



On approval of the Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of India on cooperation in peaceful use of atomic energy

Unofficial translation

Resolution No. 117 of the Government of the Republic of Kazakhstan dated January 19, 2012

Unofficial translation

The Government of the Republic of Kazakhstan **RESOLVES**:

1. To approve the Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of India on cooperation in peaceful use of atomic energy, executed in Astana on April 15, 2011.

2. This resolution shall take effect from the date of signing.

Prime Minister of the Republic of Kazakhstan

K. Massimov

Approved by
Resolution No. 117
of the Government
of the Republic of Kazakhstan
dated January 19, 2012

AGREEMENT between the Government of the Republic of Kazakhstan and the Government of the Republic of India on cooperation in peaceful use of atomic energy

The Government of the Republic of Kazakhstan and the Government of the Republic of India (hereinafter - the Parties),

with regard to the Agreement between the Republic of Kazakhstan and the Republic of India on cooperation in the field of trade and economic relations, science and technology of February 22, 1992,

taking into consideration the friendly and close relations between the two states and aspiring to further strengthen these ties;

mindful that atomic energy is an indispensable, safe, reliable, environmentally friendly energy source that takes into account future needs;

recognizing the achievements of the Parties in the field of nuclear technologies;

seeking to establish cooperation in the field of atomic energy aimed at developing and using atomic energy for peaceful purposes for the development of both states, subject to the observance of relevant international agreements and obligations, and also the national laws of the states of the Parties;

recognizing that further development of international cooperation in the peaceful uses of atomic energy will serve the interests and benefits of the states of both Parties;

noting that cooperation in the peaceful uses of atomic energy is an important factor in promoting the social and economic development of the two states,
wishing to enhance cooperation in the peaceful uses of atomic energy on the basis of traditionally friendly relations between the two states,
have agreed as follows:

Article 1 Objectives

The purpose of this Agreement is to lay down the legal framework for mutually beneficial cooperation between the Parties in the peaceful use of atomic energy, to strengthen bilateral cooperation between them, taking due account of international law, internal policies of the states of both Parties and international obligations, without prejudice to the rights of each Party.

Article 2

Definitions

The following terms and definitions shall be used in this Agreement:

“Nuclear material” means any source material or special fissionable material, as defined in Article XX of the Statute of the International Atomic Energy Agency (IAEA);

“Special non-nuclear material” means non-nuclear material for reactors, such as heavy water or other material used in the reactor to slow fast neutrons and increase the likelihood of further fission, as may be jointly determined by the competent authorities of the Parties;

“Equipment” means the basic units of machinery, production equipment or instrumentation, or their components, which are specially designed or intended for nuclear activities;

“Technology” means specific information required for development, manufacture or use of any nuclear material, special non-nuclear material or equipment. Such information may be presented in the form of technical data, including drawings, plans, graphs, models, formulas, technical projects and specifications, manuals and instructions in writing or on other media (for example, disks, storage devices, etc.), and by mutual consent of the Parties defined as falling under the articles of this Agreement, and the receipt of which has been confirmed in writing by the receiving Party;

“person” means any individual or legal entity established in accordance with the national laws of the states of the Parties, with the exception of the Parties themselves;

“Information” means any information that is not publicly available and transmitted in any form in accordance with this Agreement, designated as such and executed in hard copy or digital format that by consent of the Parties is the subject of this Agreement, but it ceases to be such in the event of transfer of this information to the public domain or the legitimate publication of such information by the transmitting Party or any third party;

“confidential information” means information, except for information published in the open press, transmitted by the Parties or persons to each other and related to the subject of their economic, commercial and other activities, the unauthorized dissemination of which may harm the safety and interests of the Parties and the confidentiality of which the transferring Party seeks to protect;

“Intellectual property” has the meaning defined in article 2 of the Convention establishing the World Intellectual Property Organization of July 14, 1967.

Article 3

Areas of cooperation

Cooperation provided for in this Agreement scopes the peaceful uses, development and use of atomic energy and may also include:

- 1) transfer under long-term contracts of nuclear materials, special non-nuclear materials and equipment for use in the field of civil nuclear energy;
- 2) exchange by mutual agreement of research and development information regarding the nuclear fuel cycle;
- 3) joint marketing research of the uranium and fuel market for atomic energy reactors and exchange of such marketing research;
- 4) exploration and production of uranium and other natural resources related to the use of atomic energy;
- 5) implementation of joint projects on the use of atomic energy in industry, agriculture, medicine and nuclear energy;
- 6) design, construction, operation, maintenance and decommissioning of nuclear power plants, research reactors or reactors of small and medium power, also supply of fuel, fuel components and nuclear equipment for their operation;
- 7) nuclear and radiation safety, environmental monitoring;
- 8) training and exchange of specialists;
- 9) organization of joint conferences, symposia, seminars and workshops;
- 10) conducting joint research and implementation of projects of mutual interest;
- 11) other cooperation areas of by mutual consent of the Parties.

Article 4

Implementation of cooperation

In accordance with the provisions referred to in Article 3 of this Agreement, the conditions for implementation of cooperation shall be determined in each specific case:

- in separate agreements between the Parties or the relevant organizations indicated by them, which determine, in particular, the programmes and conditions of technology transfer and industrial exchange;

- in contracts concluded between relevant organizations, enterprises and institutions for the implementation of industrial projects, provision of services, supply of special non-nuclear materials, nuclear materials, equipment, installations or technologies.

Article 5

Competent authorities and executive agreements

1. The competent authorities for the fulfillment of obligations of the Parties under this Agreement shall be:

from the Republic of Kazakhstan - the Ministry of Industry and New Technologies of the Republic of Kazakhstan,

from the Republic of India - Department of Atomic Energy.

2. If a competent authority under this Agreement is changed by one of the Parties, it shall notify the other Party in writing through diplomatic channels.

3. The competent authorities of the Parties shall hold meetings on a regular basis to secure cooperation and to resolve issues that arise within the implementation of this Agreement.

4. The Parties shall not use the provisions of this Agreement to interfere in the commercial relations of the other Party.

Article 6

Information

1. The Parties shall ensure security and confidentiality of the technical data and information designated as confidential by the Party transmitting information under this Agreement. Such technical data and information shall not be shared with third parties without the prior written consent of the transferring Party. Information shall cease to be confidential if the transferring Party or any third party makes their legitimate publication.

2. The parties shall be free to use any technical data and information that they have exchanged in accordance with the terms of this Agreement, unless the transferring Party, the competent authority or the official possessing such information has previously notified in writing about restrictions on the use or of such information.

3. The parties shall take all necessary measures in accordance with their national legislations to protect confidential technical data and information transmitted to them and protect intellectual property rights.

4. Intellectual property obtained within the implementation of this Agreement shall be transferred to the third Party only with the consent of the Party, which is its owner. In this event, the transfer of intellectual property recognized by any of the Parties as confidential information shall be carried out in accordance with the national legislation of that Party in the field of state secrets protection.

5. The conditions for the use, provision and transfer of intellectual property rights shall be determined individually in specific agreements, memoranda of understanding and contracts concluded in accordance with this Agreement.

Article 7

Transfer of nuclear materials, special non-nuclear materials, equipment and technologies

1. The transfer of nuclear materials, special non-nuclear materials, equipment and technologies under this Agreement shall be in accordance with the national legislation of the State of the transmitting Party.

2. The party considering subsequent transfer of nuclear material, special non-nuclear material, equipment and technologies subject to this Agreement to a third party, or transfer of nuclear material, special non-nuclear material, equipment and technology obtained in the use of the transferred equipment, shall only do so after receiving the respective written permission of the other Party and the guarantee of the recipient state that:

- a) this transfer is used solely for peaceful purposes;
- (b) the IAEA safeguards apply to such transfers;
- (c) appropriate physical protection measures are applied to any such transfer.

3. Nuclear material, special non-nuclear material, equipment and technologies scoped by this Agreement, also the nuclear material recovered or obtained as a by-product shall remain subject to the provisions of this Agreement until:

a) subsequent transfer to a third party in accordance with paragraph 2 of this Article or return to the Party that originally transferred them;

b) the Parties mutually agree that such materials are no longer subject to this Agreement and exclude them from the jurisdiction of this Agreement;

c) the IAEA establishes, in accordance with the terms of termination of guarantees under agreements between the Republic of Kazakhstan and the IAEA or between the Republic of India and the IAEA, with respect to nuclear material, that it has been used or diluted to such an extent that it can no longer be used for any nuclear activity to which the IAEA safeguards apply, or that it can hardly be restored.

4. Transfer of nuclear materials, special non-nuclear materials, equipment and technologies under this Agreement may be made directly between the Parties or through persons defined by them. Nuclear materials, special non-nuclear materials, equipment, technologies transferred from the territory of one of the Parties to the territory of the other Party directly or through a third party shall be considered transferred under this Agreement only if the competent authority of the receiving Party confirms to the competent authority of the transmitting Party that these nuclear materials, special non-nuclear materials, equipment and technologies are subject to this Agreement and they have been received.

Article 8

Processing and enrichment

1. Uranium transferred under this Agreement or used in any equipment transferred in this way cannot be enriched more than twenty (20%) in the U-235 isotope without the written consent of the Parties.

2. The reprocessing or any other change in the form or content of nuclear material transferred under this Agreement or nuclear material used or obtained in the use of special non-nuclear material, nuclear material or equipment transferred under this Agreement shall be

carried out at national nuclear facilities under IAEA safeguards. Any fissionable material that can be recovered through processing shall be stored and used at the national facilities of the recipient country under IAEA safeguards.

Article 9

Peaceful Use

1. The parties shall cooperate under this Agreement solely for peaceful purposes and not for the manufacture of explosive devices.

2. Nuclear materials, special non-nuclear materials, equipment, technologies and information transmitted under this Agreement, also the equipment manufactured on the basis of technologies and nuclear materials extracted or obtained as by-products, shall be used solely for peaceful purposes and shall not be used for the production of nuclear weapons, any nuclear explosive devices, or for other military purposes.

3. The provisions of this article shall be fulfilled by the Republic of India in accordance with the IAEA safety guarantees pursuant to the Agreement between the Government of India and the IAEA for the Application of Safeguards to Civilian Facilities dated May 11, 2009, taking into account the Additional Protocol approved by the IAEA Board of Governors on March 3, 2009 (IAEA document Gov / 2009/11) and signed on May 15, 2009, upon its entry into force.

4. The provisions of this article shall be executed by the Republic of Kazakhstan in accordance with the Agreement between the Republic of Kazakhstan and the IAEA on the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons of July 26, 1994, subject to its Additional Protocol of February 6, 2004.

Article 10

Physical Protection

1. The Parties shall take measures to ensure physical protection of special non-nuclear materials, nuclear materials and equipment transferred under this Agreement at the levels not lower than recommended by the IAEA.

2. Each Party shall take measures to ensure physical protection of special non-nuclear materials, nuclear materials, equipment and technologies transferred under this Agreement in accordance with its state policy and the national legislation, and also the signed international treaties.

Article 11 Responsibility

The Parties or persons designated by the Parties for the implementation of this Agreement shall consider responsibility issues, including civil nuclear liability, in specific agreements or treaties.

Article 12

Consultations

1. The Parties shall hold mutual consultations and meetings as agreed by the Parties and as necessary during the implementation of this Agreement.

2. Disputes regarding the implementation or interpretation of the provisions of this Agreement shall be resolved by peaceful means through negotiations and consultations between the Parties.

Article 13 Amendments, entry into force and termination

1. This Agreement shall enter into force on the date of receipt by diplomatic channels of the last written notification of the Parties on completion of the internal procedures necessary for its entry into force.

2. This Agreement is concluded for a term of forty (40) years and shall be automatically extended for twenty-year (20) terms, unless either Party notifies the other Party through diplomatic channels of its intention not to extend it no later than one year before the expiration of the current twenty year term.

3. This Agreement may be terminated or suspended by any of the Parties at any time in the event of violation or non-compliance by one of the Parties with the terms of this Agreement from the date of receipt by diplomatic channels of the corresponding written notification of the other Party.

4. By mutual consent of the Parties, this Agreement may be amended and supplemented by separate protocols, which shall be integral parts of this Agreement, and shall enter into force in accordance with paragraph 1 of this article.

5. Notwithstanding the expiration or termination of this Agreement, the obligations contained in Articles 6, 7, 8, 9, and 10 of this Agreement shall remain in force until the Parties agree otherwise. Termination of cooperation under this Agreement shall not prejudice the fulfillment of contracts, current projects and obligations on fuel supplies under this Agreement.

Done in the city of _____ " ____ " _____ on 20 __, in two original copies, each in Kazakh, Hindi, Russian and English, all texts being equally authentic. In the event of disagreement in the interpretation of this Agreement, the Parties shall refer to the text in English.

For the Government of the Republic of Kazakhstan

For the Government of the Republic of India