrangements between organizations designated by each of the Parties, for instance to specify the programmes and conditions of scientific and technical exchanges;
 - (b) by contracts signed between organizations designated by each of the Parties on industrial developments and the supply of material, nuclear material, equipment, facilities or technology.

ARTICLE 6 COMPETENT AUTHORITIES

1. The Competent Authorities responsible for the implementation of this Agreement shall be:
 - (a) for the Government of the Republic of South Africa, the Department of Energy; and
 - (b) for the Government of the French Republic, the Ministry in charge of Energy;
2. The Competent Authorities may agree to involve organizations of both countries to participate in the implementation of this Agreement.
3. The Parties shall take the necessary measures to ensure the proper implementation of the Agreement as well as of specific agreements and contracts referred to in Article 5(2), in accordance with their respective laws, regulations and international obligations

ARTICLE 7
ESTABLISHMENT OF A JOINT COORDINATING COMMITTEE
AND WORKING GROUPS

1. The Parties shall establish a Joint Coordinating Committee composed of the representatives appointed by the competent authorities to:
 - (a) review the implementation of this Agreement;
 - (b) to consider issues arising from its implementation and
 - (c) to hold consultations on issues of mutual interest related to the peaceful uses of nuclear energy.
2. The competencies and procedures of this Committee shall be defined jointly by the Competent Authorities.
3. The Joint Coordinating Committee meetings shall be held as necessary alternately in the French Republic and in the Republic of South Africa or as mutually agreed upon.
4. Each Party shall be responsible for its own travel and accommodation costs when attending meetings of the Joint Coordinating Committee.

5. The Competent Authorities may, if necessary, establish Working Groups to discuss further steps on implementing this Agreement and to exchange information on the progress of joint projects and programs and other issues of mutual interest.
6. Each Party shall bear the cost of participation in the Joint Coordinating Committee, subject to the limits of the budgets available to the Parties.

ARTICLE 8 SAFETY AND SECURITY

The Parties shall ensure in the cooperation carried out under this Agreement the achievement and maintenance of the highest level of nuclear safety and security in accordance with the principles and provisions of the Convention on Nuclear Safety, the Convention on the Physical Protection of Nuclear Material, the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, the Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the case of a Nuclear Accident or Radiological Emergency.

ARTICLE 9 PROTECTION OF INFORMATION

1. Information provided under this Agreement or resulting from the implementation thereof and treated by any Party in accordance with their national laws and regulations as sensitive or classified shall be clearly defined and marked as such.
2. As cooperation develops, the Parties may consider the conclusion of a Security Agreement for the exchange of classified information, bearing in mind the following principles:
 - (a) The Parties shall protect the classified information and material to which they may have access under this Agreement in accordance with their respective national laws and regulations;
 - (b) The classified information and material shall only be sent through official channels or through agreed procedures between the Parties;

- (c) No classified information or material received by one of the Parties under this Agreement may be in any way be transferred, disseminated or disclosed to third parties or to entities not authorized by the other Party and without its prior consent.

ARTICLE 10
INTELLECTUAL PROPERTY

The intellectual property rights gained through the cooperation provided by this Agreement shall be allocated on a case-by-case basis under the specific agreements and contracts referred to in Article 5 of this Agreement.

ARTICLE 11
CIVIL NUCLEAR LIABILITY

The Parties shall ensure that a civil nuclear liability regime is set up in their respective jurisdictions in accordance with the internationally established principles, including:

- (a) exclusive liability of operators of nuclear facilities;
- (b) objective liability of the operator (i.e. liability even in the absence of fault);
- (c) liability limited in amount and duration, covered by a financial guarantee or insurance, where necessary complemented by the State;
- (d) unique and exclusive jurisdiction of the courts of the Party in whose territory the accident occurred to hear claims;
- (e) non-discriminating nature of compensation (all damage to persons and property must be covered, except the installation itself and the items therein).

ARTICLE 12
PEACEFUL PURPOSES

The Parties shall ensure that material, nuclear material, equipment, facilities and technology transferred under this Agreement or under arrangements entered into under

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this Agreement, as well as the nuclear material recovered or obtained as by-products, are used for peaceful purposes only.

ARTICLE 13 RESTRICTIONS

1. In accordance with this Agreement, the transfer of material, nuclear material, equipment, facilities and technologies referred to in Article 12 shall be performed in compliance with the commitments of the Parties under the Guidelines and other international agreements which are binding on the Parties.
2. Should one of the Parties consider the retransfer to a third State of material, nuclear material, equipment, facilities and technology referred to in Article 12, or the transfer of material, nuclear material, equipment and technology referred to in Article 12, originating from equipment or facilities transferred originally or produced by means of transferred equipment, facilities or technology, that Party shall only do so after having obtained the same assurances from the recipient of these transfers as those laid down by this Agreement and with the consent of the other Party. Retransfers beyond the jurisdiction of the Parties of material, nuclear material, equipment, facilities and technology transferred under this Agreement or derived from those originally transferred shall take place in accordance with the NSG Guidelines (INFCIRC/254/Rev.10 /Part.1), as amended, and respective legislation.
3. Within the European Union, transfers and retransfers of items and products are subject to Chapter IX of the Treaty of 25 March 1957 establishing the European Atomic Energy Community on the nuclear common market, without prejudice to the provisions of Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items.

ARTICLE 14 SAFEGUARDS

1. Nuclear material held or imported by the Republic of South Africa, and all successive generations of nuclear material recovered or produced as a by-product, shall be subject to safeguards by the IAEA under the terms of the Agreement signed by the Republic of South Africa and the IAEA on 16 September 1991, for Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, supplemented by an Additional Protocol which entered into force on 13 September 2002, which applies to all nuclear material in all nuclear activities carried out in the territory of the Republic of South Africa, under its jurisdiction or undertaken under its control wherever that may be.

2. All nuclear material transferred to the French Republic under this Agreement and notified as such by the supplying Party, and nuclear material recovered or produced as a by-product, shall be managed in accordance with the provisions of Chapter 7 of the Euratom Treaty on Safeguards and of the Agreement between France, the European Atomic Energy Community and the IAEA for the application of Safeguards in France signed on 20 and 27 July 1978, as supplemented by the Additional Protocol signed on 22 September 1998.

3. In the event of the IAEA Safeguards referred to in this Article of the Agreement not being applicable within the territory of either Party, the Parties shall undertake to consult each other with a view to subjecting, as soon as possible, nuclear material transferred or produced under this Agreement, and all successive generations of nuclear material recovered or produced as a by-product, to a mutually agreed Safeguards system, the effectiveness and scope of which being comparable to those previously applied by the IAEA for such nuclear material.

ARTICLE 15
PHYSICAL PROTECTION

1. Each Party shall ensure that the material, nuclear material, equipment, facilities and technology referred to in Article 12 of this Agreement are exclusively held by persons under its jurisdiction and authorized to do so.
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2. Each Party shall ensure that, within its territory, or should the occasion arise, outside its territory up to the point where that responsibility is taken over by the other Party or by a third State, adequate measures are adopted to ensure the physical protection of the material, nuclear material, equipment and facilities referred to in this Agreement, in accordance with its national legislation and the international commitments to which it has subscribed.
3. Physical protection shall be ensured with respect to material, nuclear material, equipment, facilities and technologies transferred in accordance with this Agreement as well as with regard to material, nuclear material, equipment, facilities and technologies derived from those originally transferred or as a result of the use thereof at a level not lower than the level set out in IAEA recommendations document INFCIRC/225/Rev.5 as well as in any subsequent amendments thereto accepted by the Parties.
4. Under the three previous sub-Articles of this Article, each Party shall be responsible for the implementation and maintenance of physical protection measures in its territory.
5. Amendments to IAEA recommendations relating to physical protection shall be effective under this Agreement only after mutual written notification of acceptance of such amendments by both Parties.

ARTICLE 16
DURATION OF APPLICATION

1. Material, nuclear material, equipment, technologies and facilities referred to in Article 12 shall remain subject to this Agreement until:
 - (a) these items have been transferred beyond the jurisdiction of the receiving Party in accordance with the provisions of Article 13; or
 - (b) in this framework, a determination is made in the case of material, nuclear material, equipment, facilities and technologies that they are no longer usable nor practicably recoverable for processing into a form usable for any nuclear

activity relevant as regards the safeguards referred to in Article 14 of this Agreement. Both Parties shall accept a determination made by the IAEA in accordance with the provisions for the termination of safeguards under the relevant Safeguards Agreements to which the IAEA is a party; or

- (c) otherwise agreed upon by the Parties.
2. Technology shall remain subject to this Agreement until the Parties mutually agree otherwise.

ARTICLE 17
RIGHTS AND OBLIGATIONS UNDER OTHER AGREEMENTS

Nothing in this Agreement shall be interpreted as affecting the rights and obligations which, on the date of signature thereof, result from the participation of either Party in other international agreements on the use of nuclear energy for peaceful purposes, including, as regards the French Party, from its membership of the European Union and the European Atomic Energy Community and, as regards the South African Party, from its participation to the Euratom- South Africa Agreement signed on July 18, 2013.

ARTICLE 18
SETTLEMENT OF DISPUTES

Any dispute arising out of the interpretation, application or implementation of this Agreement shall be settled amicably between the Parties through negotiations, consultation, mediation or conciliation.

ARTICLE 19
AMENDMENTS

This Agreement may be amended by mutual consent of the Parties through an Exchange of Notes between the Parties through the diplomatic channel. Such amendment shall enter into

force on the date on which the Parties have notified each other in writing that their respective internal procedures required for its entry into force have been completed.

ARTICLE 20
ENTRY INTO FORCE, DURATION AND TERMINATION

1. Both Parties shall notify each other in writing through the diplomatic channel of the completion of the internal procedures required to give effect to this Agreement. The date of entry into force shall be on the day the latest notification is received.
2. This Agreement shall remain in force for a period of 10 (ten) years, where-after it shall automatically be renewed for successive ten-year periods. It may be terminated by either Party at any time giving six (6) months written notice in advance through the diplomatic channel of its intention to terminate this Agreement.
3. In the event of this Agreement expiring or being terminated in accordance with the procedure referred to in sub-Article (1) of this Article:
 - the relevant provisions of this Agreement shall remain applicable to the specific agreements and contracts in force signed under Article 5, until expiration for whatever reason, unless otherwise mutually agreed to by the Parties;
 - the provisions of Articles 8, 9, 10, 11, 12, 13, 14, 15 and 16 shall continue to apply to the material, nuclear material, equipment, facilities and technology referred to in Article 12 and transferred pursuant to this Agreement, as well as to nuclear material recovered or obtained as by-products.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed and sealed this Agreement in two originals in the English and French languages, all texts being equally authentic.

DONE aton this.....day of..... 2014.

**FOR THE GOVERNMENT OF
THE FRENCH REPUBLIC**

**FOR THE GOVERNMENT OF
THE REPUBLIC OF SOUTH AFRICA**

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AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF KOREA

AND

THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA

REGARDING COOPERATION

IN THE PEACEFUL USES OF NUCLEAR ENERGY

The Government of the Republic of Korea and the Government of the Republic of South Africa (hereinafter jointly referred to as the "Parties" and in the singular as a "Party")

~~TAKING into account the friendly relations and cooperation existing between the two countries;~~

~~NOTING with satisfaction the fruitful outcome of economic, technical and scientific cooperation between the two countries;~~

RECOGNISING that the Parties are Member States of the International Atomic Energy Agency (hereinafter referred to as "the IAEA") and also Parties to the Treaty on the Non-Proliferation of Nuclear Weapons of July 1, 1968 (hereinafter referred to as "the NPT"); and

SEEKING further to broaden and deepen the mutually beneficial economic, scientific and technical cooperation between the two Parties on the basis of mutual respect for each other's internal affairs;

HEREBY AGREE as follows:

ARTICLE 1 DEFINITIONS

In this Agreement, unless the context indicates otherwise:

- (a) "classified information" refers to information categorised in terms of information security requirements;
- (b) "Guidelines" means the Guidelines for Nuclear Transfers published in the IAEA document INFCIRC/254/Rev. 9/Part 1 and its subsequent revisions and modifications as agreed to by the Parties;

- (c) "equipment" means any facilities, equipment, or component listed in Annex B of the Guidelines;
- (d) "intellectual property" has the meaning given in Article 2 of the Convention Establishing the World Intellectual Property Organisation, signed at Stockholm on 14 July 1967;
- ~~(e) "materials" means non-nuclear material for reactors listed in Annex B of the Guidelines;~~
- ~~(f) "nuclear material" means any source material or any special fissionable material as these terms are defined in Annex A of the Guidelines;~~
- (g) "person" means any individual, corporation, partnership, firm or company, association, trust, public or private institute, group, governmental agency or corporation, but does not include the Parties to this Agreement; and
- ~~(h) "technology" means specific information required for the development, production, or use of any equipment or material as defined in Annex A of the Guidelines.~~

**ARTICLE 2
OBJECTIVES**

The Parties shall, on the basis of mutual benefit, equality and reciprocity, develop and strengthen scientific, technical and economic cooperation in the field of peaceful uses of nuclear energy in accordance with the needs and priorities of their national nuclear programs.

**ARTICLE 3
AREAS OF COOPERATION**

The Parties shall in terms of this Agreement cooperate in the following areas:

- (a) fundamental and applied research and development in the field of nuclear power engineering;

- (b) design, construction, operation and modernization of nuclear power plants and commercial and research nuclear reactors;
- (c) use of nuclear energy for electricity generation, heating and desalination of salt water and nuclear research;
- ~~(d) exploration and mining of uranium;~~
- ~~(e) fuel manufacture for commercial and research reactors including fuel development and design, construction, operation, technology and modernization of fuel fabrication facilities;~~
- (f) radioactive waste management;
- (g) development, manufacturing and supply of components and materials, including nuclear material (source material and special fissionable material) to be used in nuclear reactors and their nuclear cycles;
- (h) nuclear safety, radiation protection and radiological environmental protection;
- (i) accounting, control and physical protection of nuclear materials;
- (j) manufacturing and application of radioisotopes;
- (k) radiation technology and its applications;
- (l) controlled nuclear fusion, plasma physics and plasma technologies;
- (m) state regulation of nuclear and radiation safety;
- (n) decommissioning and decontamination of nuclear facilities; and
- (o) other areas of cooperation to be agreed upon by the Parties.

ARTICLE 4
MODE OF COOPERATION

The cooperation stipulated in this Agreement may be undertaken in the following forms:

- (a) exchange of experts, scientific and technological information, organization of scientific seminars and conferences and training of administrative, scientific and technological personnel;
- (b) the establishment of joint working groups in terms of paragraph 3 of Article 6 of this Agreement, if necessary, to implement specific studies and projects

- in the area of scientific research and technological development;
- (c) the supply of nuclear material, non-nuclear material, equipment, facilities and related technologies (hereinafter referred to as "nuclear items and technologies");
- ~~(d) consultations on research and technological issues and performing joint research under agreed programs; and~~
- (e) other forms of cooperation to be agreed upon by the Parties.

ARTICLE 5
COMPETENT AUTHORITIES

1. The Competent Authorities responsible for the implementation of this Agreement shall be:
 - (a) in the case of the Government of the Republic of Korea, the Ministry of Education, Science and Technology; and
 - (b) in the case of the Government of the Republic of South Africa, the Department of Energy.
2. The Competent Authorities may agree to involve state and private organizations of both countries to participate in the implementation of this Agreement.

ARTICLE 6
ESTABLISHMENT OF A JOINT COORDINATING COMMITTEE
AND WORKING GROUP

1. The Parties shall establish a Joint Coordinating Committee composed of the representatives designated by the Competent Authorities to review the implementation of this Agreement, to consider issues arising from its implementation and to hold consultations on issues of mutual interest related to the peaceful uses of nuclear energy.

2. The Joint Coordinating Committee meetings shall be held as necessary alternately in the Republic of South Africa and in the Republic of Korea as mutually agreed upon.

~~3. The Competent Authorities may, if necessary, establish Working Groups to discuss further steps on implementing this Agreement and to exchange information on the progress of joint projects and programs and other issues of mutual interest.~~

ARTICLE 7

PROTECTION OF INFORMATION

~~1. Classified information of the Parties shall not be exchanged under this Agreement.~~

2. Information provided under this Agreement or resulting from the implementation thereof and treated by any Party as sensitive or confidential shall be clearly defined and marked as such.

3. In accordance with the domestic laws of the Parties, the information referred to in paragraph 2 of this Article shall be treated as confidential.

4. Sensitive or confidential information shall be handled in accordance with the domestic laws of the receiving Party; and such information shall not be disclosed or transferred to a third party, which is not participating in the implementation of this Agreement, without the written consent of the sending Party.

5. In accordance with the domestic laws, the Parties shall provide for the effective protection and distribution of the rights to the intellectual property transferred or created under this Agreement, including its ownership and legal use. The issues of protection and distribution of Intellectual Property Rights including protection of a third party's legitimate rights, taking into full consideration the equitable portion of ownership based on the contribution of the respective participants, shall be regulated by the Agreement concluded by the Parties.

**ARTICLE 8
RESTRICTIONS**

1. In terms of this Agreement, the export of nuclear items and technologies shall be performed in accordance with the commitments of the Parties under the Guidelines for Nuclear Suppliers Group and other international agreements which are binding on the Parties.

2. The Parties shall ensure that nuclear items and technologies received in accordance with this Agreement as well as nuclear items and technologies produced on the basis thereof or as the result of their utilization shall:

- (a) not be used for the research on the development and the manufacture of nuclear weapons and other nuclear explosive devices or for any military purposes; and
- (b) not be transferred to an unauthorized person or, unless the Parties agree in writing, beyond the jurisdiction of the receiving Party.

**ARTICLE 9
SAFEGUARDS**

1. Nuclear material transferred to the Republic of South Africa pursuant to this Agreement and any nuclear material produced through the utilization of any material, equipment, or technologies so transferred shall be subject to the terms of the Agreement between the Government of the Republic of South Africa 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 16 September, 1991 as complemented by the additional protocol.

2. Nuclear material transferred to the Republic of Korea pursuant to this Agreement and any nuclear material produced through the utilization of any material, equipment,

or technologies transferred shall be subject to the terms of the Agreement between the Government of the Republic of Korea 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 31 October, 1975 as complemented by the additional protocol.

3. If for any reason or at any time, the IAEA is not administering such safeguards within the jurisdiction of a Party, that Party shall forthwith enter into arrangements with the other Party which conform to IAEA safeguards principles and procedures for the application of safeguards to nuclear material transferred pursuant to this Agreement.

ARTICLE 10

PHYSICAL PROTECTION

1. Physical protection shall be maintained with respect to nuclear materials and equipment transferred in accordance with this Agreement as well as with regard to nuclear materials and equipment produced on the basis thereof or as a result of the utilization thereof at a level not lower than the level set out in the IAEA document INFCIRC/225/Rev. 4 as well as in any subsequent amendments thereto accepted by the Parties.

2. Each Party shall be responsible for the implementation and maintenance of physical protection measures on its territory.

ARTICLE 11

DURATION OF APPLICATION

1. Nuclear material, material and equipment shall remain subject to this Agreement until:

- (a) such items have been transferred beyond the jurisdiction of the receiving Party in accordance with the provisions of Article 8;
- (b) a determination is made, in the case of nuclear material, that it is no longer usable nor practicably recoverable for processing into a form in which it is usable for any nuclear activity relevant from the point of view of safeguards referred to in Article 9 of this Agreement. Both Parties shall accept a determination made by the IAEA in accordance with the provisions for the termination of safeguards in terms of the relevant safeguards agreements to which the IAEA is a party; or
- (c) otherwise agreed upon by the Parties.

2. Technology shall remain subject to this Agreement until the Parties otherwise agree.

ARTICLE 12

SETTLEMENT OF DISPUTES

Any dispute between the Parties arising out of the interpretation, application or implementation of this Agreement shall be settled amicably through negotiations or consultation between the Parties.

ARTICLE 13

AMENDMENTS

This Agreement may be amended by mutual consent of the Parties through an Exchange of Notes between the Parties through the diplomatic channel.

ARTICLE 14

ENTRY INTO FORCE, DURATION AND TERMINATION

1. This Agreement shall enter into force on the date on which both Parties have notified each other in writing through the diplomatic channel of its compliance with the constitutional requirements necessary for the implementation of this Agreement. The date of entry into force shall be the date of the last notification.

~~2. This Agreement shall remain in force for a period of five (5) years, where after it shall automatically be renewed for successive five-year periods. It may be terminated by either Party at any time giving six (6) months written notice in advance through the diplomatic channel of its intention to terminate this Agreement.~~

3. Notwithstanding termination of this Agreement, the obligations and implementing arrangements contained in this Agreement shall remain in force until otherwise agreed to by the Parties.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed and sealed this Agreement in two originals in Korean and English languages, all texts being equally authentic.

DONE at Seoul on this 8th day of October 2010.

Handwritten signature

FOR THE GOVERNMENT OF
THE REPUBLIC OF KOREA

Handwritten signature

FOR THE GOVERNMENT OF
THE REPUBLIC OF SOUTH AFRICA

남아프리카공화국 정부와 대한민국 정부 간의
원자력의 평화적 이용에 관한 협력을 위한 협정

남아프리카공화국 정부와 대한민국 정부(이하 복수로는 "당사자들", 단수로는 "당사자"라 한다)는,

양국 간의 기존의 우호 관계와 협력을 고려하고,

양국 간의 경제, 기술 및 과학 협력의 지속적인 성과를 긍정적으로 주목하며,

당사자들이 국제원자력기구(이하 "IAEA"라 한다)의 회원국이고, 1968년 7월 1일 체결된 「핵무기의 비확산에 관한 조약」(이하 "핵비확산조약"이라 한다)의 당사자들임을 인식하고,

각자의 국내 문제에 대한 상호 존중을 바탕으로 양 당사자 간의 호혜적인 경제, 과학 및 기술 협력을 확대하고 강화하고자,

다음과 같이 합의하였다.

제 1 조

정의

이 협정에서 문맥상 달리 의미하지 않는다면:

- 가. "비밀 정보"란 정보 보안 요건에 따라 분류된 정보를 가리킨다.
- 나. "지침"이란 IAEA의 문서 INFCIRC/254/Rev.9/Part 1에서 발간된 원자력 이전을 위한 지침 및 당사자들이 합의한 그 후속 개정 및 수정본을 말한다.
- 다. "장비"란 지침의 "부속서 나"에 열거된 모든 시설, 장비 또는 부품을 말한다.
- 라. "지식재산권"은 1967년 7월 14일 스톡홀름에서 서명된 「세계지적소유권기구 설립협약」 제2조에서 주어진 의미를 가진다.
- 마. "물질"이란 지침의 "부속서 나"에 열거된 원자로용 비핵물질을 말한다.
- 바. "핵물질"이란 지침의 "부속서 가"에서 정의된 바와 같이 모든 원료 물

질 또는 특수해분열성물질울 말한다.

사. "자(者)"란 모든 개인, 법인, 조합, 상사 또는 회사, 사단, 신탁, 공공 또는 민간 기구, 단체, 정부 기관 또는 공사를 말하며, 이 협정의 당사자들은 이에 포함되지 아니한다.

아. "기술"이란 자침의 "부속서 가"에서 정의된 바와 같이 모든 장비 또는 공정의 개발, 생산 또는 이용에 필요한 특정 정보를 말한다.

제 2 조

목적

당사자들은 호혜, 평등 및 상호주의에 기초하여 국가 원자력 프로그램의 필요와 우선순위에 따라 원자력의 평화적 이용 분야에서 과학, 기술 및 경제 협력을 발전시키고 강화한다.

제 3 조

협력 분야

당사자들은 이 협정에 따라 다음의 분야에서 협력한다.

- 가. 원자력 공학 분야의 기초 및 응용 연구와 개발
- 나. 원자력 발전소의 상업용 및 연구용 원자로의 설계, 건설, 운영 및 혁신화
- 다. 발전, 열수 자열 및 담수화와 핵 연구를 위한 원자력 사용
- 라. 우라늄 탐사 및 채취
- 마. 연료 개발과 연료 가공시설의 설계, 건설, 운영, 기술 및 혁신화를 포함하여 상업용 및 연구용 원자로를 위한 연료 제조
- 바. 방사성 폐기물 관리
- 사. 원자로와 그 핵주기에 사용될 핵물질(원료 물질과 특수해분열성물질)을 포함하는 부품과 물질의 개발, 제조 및 공급
- 아. 원자력 안전, 방사선 방호 및 방사선 환경 방호
- 자. 핵물질의 계량, 통제 및 물리적 방호

- 차. 방사성 동위원소의 제조 및 응용
- 카. 방사선 기술 및 그 응용
- 타. 제어 핵융합, 플라즈마 물리 및 플라즈마 기술
- 파. 원자력 및 방사선 안전 관련 정부 규제
- 하. 원자력 시설의 해체 및 책임
- 기. 당사자들이 합의하는 그 밖의 협력 분야

제 4 조

협력 방식

이 협정에 규정된 협력은 다음의 형태로 수행될 수 있다.

- 가. 전문가 및 과학·기술 정보의 교환, 과학 세미나 및 회의의 개최, 행
정·과학 및 기술 인력의 훈련
- 나. 필요 시 과학 연구와 기술 개발 분야의 특별 연구 및 프로젝트 수행
을 위하여 이 협정 제6조제3항에 따른 공동 작업반 설립
- 다. 핵물질, 비핵물질, 장비, 시설 및 관련 기술(이하 "원자력 품목 및 기술"이
라 한다)의 공급
- 라. 연구와 기술 문제에 대한 협의와 합의된 프로그램에 따른 공동 연구
의 수행
- 마. 당사자들이 합의하는 그 밖의 형태의 협력

제 5 조

권한 있는 당국

1. 이 협정의 이행을 책임지는 권한 있는 당국은 다음과 같다.
 - 가. 대한민국 정부의 경우 교육과학기술부
 - 나. 남아프리카공화국 정부의 경우 에너지부
2. 권한 있는 당국은 이 협정의 이행에 양국의 정부와 민간 기관이 참여하도록

특 합의할 수 있다.

제 6 조

공동조정위원회 및 작업반의 설치

1. 당사자들은 이 협정의 이행을 검토하고, 이 협정의 이행에서 야기되는 문제들을 심의하며, 원자력의 평화적 이용과 관련된 상호 관심 사항을 협의하기 위하여 권한 있는 당국이 지명하는 대표들로 구성된 공동조정위원회를 설치한다.

2. 공동조정위원회 회의는 상호 합의에 의하여 필요에 따라 대한민국과 남아프리카공화국에서 번갈아 개최된다.

3. 권한 있는 당국은 필요 시 이 협정 이행의 추가 조치를 논의하고 공동 프로젝트와 프로그램의 진전 및 다른 상호 관심 사항에 대한 정보를 교환하기 위하여 작업반을 설치할 수 있다.

제 7 조

정보 보호

1. 당사자들의 비밀 정보는 이 협정에 따라 교환되지 아니한다.

2. 이 협정에 따라 제공되거나 그 이행의 결과로 생성된 정보로서 어느 당사자가 민감하거나 비밀로 취급하는 정보는 그러한 것으로 명확하게 정의되고 명시되어야 한다.

3. 이 조 제2항에 언급된 정보는 당사자들의 국내법에 따라 비밀로 취급된다.

4. 민감하거나 비밀인 정보는 접수 당사자의 국내법에 따라 처리된다. 그리고 이러한 정보는 제공 당사자의 서면 동의 없이는 이 협정의 이행에 참여하지

않는 제삼자에게 공개되거나 이전되지 아니한다.

5. 당사자들은 국내법에 따라 그 소유권과 법적 사용을 포함하여 이 협정에 따라 이전되거나 발생하는 지식재산권에 대한 효과적인 보호와 분배를 규정한다. 제삼자의 정당한 권리 보호를 포함한 지식재산권의 보호 및 분배 문제는 각 참여자의 기여도에 기초한 소유권의 공평한 몫을 충분히 고려하여 당사자들이 체결한 협정에 따라 규율된다.

제 8 조

제한

1. 이 협정과 관련하여, 원자력 품목 및 기술의 수출은 「원자력 공급국 그 품을 위한 지침」 및 당사자들을 구속하는 다른 국제적 합의에 따른 당사자들의 약속에 따라 수행된다.

2. 당사자들은 이 협정에 따라 접수된 원자력 품목 및 기술에 대해서뿐만 아니라 그것에 기초하거나 그 이용의 결과로 생산된 원자력 품목 및 기술에 대해서도 다음을 보장한다.

가. 핵무기 및 다른 핵폭발장치의 개발과 제조에 대한 연구나 어떠한 군사적 목적을 위해서도 사용되지 아니할 것

나. 허가받지 아니한 자에게 또는 당사자들이 서면으로 동의하지 않는 한 접수 당사자의 관할권 밖으로 이전되지 아니할 것

제 9 조

안전조치

1. 이 협정에 따라 남아프리카공화국에 이전된 핵물질과 그렇게 이전된 물질, 장비 또는 기술을 이용하여 생산된 모든 핵물질은 1991년 9월 16일 서명되고, 추가의정서에 의해 보완된 「남아프리카공화국 정부와 국제원자력기구 간의 핵무기

기의 비확산에 관한 조약과 관련된 안전조치의 적용을 위한 협정」 규정의 적용을 받는다.

2. 이 협정에 따라 대한민국에 이전된 핵물질과 이전된 물질, 장비 또는 기술을 이용하여 생산된 모든 핵물질은 1975년 10월 31일 서명되고, 추가의정서에 의해 보완된 「대한민국 정부와 국제원자력기구 간의 핵무기의 비확산에 관한 조약에 관련된 안전조치의 적용을 위한 협정」 규정의 적용을 받는다.

3. 사유나 시기를 불문하고 IAEA가 한쪽 당사자의 관할권 내에서 그러한 안전조치를 시행하지 아니하는 경우 그 당사자는 즉시 다른 쪽 당사자와 이 협정에 따라 이전되는 핵물질에 대한 안전조치의 적용을 위하여 IAEA의 안전조치 원칙 및 절차에 부합하는 약정을 체결한다.

제 10 조
물리적 방호

1. 물리적 방호는 이 협정에 따라 이전된 핵물질 및 장비에 대해서뿐만 아니라 그것에 기초하거나 그 이용의 결과로 생성된 핵물질 및 장비에 대해서도 IAEA의 문서 INFCIRC/225/Rev.4 및 당사자들이 수락한 모든 후속 개정에 규정된 수준보다 낮지 않은 수준으로 유지되어야 한다.

2. 각 당사자는 그 영역에서 물리적 방호 조치의 이행과 유지에 대한 책임을 진다.

제 11 조
적용 기간

1. 핵물질, 물질 및 장비는 아래의 시점까지 이 협정의 적용을 받는다.
가. 그러한 품목이 제8조에 따라 철수 당사자의 관할권 밖으로 이전될 때

까지

나. 핵물질의 경우, 이 협정 제9조에 언급된 안전조치의 관점에서 관련 있는 모든 원자력 활동에 이용될 수 있는 형태로 가공하는 데 더 이상은 이용할 수 없거나 사실상 회수가 불가능하다는 결정이 내려질 때까지 양 당사자들은 IAEA가 당사자인 관련 안전조치 협정의 안전조치 강령을 위한 규정에 따라 IAEA가 내리는 결정을 수락한다. 또는

다. 당사자들이 달리 합의할 때까지

2. 기술은 당사자들이 달리 합의할 때까지 이 협정의 적용을 받는다.

제 12조

분쟁 해결

이 협정의 해석, 적용 또는 이행과 관련하여 당사자들 간에 발생하는 모든 분쟁은 당사자들 간의 교섭 또는 협의를 통하여 우호적으로 해결한다.

제 13조

개정

이 협정은 외교 경로를 통한 가서 교환 방식에 따른 당사자들의 상호 동의로 개정될 수 있다.

제 14조

발효, 유효기간 및 종료

1. 이 협정은 양 당사자들이 외교 경로를 통하여 서면으로 이 협정의 이행을 위해 필요한 헌법적 요건을 준수하였음을 상호 통보하는 날에 발효한다. 발효일은 마지막 통보일이 된다.

2. 이 협정은 5년간 유효하며, 그 후 자동으로 다음 5년간 갱신된다. 어느 당사자가 6개월 전에 외교 경로를 통해 서면으로 이 협정 종료 의사를 미리 통보하면 언제든지 종료될 수 있다.

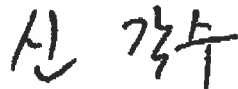
3. 이 협정의 종료에도 불구하고 이 협정에 포함된 의무의 이행 약정은 당사자들이 달리 합의하지 아니하는 한 계속 유효하다.

이상의 증거로, 아래 서명자는 그들 각자의 정부로부터 정당히 권한을 위임받아 영어와 한국어로 각 2부씩 동등한 정본으로 작성한 이 협정에 서명, 봉인하였다.

2010년 10월 8 일 서울 에서 작성되었다.



남아프리카공화국 정부를 대표하여



대한민국 정부를 대표하여

**AGREEMENT FOR COOPERATION BETWEEN
THE REPUBLIC OF SOUTH AFRICA AND
THE UNITED STATES OF AMERICA
CONCERNING PEACEFUL USES OF NUCLEAR ENERGY**

The Government of the Republic of South Africa and the Government of the United States of America;

Mindful of their respective obligations under the Treaty on the Non-Proliferation of Nuclear Weapons ("NPT") to which both the United States of America ("United States") and the Republic of South Africa ("South Africa") are parties;

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 NPT;

Affirming their support of the objectives of the International Atomic Energy Agency ("IAEA") and their desire to promote universal adherence to the NPT;

Desiring to cooperate in the development, use and control of peaceful uses of nuclear energy;
and

Mindful that peaceful nuclear activities must be undertaken with a view to protecting the international environment from radioactive, chemical and thermal contamination;

Have agreed as follows :

Article I - Definitions

For the purposes of this Agreement :

- (A) "Byproduct 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 so designated by agreement of the parties;

- (C) "Equipment" means any reactor, other than one designed or used primarily for the formation of plutonium or uranium 233, or any other item so designated by agreement of the parties;
- (D) "High enriched uranium" means the uranium enriched to twenty percent or greater in the isotope 235;
- (E) "Low enriched uranium" means uranium enriched to less than twenty percent in the isotope 235;
- (F) "Major critical component" means any part or group of parts essential to the operation of a sensitive nuclear facility;
- (G) "Material" means source material and special nuclear material, moderator material, or any other such substance so designated by agreement of the parties;
- (H) "Moderator material" means heavy water or graphite or beryllium of a purity suitable for use in a reactor to slow down high velocity neutrons and increase the likelihood of fission, or any other such material so designated by agreement of the parties;
- (I) "Parties" means the Government of the Republic of South Africa and the Government of the United States of America;
- (J) "Peaceful purposes" include the use of information, material, equipment and components in such fields as research, power generation, medicine, agriculture and industry but do not include use in, research on or development of any nuclear explosive device, or any military purpose;
- (K) "Person" means any individual or any entity subject to the jurisdiction of either party but does not include the parties to this Agreement;
- (L) "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 utilizing uranium, plutonium or thorium or any combination thereof;