



Japan No.1 (2021)

Protocol

amending the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Japan for Co-operation in the Peaceful Uses of Nuclear Energy (with Agreed Minutes)

London, 16 December 2020

[The Protocol is not in force]

*Presented to Parliament
by the Secretary of State for Foreign, Commonwealth and Development Affairs
by Command of Her Majesty
June 2021*



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**PROTOCOL AMENDING THE AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF JAPAN FOR CO-OPERATION IN THE PEACEFUL
USES OF NUCLEAR ENERGY**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Japan;

Recognising that the United Kingdom of Great Britain and Northern Ireland and the International Atomic Energy Agency signed the Agreement between the United Kingdom of Great Britain and Northern Ireland and the International Atomic Energy Agency for the Application of Safeguards in the United Kingdom of Great Britain and Northern Ireland in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons and the Protocol Additional to the said Agreement on June 7, 2018; and

Desiring to amend the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Japan for Co-operation in the Peaceful Uses of Nuclear Energy, done on February 25, 1998 (hereinafter referred to as “the Agreement”);

Have agreed as follows:

ARTICLE 1

The preamble of the Agreement shall be amended by deleting the words “(hereinafter referred to as “the Non-Proliferation Treaty”)”, by inserting the word “and” immediately after the words “done on July 1, 1968;”, and by deleting the words “and Recognising that the United Kingdom of Great Britain and Northern Ireland is a member of the European Atomic Energy Community (hereinafter referred to as “EURATOM”)”.

ARTICLE 2

Sub-paragraph (c) of paragraph 1 of Article 1 of the Agreement shall be amended by deleting the words “and equipment” and replacing them with the words “, equipment and technology”.

ARTICLE 3

1. Paragraph (a) of Article 2 of the Agreement shall be amended by deleting the words “the Agreement between the Government of Japan and the Agency in Implementation of Article III. 1 and 4 of the Non-Proliferation Treaty, done on March 4, 1977” and replacing them with the words “the Agreement between the

Government of Japan and the International Atomic Energy Agency in Implementation of Article III. 1 and 4 of the Treaty on the Non-Proliferation of Nuclear Weapons, done on March 4, 1977, as supplemented by the Protocol Additional to the said Agreement, done on December 4, 1998 (hereinafter referred to as “the Safeguards Agreement for Japan”).

2. Paragraph (b) of Article 2 of the Agreement shall be amended by deleting the words “the Agreement between the United Kingdom of Great Britain and Northern Ireland, EURATOM and the Agency in connection with the Non-Proliferation Treaty, done on September 6, 1976” and replacing them with the words “the Agreement between the United Kingdom of Great Britain and Northern Ireland and the International Atomic Energy Agency for the Application of Safeguards in the United Kingdom of Great Britain and Northern Ireland in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, done on June 7, 2018, as supplemented by the Protocol Additional to the said Agreement, done on the same date (hereinafter referred to as “the Safeguards Agreement for the United Kingdom”).

ARTICLE 4

The following new paragraph shall be inserted immediately before the single paragraph of Article 3 of the Agreement and that single paragraph shall be numbered as paragraph 2 and amended by deleting the words “and equipment transferred pursuant to this Agreement” and replacing them with the words “, equipment and technology transferred pursuant to this Agreement, equipment based on technology”:

“1. Co-operation under this Agreement shall be carried out only for peaceful non-explosive purposes.”

ARTICLE 5

1. Sub-paragraph (a) of paragraph 1 of Article 4 of the Agreement shall be amended by deleting the words “the agreement referred to in paragraph (a) of Article 2 of this Agreement” and replacing them with the words “the Safeguards Agreement for Japan”. Sub-paragraph (b)(i) of paragraph 1 of Article 4 of the Agreement shall be amended by deleting the words “(1) the agreement referred to in paragraph (b) of Article 2 of this Agreement” and replacing them with the words “the Safeguards Agreement for the United Kingdom” and by deleting the words “and (2) safeguards applied by EURATOM pursuant to the Treaty establishing EURATOM, signed on March 25, 1957.”.

2. Paragraph 2 of Article 4 of the Agreement shall be amended by deleting the words “or EURATOM” wherever they appear in the said paragraph.

ARTICLE 6

The single paragraph of Article 5 of the Agreement shall be numbered as paragraph 1 and the following new paragraph shall be inserted immediately after the new paragraph 1:

“2. In implementing the provisions of this Agreement, Japan and the United Kingdom of Great Britain and Northern Ireland shall act in conformity with the provisions of the Convention on the Physical Protection of Nuclear Material and Nuclear Facilities, adopted on October 26, 1979 and amended on July 8, 2005.”

ARTICLE 7

1. Paragraph 1 of Article 6 of the Agreement shall be amended by deleting the words “and equipment transferred pursuant to this Agreement” and replacing them with the words “, equipment and technology transferred pursuant to this Agreement, equipment based on technology”.

2. Paragraph 2 of Article 6 of the Agreement shall be amended by deleting the word “items” and replacing it with the words “technology, equipment and nuclear material”. Sub-paragraph (a) of paragraph 2 of Article 6 of the Agreement shall be amended by inserting the words “technology for or” immediately before the word “equipment”.

ARTICLE 8

1. Paragraph 1 of Article 7 of the Agreement shall be amended by deleting the words “and equipment” and replacing them with the words “, equipment and technology” and by deleting the words “items” and “item” and replacing them with the words “material, nuclear material, equipment or technology”.

2. Paragraph 2 of Article 7 of the Agreement shall be amended by deleting the words “and equipment” and replacing them with the words “, equipment and technology”. Sub-paragraph (a) of paragraph 2 of Article 7 of the Agreement shall be amended by deleting the words “items have” and replacing them with the words “material, nuclear material or equipment has”. Sub-paragraph (b) of paragraph 2 of Article 7 of the Agreement shall be amended by deleting the word “items” and replacing it with the words “material, nuclear material, equipment or technology”.

ARTICLE 9

The following new Articles shall be inserted immediately after Article 7 of the Agreement:

“ARTICLE 7 A

As provided for in Article 1 of this Agreement, the Contracting Parties shall develop co-operation on research and development for peaceful non-explosive uses of nuclear energy between themselves or their agencies. The Contracting Parties or their agencies, as appropriate, may allow the participation in such co-operation of researchers and organisations from all research sectors, including universities, laboratories and the private sector. The Contracting Parties shall also facilitate such co-operation between persons under their respective jurisdictions in this field.

ARTICLE 7 B

1. The provisions of this Agreement shall be implemented in good faith in such a manner as to avoid hampering, delaying or undue interference in the nuclear activities in Japan and in the United Kingdom of Great Britain and Northern Ireland and so as to be consistent with the prudent management practices required for the economic and safe conduct of those nuclear activities.
2. The provisions of this Agreement shall not be used for the purpose of seeking commercial or industrial advantages, nor of interfering with the commercial or industrial interests of either Contracting Party or persons under its jurisdiction, nor of interfering with the nuclear policy of either Contracting Party, nor of hindering the promotion of the peaceful non-explosive uses of nuclear energy.
3. Nuclear material subject to this Agreement may be handled based on the principles of fungibility and proportionality when it is used in mixing processes where it loses its identity, or is deemed to lose it, in the process of conversion, fuel fabrication, enrichment or reprocessing.
4. In implementing the provisions of this Agreement, Japan and the United Kingdom of Great Britain and Northern Ireland shall act in conformity with the provisions of the Convention on Early Notification of a Nuclear Accident, adopted on September 26, 1986, the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, adopted on September 26, 1986, the Convention on Nuclear Safety, done on September 20, 1994 and the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, done on September 5, 1997.

ARTICLE 7 C

The Contracting Parties shall ensure the adequate and effective protection of intellectual property created and technology transferred pursuant to the co-operation under this Agreement in accordance with relevant international agreements to which both Japan and the United Kingdom of Great Britain and Northern Ireland are parties and the laws and regulations in force in their respective countries.

ARTICLE 7 D

The Contracting Parties shall exchange information in respect of the safe and effective management of material, nuclear material, equipment and technology transferred pursuant to this Agreement, equipment based on technology and nuclear material recovered or produced as a by-product.”

ARTICLE 10

The single paragraph of Article 11 of the Agreement shall be numbered as paragraph 1 and amended by inserting “: (a)” immediately after the words “entry into force of this Agreement”, by inserting the words “; or (b) terminates or materially violates its Safeguards Agreement with the Agency referred to in Article 2 of this Agreement” immediately after the words “in Article 10 of this Agreement”, by deleting the words “the right to suspend or terminate this Agreement by notification in writing” and replacing them with the words “the right, by notification in writing, to cease further co-operation under this Agreement in whole or in part, or to terminate this Agreement”, and by deleting the words “any nuclear material transferred pursuant to this Agreement which is” and replacing them with the words “any material, nuclear material and equipment transferred pursuant to this Agreement, equipment based on technology and nuclear material recovered or produced as a by-product which are”. The following new paragraphs shall then be inserted immediately after the new paragraph 1:

“2. If the United Kingdom of Great Britain and Northern Ireland detonates a nuclear explosive device using any material, nuclear material, equipment or technology transferred pursuant to this Agreement, equipment based on technology or nuclear material recovered or produced as a by-product, the Government of Japan shall have the rights specified in paragraph 1 above to cease further co-operation under this Agreement or terminate this Agreement and to require return.

3. If Japan detonates a nuclear explosive device, the Government of the United Kingdom of Great Britain and Northern Ireland shall have the rights specified in paragraph 1 above to cease further co-operation under this Agreement or terminate this Agreement and to require return.”

ARTICLE 11

The following new paragraphs shall be inserted immediately after paragraph (e) of Article 12 of the Agreement, paragraph (f) of the said Article shall be deleted, and paragraph (g) of the said Article shall be renumbered as paragraph (l):

- “(f) The term “technology” means specific information required for the development, production or use of any material, nuclear material or equipment, excluding information which has been made available without restrictions upon its further dissemination. Basic scientific research information may also be excluded, if specified and agreed in writing between the Contracting Parties. This specific information may take the form of technical data which includes blueprints, plans, diagrams, models, formulae, engineering designs and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape and read-only memories. It may also take the form of technical assistance which includes instruction, skills, training, working knowledge and consulting services;
- (g) The term “development” referred to in paragraph (f) of this Article means all phases before production such as design, design research, design analysis, design concepts, assembly and testing of prototypes, pilot production schemes, design data, process of transforming design data into a product, configuration design, integration design and layouts;
- (h) The term “production” referred to in paragraphs (f) and (g) of this Article means all activities for producing material, nuclear material or equipment such as construction, production engineering, manufacture, integration, assembly (mounting), inspection, testing and quality assurance;
- (i) The term “use” referred to in paragraph (f) of this Article means operation, installation including on-site installation, maintenance, checking, repair, overhaul and refurbishing;
- (j) The term “equipment based on technology” means equipment which the Contracting Parties agree as produced from the use of technology transferred pursuant to this Agreement;

- (k) The term “nuclear material recovered or produced as a by-product” means:
- (i) nuclear material derived from nuclear material transferred pursuant to this Agreement;
 - (ii) nuclear material derived by one or more processes from the use of material or equipment transferred pursuant to this Agreement; and
 - (iii) nuclear material which the Contracting Parties agree as derived from the use of technology transferred pursuant to this Agreement; and”

ARTICLE 12

Paragraph 4 of Article 14 of the Agreement shall be amended by deleting the words “suspension or” and replacing them with the words “cessation of co-operation under this Agreement in whole or in part, or the” and by inserting the words “, paragraphs 3 and 4 of Article 7 B” immediately after the words “paragraph 2 of Article 7”.

ARTICLE 13

The following new paragraph shall be inserted immediately after paragraph 10 of Part A of Annex A to the Agreement, and paragraphs 11 to 15 of the said Part shall be renumbered as paragraphs 12 to 16, respectively:

“11. External thermal shields:

External thermal shields especially designed or prepared for use in a nuclear reactor as defined in paragraph 1 above for reduction of heat loss and also for containment vessel protection.”

ARTICLE 14

Paragraphs 1 and 5 of Annex C to the Agreement shall be amended by deleting the words “Items transferred or retransferred” and replacing them with the words “Material, nuclear material, equipment and technology transferred pursuant to this Agreement, equipment based on technology and nuclear material recovered or produced as a by-product, transferred or retransferred.”.

ARTICLE 15

1. This Protocol shall enter into force at the time and date to be agreed by the Contracting Parties through an exchange of diplomatic notes informing each other that their respective constitutional requirements necessary to give effect to this Protocol have been complied with, provided that it is after the Treaty establishing the European Atomic Energy Community, done on March 25, 1957, ceases to be applicable to and in the United Kingdom of Great Britain and Northern Ireland.

2. Subject to the provisions of paragraph 4 of Article 14 of the Agreement as amended, this Protocol shall cease to be in force when the Agreement ceases to be in force.

In witness whereof the undersigned, being duly authorised by their respective Governments, have signed this Protocol.

Done in duplicate at London, on this sixteenth day of December, 2020 in the English and Japanese languages, both texts being equally authentic.

**For the Government of the United
Kingdom of Great Britain and
Northern Ireland:**

For the Government of Japan:

KWASI KWARTENG

NAGAMINE YASUMASA

AGREED MINUTES

The undersigned wish to record the following understanding reached during the negotiations for the Protocol Amending the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Japan for Co-operation in the Peaceful Uses of Nuclear Energy, which was signed today:

1. Paragraph 1 of the Agreed Minutes to the Agreement between the Government of Japan and the Government of the United Kingdom of Great Britain and Northern Ireland for Co-operation in the Peaceful Uses of Nuclear Energy, done on February 25, 1998 (hereinafter referred to as “the Agreed Minutes”) shall be amended by deleting the words “the Agency,” and replacing them with the words “the International Atomic Energy Agency (hereinafter referred to as “the Agency”),”, by deleting the words “the Agreement between the United Kingdom of Great Britain and Northern Ireland, EURATOM and the Agency” and replacing them with the words “the Agreement between the United Kingdom of Great Britain and Northern Ireland and the International Atomic Energy Agency for the Application of Safeguards in the United Kingdom of Great Britain and Northern Ireland in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, as supplemented by the Protocol Additional to the said Agreement,”, and by deleting the words “(hereinafter referred to as “the Agency Safeguards Agreement”)”.

2. Paragraph 2 of the Agreed Minutes shall be amended by deleting the words “Article 4” and replacing them with the words “Articles 4 and 7 D” and by deleting the words “and equipment” and replacing them with the words “, equipment and technology”.

3. Paragraph 3 of the Agreed Minutes shall be amended by deleting the words “the national and/or regional systems of accounting for and control of nuclear material covering all nuclear material subject to the Agreement have been established” and replacing them with the words “the national system of accounting for and control of nuclear material covering all nuclear material subject to the Agreement has been established”.

4. The following new paragraph shall be inserted immediately after paragraph 5 of the Agreed Minutes, and paragraphs 6 and 7 of the Agreed Minutes shall be renumbered as paragraphs 7 and 8, respectively:

“6. With reference to Article 7 D of the Agreement, it is confirmed that the Contracting Parties have adopted policies, as set out in the document published by the Agency as INFCIRC/549 (“Guidelines for the Management of Plutonium”), with respect to management of plutonium, including, where applicable, plutonium subject to the Agreement.”

At London, this sixteenth day of December, 2020

**For the Government of the
United Kingdom of Great
Britain and Northern Ireland:**

KWASI KWARTENG

For the Government of Japan:

NAGAMINE YASUMASA

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