



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;

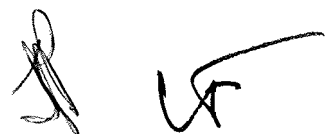
RECALLING the Agreement on Co-operation regarding the Koeberg Nuclear Power Units I and II, between France and South Africa and which entered into force on 29 October 1976, and the Agreement between the International Atomic Energy Agency, the Government of the French Republic and the Government of the 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;



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:



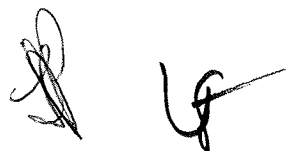
ARTICLE 1
DEFINITIONS

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;



- (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

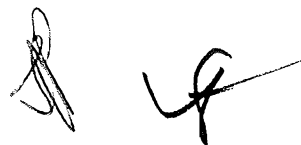
In accordance with this Agreement, the Parties shall, in compliance with the laws and regulations in force in each country and on the basis of mutual benefit, equality and reciprocity, develop and strengthen scientific, technical, industrial and economic cooperation in the field of peaceful uses of nuclear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



- (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:

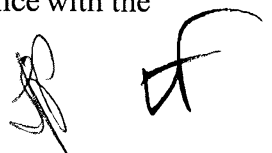
- (a) exchange of experts, scientific and technological information, organization of scientific seminars and conferences and training of administrative, scientific and technological personnel;
- (b) manufacturing and supply of material, nuclear material, equipment, facilities and related technologies (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:

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- (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.

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

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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.

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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

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

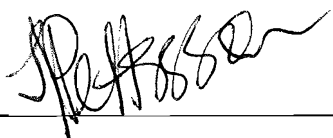
1. Both Parties shall notify each other in writing through the diplomatic channel of the completion of the internal procedures required to give effect to this Agreement. The date of entry into force shall be on the day the latest notification is received.
2. This Agreement shall remain in force for a 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:



- 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**