

INTERNATIONAL ENERGY AGENCY

**IMPLEMENTING AGREEMENT
FOR THE ESTABLISHMENT OF THE
IEA ENERGY TECHNOLOGY DATA EXCHANGE**

(as amended to 9th September, 1993)

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TABLE OF CONTENTS

PREAMBLE	5
<i>Article 1</i>	
OBJECTIVES AND SCOPE OF ACTIVITY	6
<i>Article 2</i>	
THE OPERATING AGENT	7
<i>Article 3</i>	
PROGRAMME OBLIGATIONS OF THE OPERATING AGENT AND THE CONTRACTING PARTIES	8
<i>Article 4</i>	
PRINCIPLES GOVERNING THE EXCHANGE OF INFORMATION	10
<i>Article 5</i>	
THE EXECUTIVE COMMITTEE	11

Article 6

ADDITIONAL RIGHTS AND OBLIGATIONS OF THE OPERATING AGENT 13

Article 7

ADMINISTRATION AND STAFF 14

Article 8

FINANCE 15

Article 9

LEGAL RESPONSIBILITY AND INSURANCE 20

Article 10

LEGISLATIVE PROVISIONS 20

Article 11

ADMISSION AND WITHDRAWAL OF CONTRACTING OR
ASSOCIATE CONTRACTING PARTIES 21

Article 12

FINAL PROVISIONS 23

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(as amended to 9th September, 1993)

The Contracting Parties

CONSIDERING that the Contracting Parties, being either governments of International Energy Agency (the "Agency") countries or parties designated by governments of Agency countries pursuant to Article III of the Guiding Principles for Co-operation in the Field of Energy Research and Development, adopted by the Agency's Governing Board, wish to take part in the establishment and operation of the IEA Energy Technology Data Exchange (the "Exchange");

CONSIDERING that the Contracting Parties wish to hold open to all governments of the Organisation for Economic Co-operation and Development (the "OECD") countries or their designees, and the European Communities, the opportunity to participate in the Exchange as Contracting Parties, and to governments of non-OECD Member countries or international organizations in which one or more such governments participate, or their designees, the opportunity to participate in the Exchange as Associate Contracting Parties;

CONSIDERING that the Contracting Parties which are governments and the governments of the other Contracting Parties (referred to collectively as the "Governments") participate in the Agency and have agreed in Article 41 of the Agreement on an International Energy Program (the "I.E.P. Agreement") to undertake national programmes in the areas set out in Article 42 of the I.E.P. Agreement, including energy research and development;

CONSIDERING that in a meeting of the Governing Board of the Agency on 10th April, 1986 the Governments approved the establishment of the Exchange as a special activity under Article 65 of the I.E.P. Agreement;

CONSIDERING that the Agency has recognized the establishment of the Exchange as an important component of international co-operation in energy research and development and that Ministers at the Agency's Governing Board meeting on 9th July, 1985 agreed to pursue new actions to facilitate international research and development collaboration inter alia in energy technology information systems;

HAVE AGREED as follows:

Article 1

OBJECTIVES AND SCOPE OF ACTIVITY

(a) *Objectives.* The objectives of the Exchange are to:

- (1) Broaden and improve the collection and exchange of energy technology information by establishing a common data base of bibliographic energy information and providing for an efficient system for the distribution of such information;
- (2) Improve information transfer between existing bibliographic energy data bases by promoting greater compatibility;
- (3) Further develop the basis for decisions on the performance of new energy research, development and demonstration projects by ensuring a broad sharing of energy technology information on equitable terms.

(b) *Scope of Activity.*

- (1) This Agreement shall operate as a multilateral information exchange programme among Participating Countries. The activities of the Exchange shall include the collection, processing, and dissemination of information on energy technology literature in the following areas:

- Fossil Fuels;
- Renewable Energy Sources;
- Nuclear Energy;
- Fusion Energy;
- Energy Storage and Conversion;
- End-Use Technology;
- Advanced Energy Systems;
- Energy Policy;

as well as such additional areas as may be agreed to by the Executive Committee, acting by unanimity, in order to obtain comprehensive coverage of the areas of common interest.

- (2) Such information shall include aspects of chemistry, engineering, environmental sciences, biomedical sciences, physics, mathematics, computer science, materials and instrumentation related to energy technology.
- (3) The term "literature" shall mean for the purposes of this Agreement:
 - (i) "Conventional" literature, which is information commercially available;
 - (ii) "Non-conventional" literature, which is information such as research reports and conference papers, not available through normal commercial channels.
- (4) The term "Energy Technology Information" shall include for the purposes of this Agreement both Conventional and Non-conventional literature.
- (5) The activities of the Exchange may include information on factual data such as research in progress, planned scientific meetings, etc., subject to the approval of the Executive Committee.

(c) *Co-ordination with IEA Information Centres; Other Information Systems.* The Agency having established an Air Infiltration Centre, a Heat Pump Centre, an IEA Information Centre for the Analysis and Dissemination of Demonstrated Energy Technologies and an IEA Coal Research Service which provide information and other services (and are hereinafter referred to as the "IEA Information Centres"), the Exchange shall, in carrying out its functions under this Agreement, co-ordinate its activities with those of the IEA Information Centres in order to avoid duplication and to enjoy mutual benefits from existing resources and expertise. The exchange of energy information under other international agreements (e.g. International Nuclear Information System (INIS) of the IAEA) shall not affect the Contracting Parties' and the Operating Agent's rights and obligations under this Agreement nor shall the exchange under this Agreement interfere with the information exchange under such other agreements.

Article 2

THE OPERATING AGENT

(a) The Operating Agent for the Exchange, including the common data base, shall be the United States Department of Energy, acting through the Office of Scientific and Technical Information.

(b) The United States Department of Energy (DOE) owns an energy data base which it has funded, operated and maintained during the period 1974-1986 (hereinafter referred to as the "DOE Energy Data Base"). The common data base to be developed under this Agreement (hereinafter referred to as the "Common Data Base") shall include the DOE Energy Data Base to be contributed by the Operating Agent and all other information, including information which may be provided by the IEA Information Centres and other information systems, entered into the Common Data Base under this Agreement. Countries with whom the DOE has established bilateral exchange agreements also have participation rights in a portion of the DOE Energy Data Base. These bilateral agreements shall not be affected by this Implementing Agreement.

Article 3

PROGRAMME OBLIGATIONS OF THE OPERATING AGENT AND THE CONTRACTING PARTIES

(a) *Obligations of the Operating Agent.* The Operating Agent shall:

- (1) Maintain and develop in association with the Contracting Parties the Common Data Base in accordance with this Agreement;
- (2) Make available the DOE Energy Data Base to the Exchange as part of the Common Data Base to be developed under this Agreement; the DOE Energy Data Base shall henceforth be referenced as Energy Data Base Vols. 74-86;
- (3) Allow the other Contracting Parties, their nationals designated by them, and the Agency, electronic access to the Common Data Base. Any Contracting Party obtaining such access to the Common Data Base shall bear the charges it incurs, if any, from the service vendors for the provision of such access;
- (4) Perform regular training sessions as proposed by the Operating Agent and the Contracting Party concerned, and as agreed to by the Executive Committee, acting by unanimity;
- (5) Provide to the Contracting Parties and the Agency, as requested by the Contracting Parties but no more than twice each month, an up-dated single copy of all Energy Technology Information bibliographic entries to the Common Data Base, since the entry into force of this Agreement, on magnetic tape or in such machine-readable form as may be agreed by the Executive Committee, acting by unanimity;

- (6) Provide to each of the other Contracting Parties and the Agency, upon request and at a reasonable price: (a) microfiche copies of all or part of the Non-conventional literature held in the Common Data Base; and (b) the Operating Agent's printed services such as the "Printed Product Current Awareness Materials";
- (7) Maintain and up-date all standards and manuals setting forth authority files, formats, definitions and procedures used in the preparation and processing of material for entry into the Common Data Base in accordance with the decisions of the Executive Committee, acting by unanimity;
- (8) Perform such additional Energy Technology Information services and actions as may be necessary or appropriate to enable the Exchange to realize its objectives if so decided by the Executive Committee, acting by unanimity, with such amendment of Article 4 hereof as may be required;
- (9) In co-ordination with the other Contracting Parties, use its best efforts to avoid duplication with information activities of the IEA Information Centres and other information systems, in a manner which is consistent with the terms and conditions of this Agreement.

(b) *Obligations of the Contracting Parties.* Each Contracting Party shall:

- (1) Provide the Operating Agent, at least monthly, with the Energy Technology Information as described below which is published or issued in its country and which has not been previously included in the Common Data Base. Contracting Parties need not provide any information already provided to the Operating Agent through the IEA Information Centres or other information systems. The information shall cover research summaries in English of all Energy Technology Information in an international format with standardized cataloguing, index vocabulary, categorization, journal and report identification, and abstracts, which constitute a bibliographic record, all prepared on magnetic tape or in other machine-readable form and in accordance with established definitions, rules, procedures and guidelines which may be modified by the Executive Committee, acting by unanimity;
- (2) Provide the Operating Agent with a copy (if available) or an availability notice of all Non-conventional energy technology literature published or issued in its country;
- (3) Provide the Operating Agent with funds in accordance with Article 8 hereof for the work it performs under sub-paragraph (a) above.

(c) *Implementation of Certain Obligations.* The Contracting Parties shall apply their best efforts to provide comprehensive coverage of the literature published or issued in their respective countries at all times including other information agreed by the Executive Committee.

Article 4

PRINCIPLES GOVERNING THE EXCHANGE OF INFORMATION

(a) *Information.* The exchange of Energy Technology Information under this Agreement shall be confined to publicly available, non-proprietary and unclassified information.

(b) *Warranties.*

- (1) Each Contracting Party warrants to the Operating Agent that use of the information it provides under this Agreement does not violate proprietary rights or copyrights or violate the security classification rules of its country. However, the Contracting Parties do not warrant the accuracy of the information provided by them or its suitability for any particular use or application by the recipient.
- (2) The Operating Agent, or any of its employees or agents, does not make any warranty, express or implied, of the accuracy of the information contained in the Common Data Base or any other information provided under this Agreement, its merchantability or its suitability for a particular purpose, or assume any liability or responsibility for any party's use of the information or the results of such use.

(c) *Reproduction and Distribution.* Each Contracting Party shall have the exclusive right to reproduce and distribute within its country the Energy Technology Information received under this Agreement in the form provided by the Operating Agent or any other form into which it might be transformed by the Contracting Party in accordance with its normal procedures and through its normal channels subject to the laws and regulations of the Contracting Parties.

Any Contracting Party (Grantor) may, through written authorization, grant another Contracting Party (Grantee) the non-exclusive right to distribute within the Grantor's country the Energy Technology Information in the form described in the written authorization. The Grantee shall provide the Operating Agent with any net profit (revenue over and above the cost of providing the product) resulting from the distribution within the Grantor's country and such amounts shall be applied against the Grantor's contribution under Article 8(g) upon such conditions as the Executive Committee, acting by unanimity, shall determine.

(d) *Survival of Rights and Obligations.* The rights and obligations set forth in paragraph (c) above shall survive the termination of this Agreement or the withdrawal or replacement of any Contracting Party or the resignation or replacement of the Operating Agent.

(e) *Exchange of Information with Others.* The Executive Committee may, acting by unanimity, make arrangements in writing for the acquisition of Energy Technology Information from sources other than the Contracting Parties, including the IEA Information Centres, in accordance with the terms and conditions of this Agreement. The Executive Committee, acting by unanimity, may make rules by which information held in the Common Data Base may be made available to other Participating Countries of the Agency and non-members of the Agency.

Article 5

THE EXECUTIVE COMMITTEE

(a) *Supervisory Control.* Control of the Exchange shall be vested in the Executive Committee constituted under this Article, and decisions made by the Executive Committee pursuant to this Article shall be binding on each Contracting Party and the Operating Agent to the extent that such decisions and their implementation are not inconsistent with the laws and regulations of the countries of the Contracting Parties and the Operating Agent.

(b) *Membership.* The Executive Committee shall consist of one member designated by each Contracting Party; each Contracting Party shall also designate an alternate member to serve on the Executive Committee in the event that its designated member is unable to do so. The Executive Committee shall inform the Contracting Parties in writing of all designations under this paragraph.

(c) *Responsibilities.* The Executive Committee shall:

- (1) Adopt for each year, acting by unanimity, the Programme of Work and Budget for the Exchange, together with an indicative programme of work and budget for the following two years; the Executive Committee may, as required, make adjustments within the framework of the Programme of Work and Budget;
- (2) Make such rules and regulations as may be required for the sound management of the Exchange, including rules on timeliness, coverage and quality of the Common Data Base as well as financial rules as provided in Article 8 hereof;
- (3) Carry out the other functions conferred upon it by this Agreement; and

- (4) Consider any matters submitted to it by the Operating Agent or by any Contracting Party.

(d) *Procedures.* The Executive Committee shall carry out its responsibilities in accordance with the following procedures:

- (1) The Executive Committee shall elect a Chairman and one or more Vice-Chairmen for a period of three years;
- (2) The Executive Committee may establish such subsidiary bodies and rules of procedure as are required for its proper functioning. A representative of the Agency, a representative of the Operating Agent (in its capacity as such) and one representative of each of the IEA Information Centres may attend meetings of the Executive Committee and its subsidiary bodies in an advisory capacity;
- (3) The Executive Committee shall meet in regular session at least once a year; a special meeting shall be convened by the Chairman upon the request of any Contracting Party which can demonstrate the need therefor;
- (4) Meetings of the Executive Committee shall be held at such time and in such office or offices as may be designated by the Executive Committee;
- (5) At least twenty-eight days before each meeting of the Executive Committee, notice of the time, place and purpose of the meeting shall be given to each Contracting Party and to other persons or entities entitled to attend the meeting; notice need not be given to any person or entity otherwise entitled thereto if notice is waived before or after the meeting;
- (6) The quorum for the transaction of business in meetings of the Executive Committee shall be one-half of the members plus one (less any resulting fraction).

(e) *Voting.*

- (1) In all cases in which this Agreement expressly requires the Executive Committee to act by unanimity, this shall require the agreement of each member or alternate member present and voting, and in respect of all other decisions and recommendations for which no express voting provision is made in this Agreement, the Executive Committee shall act by a majority vote of the members or alternate members present and voting.
- (2) The decisions and recommendations referred to in sub-paragraph (1) above may, with the agreement of each member or alternate member, be made by

mail, telex or cable without the necessity for calling a meeting. Such action shall be taken by unanimity or majority of such members as in a meeting. The Chairman of the Executive Committee shall ensure that all members are informed of each decision or recommendation made pursuant to this subparagraph.

- (3) If a government has designated more than one Contracting Party to this Agreement, those Contracting Parties together may cast only one vote under this paragraph.

(f) *Reports.* The Executive Committee shall, by 31st January each year, provide the Agency with thirty copies of reports containing technically substantive, non-proprietary information on the progress of the Exchange and its results.

Article 6

ADDITIONAL RIGHTS AND OBLIGATIONS OF THE OPERATING AGENT

(a) *Scope of Authority to Act on Behalf of Contracting Parties.* In addition to its obligations set out in Article 3(a) hereof, the Operating Agent shall:

- (1) Perform all acts required to operate the Exchange on behalf of the Contracting Parties;
- (2) Hold for the benefit of the Contracting Parties any property rights which may accrue to or be acquired for the Exchange.

The Operating Agent shall operate the Exchange under its supervision and responsibility, subject to this Agreement, in accordance with the laws and regulations of the country of the Operating Agent.

(b) *Reimbursement of Costs.* The Executive Committee shall provide that expenses and costs incurred by an Operating Agent in acting as such pursuant to this Agreement shall be reimbursed to the Operating Agent from funds made available by the Contracting Parties pursuant to Article 8 hereof.

(c) *Replacement.* Should the Executive Committee wish to replace an Operating Agent with another government or entity, the Executive Committee may, acting by unanimity and with the consent of such government or entity, take such action. The initial Operating Agent may in this case, at its option, terminate availability of the DOE Energy Data Base provided to the Exchange pursuant to Article 3(a)(2) hereof. References in this Agreement to the Operating Agent shall include any government or entity appointed to replace the initial or any subsequent Operating Agent under this paragraph.

(d) *Resignation.* The Operating Agent shall use its best efforts to continue as Operating Agent until a Contracting Party or an entity designated by a Contracting Party is willing to assume the duties and obligations of the Operating Agent. Upon the effective date of such resignation, the initial Operating Agent may, at its option, terminate availability of the DOE Energy Data Base provided to the Exchange pursuant to Article 3(a)(2) hereof.

(e) *Accounting.* An Operating Agent which is replaced or which resigns as Operating Agent shall provide the Executive Committee with an accounting of any monies and other assets which it may have collected or acquired for the Exchange in the course of carrying out its responsibilities as Operating Agent.

(f) *Transfer of Rights.* In the event that another Operating Agent is appointed (see paragraphs (c) and (d) above), the Operating Agent shall transfer to such replacement Operating Agent any property rights which it may hold on behalf of the Exchange or make such other disposition of those property rights as the Executive Committee may direct.

(g) *Information and Reports.* The Operating Agent shall furnish to the Executive Committee such information concerning the operation of the Exchange as the Executive Committee may request and shall each year submit, not later than two months after the end of the financial year, a report on the operations of the Exchange to the Executive Committee.

Article 7

ADMINISTRATION AND STAFF

(a) *Administration of the Exchange.* The Operating Agent shall be responsible to the Executive Committee for operating the Exchange in accordance with this Agreement, the annual Programme of Work and Budget, decisions of the Executive Committee, and the regulations of the establishment at which the work is carried out.

(b) *Staff.* It shall be the responsibility of the Operating Agent to retain such staff as may be required to operate the Exchange in accordance with rules determined by the Executive Committee. Such staff shall be responsible to the Operating Agent. The Operating Agent may also arrange for the services of personnel employed by other Contracting Parties (or organizations or other entities designated by Contracting Parties) and made available by assignment to the Operating Agent in the form of secondment or otherwise. Such personnel shall be remunerated by their employers and shall, except as provided in this Article, be subject to their employers' conditions of service. The terms and conditions of such assignment shall be agreed upon in writing between the Operating Agent and the concerned Contracting Party.

Article 8

FINANCE

(a) *Common Fund.* A Common Fund shall be established by the Executive Committee and shall be included in the annual Programme of Work and Budget for the purpose of funding the obligations of the Operating Agent under Article 3(a)(1), (4), (5), (7), (8) and (9) hereof. The annual Common Fund expenditure incurred in the operation of the Exchange is fixed at US\$ 530,000 for the first year and is estimated at US\$ 600,000 for the following two years, at 1986 exchange rates and price levels, and may not exceed those levels except upon the unanimous agreement of the Executive Committee. The Executive Committee, acting by unanimity, shall adjust the figures referred to in this paragraph at half-yearly intervals to take account of changes in exchange rates and changing price levels in the country of the Operating Agent to ensure that the necessary real resources will continue to be available to operate the Exchange. If significant changes in such exchange rates or price levels occur, the Executive Committee, acting by unanimity, shall consider whether to adjust the Programme of Work to the available funds.

(b) *Contributions.*

- (1) For the initial three-year period the Contracting Parties' contributions to the Common Fund shall be determined by application of the following formula. Each Contracting Party shall make an annual Membership Fee Contribution of US\$ 10,000 as well as an annual Additional Contribution. The Additional Contribution is to cover the difference between the annual Common Fund expenditure and the annual Membership Fee Contributions. Each Contracting Party's Additional Contribution is determined by its country's share in the total energy research and development expenditure of all Contracting Parties' countries over the period of the previous five years on the basis of constant US dollars. The ceiling for each country's share will be 28 per cent for the first year and shall be determined by the Executive Committee, acting by unanimity, for later years. Each Contracting Party's share in total energy research and development expenditure is determined on the basis of the data provided by the Agency.
- (2) According to the formula set out in sub-paragraph (1) above, the annual contribution of each Contracting Party for the first year will be as set out below. The contributions for the following two years shall be determined on the basis of this formula by the Executive Committee, acting by unanimity. Contributions for 1991 and later years shall be determined by the Executive Committee, acting by unanimity, on the basis of the formula set out in sub-paragraph (1) above.

TABLE OF CONTRIBUTIONS

Country	Share in Total Energy R&D (re-weighted)	Membership Fee Contribution US\$	Additional Contribution US\$	Totals US\$
Canada	8.43	10,000	35,406	45,406
Denmark	0.31	10,000	1,302	11,302
Finland	0.48	10,000	2,016	12,016
Germany	17.90	10,000	75,180	85,180
Japan	27.95	10,000	117,390	127,390
Netherlands	2.54	10,000	10,668	20,668
Norway	0.64	10,000	2,688	12,688
Spain	2.05	10,000	8,610	18,610
Sweden	2.44	10,000	10,248	20,248
United Kingdom	9.31	10,000	39,102	49,102
United States	27.95	10,000	117,390	127,390
TOTALS	100.00	110,000	420,000	530,000

Each year the United States' contribution will be offset or partly offset by payment-in-kind. The first year, the United States' payment-in-kind will be US\$ 55,000 equalling the United States' annual ADP capital equipment amortization expense for the DOE Energy Data Base related to the portion of usage under this Agreement. The second and third years, the payment-in-kind for this amortization expense will be set at 45 per cent of the United States' contribution.

- (3) In the case of a unanimous decision by the Executive Committee on an expenditure exceeding the amounts set out in paragraph (a) above, the Executive Committee, acting by unanimity, shall adjust the Contracting Parties' contributions in accordance with the formula set out in sub-paragraph (1) above. For any periods succeeding the initial three year period, the Executive Committee, acting by unanimity, shall fix the amounts to be contributed by each Contracting Party for the operation of the Exchange including any offset by payment-in-kind.

(c) *Financial Rules for Expenditures.* The Executive Committee, acting by unanimity, may make such regulations as are required for the sound financial management of the Exchange, including, where necessary:

- (1) Establishment of budgetary and administrative procedures to be used by the Operating Agent in making payments from the Common Fund of the Exchange or in making contracts on behalf of the Exchange; and
- (2) Establishment of minimum levels of expenditure for which Executive Committee approval shall be required, including expenditure involving payment of monies to the Operating Agent for other than routine salary and administrative expenses previously approved by the Executive Committee in the budget process.

(d) *Crediting of Income to Budget.* Income, if any, accruing from the operation of the Exchange shall be credited to the Budget of the Exchange.

(e) *Accounting.* The system of accounts employed by the Operating Agent shall be in accordance with the accounting principles generally accepted in the country of the Operating Agent and shall be consistently applied.

(f) *Programme of Work and Budget, Keeping of Accounts.* Unless otherwise decided by the Executive Committee, acting by unanimity:

- (1) The financial year of the Exchange shall correspond to the financial year of the Operating Agent;
- (2) The Operating Agent shall each year prepare and submit to the Executive Committee for approval a draft programme of work and budget, together with a proposed programme of work and budget for the following two years, not later than three months before the beginning of each financial year;
- (3) The Operating Agent shall maintain complete, separate financial records which shall clearly account for all funds and property coming into the custody or possession of the Operating Agent in connection with the Exchange;
- (4) Not later than three months after the close of each financial year, the Operating Agent shall submit to auditors selected by the Executive Committee for audit the annual accounts maintained for the Exchange in a form approved by the Executive Committee; upon completion of the annual audit, the Operating Agent shall present the accounts together with the auditors' report to the Executive Committee for approval;
- (5) All books of account and records maintained by the Operating Agent shall be preserved for at least three years from the date of termination of the Exchange;
- (6) Each Contracting Party supplying extraordinary information contributions exceeding 100 per cent comprehensiveness of all Energy Technology Information to be provided pursuant to this Agreement, or information on a disproportionately high number of publications published or issued within its

country but derived from external sources, or special services, materials or intellectual property to the Exchange shall be entitled to a credit, determined by the Executive Committee, acting by unanimity, against its contribution (or to compensation, if the value of such services, materials or intellectual property exceeds the amount of the Party's contribution); such credits for services of staff shall be calculated on an agreed scale approved by the Executive Committee and shall include all payroll-related costs.

(g) *Contribution to Common Funds.* Any financial contributions due from Contracting Parties to the Exchange shall be paid to the Operating Agent in the currency of the country of the Operating Agent at such times and upon such other conditions as the Executive Committee, acting by unanimity, shall determine, provided, however, that:

- (1) Contributions received by the Operating Agent shall be used solely in accordance with the Programme of Work and Budget for the Exchange;
- (2) The Operating Agent shall be under no obligation to carry out any work on the Exchange until contributions amounting to at least fifty per cent (in cash terms) of the total due at any one time have been received by the Operating Agent;
- (3) In the first year after the signing of this Agreement, the Contracting Parties shall pay their contributions, as directed by the Executive Committee, acting by unanimity, in advance of approval of the Budget in order to enable the Operating Agent to establish the Exchange in accordance with this Agreement.

(h) *Projects.* In addition to the work contained in the Programme of Work and Budget, two or more Contracting Parties may undertake, within the scope described in Article 1(b) above, projects (the "Projects") according to the following procedures:

- (1) Whenever two or more Contracting Parties agree to undertake a Project, they shall submit a draft Annex for adoption to the Executive Committee. The draft Annex shall include a description of the scope of work, the timing, the projected funds, the participating Contracting Parties (the "Participants"), the designation of a co-ordinator responsible to the Executive Committee for operating the Project, and other conditions of the Project. The adopted Annex shall become part of this Agreement.
- (2) Any Contracting Party not identified in an Annex may, with the agreement of the Participants in the Project, acting by unanimity, become a Participant in the Project. Such participation shall become effective upon the Contracting Party's giving the Executive Director of the Agency a Notice of Participation in the appropriate Project Annex and the adoption of consequential amendments to the Project Annex by the Executive Committee.

- (3) Each Project Annex shall be binding only upon the Participants therein and shall not affect the rights or obligations of the other Contracting Parties.
 - (4) Participants wishing to share the costs of a Project Annex shall agree in the appropriate Annex to do so. The apportionment of contributions to such costs (whether in the form of cash, services rendered, intellectual property, or supply of materials) and the use of such contributions shall be governed by the regulations and decisions made pursuant to this Article by the Executive Committee.
 - (5) *Voting Rights.* Decisions concerning a Project shall be made by the unanimous agreement of the Participants in the Project Annex.
- (i) *Taxes.* The Operating Agent shall pay all taxes and similar impositions (other than taxes on income) imposed by national or local governments and incurred by it in connection with the Exchange, as expenditures incurred in the operation of the Exchange, under the Budget; the Operating Agent shall endeavour to obtain all possible exemptions from such taxes.
- (j) *Costs Other than Common Costs.* Each Contracting Party shall bear all costs of its participation in the Exchange except for those costs attributed to the Common Fund.
- (k) *Audit.* Each Contracting Party shall have the right, at its sole cost, to audit the accounts of the Exchange on the following terms:
- (1) The Contracting Party shall provide the other Contracting Parties with an opportunity to participate in such audits on a cost-shared basis;
 - (2) The accounts and records in respect of the Operating Agent's activities other than those for the Exchange shall be excluded from such audit, but if the Contracting Party concerned requires verification of charges to the Budget representing services rendered to the Exchange by the Operating Agent, it may at its own cost request and obtain an audit certification in this respect from the auditors of the Operating Agent;
 - (3) Not more than one such audit shall be required in any financial year;
 - (4) Any such audit shall be carried out by not more than three representatives of the Contracting Party.

Article 9

LEGAL RESPONSIBILITY AND INSURANCE

(a) *Liability of Operating Agent.* The Operating Agent shall use all reasonable skill and care in carrying out its duties under this Agreement and shall be responsible for ensuring that the Exchange is conducted in accordance with the terms and conditions of this Agreement and all applicable laws and regulations. Except as otherwise provided in this Article, the cost of all damage to property and all legal liabilities, claims, actions, costs, and expenses connected therewith, shall be charged to the Budget of the Exchange.

(b) *Insurance.* The Operating Agent shall propose to the Executive Committee any necessary liability, fire and other insurance, and shall carry such insurance as the Executive Committee may direct. The cost of obtaining and maintaining insurance shall be charged to the Budget of the Exchange.

(c) *Responsibility of Operating Agent.* The Operating Agent shall, in accordance with the laws of the country of the Operating Agent, be responsible in its capacity as such for the cost of any damage to property and all legal liabilities, actions, claims, costs and expenses connected therewith to the extent that they:

- (1) Result from the failure of the Operating Agent to maintain such insurance as it may be required to maintain under paragraph (b) above;
- (2) Result from the gross negligence or wilful misconduct of any officers or employees of the Operating Agent in carrying out their duties under this Agreement.

Article 10

LEGISLATIVE PROVISIONS

(a) *Accomplishment of Formalities.* Each Contracting Party shall request the appropriate authorities of its country (or its Member States in the case of an international organization) to use their best endeavours, within the framework of applicable legislation, to facilitate the accomplishment of formalities involved in the movement of persons, the importation of materials and equipment and the transfer of currency which shall be required to operate the Exchange.

(b) *Applicable Laws.* The participation of each Contracting Party shall be subject to the appropriation of funds by the appropriate governmental authority, where necessary, and to the constitutions, laws and regulations applicable to the respective Contracting Party, including, but not limited to, laws establishing prohibitions upon the payment of commissions, percentages, brokerage or contingent fees to persons retained to solicit governmental contracts and upon any share of such contracts accruing to governmental officials.

(c) *Decisions of Agency Governing Board.* The Exchange shall in its operations take account, as appropriate, of the Guiding Principles for Co-operation in the Field of Energy Research and Development, and any modification thereof, as well as other decisions of the Governing Board of the Agency in that field. The termination of the Guiding Principles shall not affect this Agreement, which shall remain in force in accordance with the terms hereof.

(d) *Settlement of Disputes.* Any dispute among the Contracting Parties concerning the interpretation or the application of this Agreement which is not settled by negotiation or other agreed mode of settlement shall be referred to a tribunal of three arbitrators to be chosen by the Contracting Parties concerned who shall also choose the Chairman of the tribunal. Should the Contracting Parties concerned fail to agree upon the composition of the tribunal or the selection of its Chairman, the President of the International Court of Justice shall, at the request of any of the Contracting Parties concerned, exercise those responsibilities. In deciding any such dispute, the tribunal shall be bound by the terms of this Agreement and any applicable laws and regulations, and its decision on a question of fact shall be final and binding on the Contracting Parties. An Operating Agent which is not a Contracting Party shall be regarded as a Contracting Party for the purpose of this paragraph.

Article 11

ADMISSION AND WITHDRAWAL OF CONTRACTING OR ASSOCIATE CONTRACTING PARTIES

(a) *Admission of New Contracting Parties.* Upon the invitation of the Executive Committee, acting by unanimity, admission to this Agreement shall be open to the government of any Agency Participating Country (or a national agency, public organization, private corporation, company or other entity designated by such government), which signs or accedes to this Agreement and accepts the rights and obligations of a Contracting Party. Such admission of a Contracting Party shall become effective upon the signature of this Agreement by the new Contracting Party or its accession thereto and the adoption by the Executive Committee of any consequential amendments thereto. Upon invitation of the Governing Board of the Agency, admission to this Agreement shall be open also to the government of any Member country of the Organisation for Economic Co-operation and Development (OECD) (or a national agency, public organization, private corporation, company or other entity designated by such government) which does not participate in the Agency, under the conditions stated above.

(b) *Admission of Associate Contracting Parties.* The government of any country which does not participate in the OECD, or any international organization in which one or more such governments participate, may, on the proposal of the Executive Committee, acting by unanimity, be invited by the Governing Board of the Agency to become an Associate Contracting Party to this Agreement (or to designate a national agency, public organization, private corporation, company, or other entity to do so). The terms, conditions and duration shall be agreed in each case between the Contracting Parties and the Associate Contracting Party on an equitable basis in relation to the sharing of obligations, contributions, rights and benefits, as provided for in the Guiding Principles for Co-operation in the Field of Energy Research and Development, approved by the Governing Board of the Agency on 9th December, 1991 [IEA/GB(91)79] and any modification thereof. Such admission of an Associate Contracting Party shall become effective upon signature of this Agreement by the new Associate Contracting Party or its accession thereto and the adoption by the Executive Committee of the consequential amendments thereto.

(c) *Participation by the European Communities.* The European Communities may participate in this Agreement in accordance with arrangements to be made by the Executive Committee, acting by unanimity.

(d) *Contributions.* The Executive Committee may require, as a condition to admission to participation, that the new Contracting Party shall contribute (in the form of cash, services or materials) an appropriate proportion of the expenditure of the Exchange prior to the date of such participation.

(e) *Replacement of Contracting Parties.* With the agreement of the Executive Committee, acting by unanimity, and upon the request of a government, a Contracting Party designated by that government may be replaced by another party. In the event of such replacement, the replacement party shall assume the rights and obligations of a Contracting Party as provided in paragraph (a) above and in accordance with the procedures provided therein.

(f) *Withdrawal of a Contracting Party.* Any Contracting Party may withdraw from this Agreement at any time with the agreement of the Executive Committee, acting by unanimity, or by giving twelve months written Notice of Withdrawal to that effect to the Executive Director of the Agency, such notice to be given not less than one year after the date hereof. The withdrawal of a Contracting Party under this paragraph shall not affect the rights and obligations of the other Contracting Parties, except that the proportionate shares of the Budget of the Exchange shall be adjusted to take account of such withdrawal.

(g) *Withdrawal of Contracting Party Serving as Operating Agent.* A Contracting Party serving as Operating Agent which withdraws from this Agreement under paragraph (f) above shall cease to be the Operating Agent and shall account to the Executive Committee. The initial Operating Agent may, at its option, terminate availability of the DOE Energy Data Base.

(h) *Changes of Status of Contracting Party.* A Contracting Party other than a government or an international organization shall forthwith notify the Executive Committee of any significant change in its status or ownership, or of its becoming bankrupt or entering into liquidation. The Executive Committee shall determine whether any such changes in status or ownership or bankruptcy or liquidation of a Contracting Party significantly affect the interests of the other Contracting Parties; if the Executive Committee so determines, then, unless the Executive Committee, acting upon the unanimous decision of the other Contracting Parties, otherwise agrees:

- (1) That Contracting Party shall be deemed to have withdrawn from the Agreement under paragraph (f) above on a date to be fixed by the Executive Committee; and
- (2) The Executive Committee shall invite the Government which designated that Contracting Party to designate, within a period of three months of the withdrawal of that Contracting Party, a different entity to become a Contracting Party; if approved by the Executive Committee, acting by unanimity, such entity shall become a Contracting Party with effect from the date on which it signs or accedes to this Agreement and assumes the rights and obligations of a Contracting Party.

(i) *Failure to Fulfil Contractual Obligations.* Any Contracting Party which fails to fulfil its obligations under this Agreement within sixty days after its receipt of notice specifying the nature of such failure and invoking this paragraph may be deemed by the Executive Committee, acting by unanimity, to have withdrawn from this Agreement.

Article 12

FINAL PROVISIONS

(a) *Term of Agreement.* This Agreement shall remain in force until 25th January, 1998. It may be extended for such additional periods as may be determined by the Executive Committee, acting by unanimity, with the prior approval of the Governing Board of the Agency. The Executive Committee may, acting by unanimity, terminate this Agreement at any time.

(b) *Legal Relationship of Contracting Parties.* Nothing in this Agreement shall be regarded as constituting a partnership between any of the Contracting Parties.

(c) *Termination.* Upon termination of this Agreement, the Executive Committee, acting by unanimity, shall decide upon the distribution of the unexpended portion of the Common Fund which might be made to the present and former Contracting Parties. In the event of such distribution, the Executive Committee shall, so far as practicable, distribute the

unexpended funds of the Exchange, or the proceeds therefrom, in proportion to the contributions which the Contracting Parties have made from the beginning of the operation of the Exchange, and for that purpose shall take into account the contributions and any outstanding obligations of present and former Contracting Parties. Disputes with a former Contracting Party about the proportion allocated to it under this paragraph shall be settled under Article 10(d) hereof, for which purpose a former Contracting Party shall be regarded as a Contracting Party.

(d) *Amendment.* This Agreement may be amended in writing at any time by the Executive Committee, acting by unanimity.

(e) *Deposit.* The original of this Agreement shall be deposited with the Executive Director of the Agency and a certified copy thereof shall be furnished to each Contracting Party. A copy of this Agreement shall be furnished to each Agency Participating Country, to each Member country of the Organisation for Economic Co-operation and Development and to the European Communities.

Done in Paris, this 26th day of January, 1987.

For the DEPARTMENT OF ENERGY, MINES AND RESOURCES for and on behalf of the Government of Canada:	George Haynal
For the MINISTRY OF ENERGY for and on behalf of the Government of Denmark:	Henrik Netterstrøm
For the MINISTRY OF TRADE AND INDUSTRY for and on behalf of the Government of Finland:	W. Breitenstein
For the COMMISSARIAT À L'ÉNERGIE ATOMIQUE for and on behalf of the Government of France:	J. P. Capron
For the FACHINFORMATIONSZENTRUM ENERGIE, PHYSIK, MATHEMATIK GMBH (designated by the Government of Germany):	Buerk
For the COMITATO NAZIONALE PER LA RICERCA E PER LO SVILUPPO DELL'ENERGIA NUCLEARE E DELLE ENERGIE ALTERNATIVE (ENEA)* (designated for Italy by the Ministry of Industry):	J. Pistella
For the NEW ENERGY DEVELOPMENT ORGANIZATION (NEDO)** (designated by the Government of Japan):	S. Tagawa
For the JAPAN ATOMIC ENERGY RESEARCH INSTITUTE (JAERI) (designated by the Government of Japan):	Tetsuo Aochi
For THE MINISTRY OF TRADE, INDUSTRY AND ENERGY of the Republic of Korea***:	Won Lee

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- * The Comitato Nazionale per la Ricerca e per lo Sviluppo dell'Energia Nucleare e delle Energie Alternative (ENEA) subsequently changed its name to the ENTE PER LE NUOVE TECNOLOGIE, L'ENERGIA E L'AMBIENTE (ENEA).
- ** The New Energy Development Organization (NEDO) subsequently changed its name to THE NEW ENERGY AND INDUSTRIAL TECHNOLOGY DEVELOPMENT ORGANIZATION (NEDO).
- *** The Korean Ministry of Trade, Industry and Energy participates in the Agreement as an Associate Contracting Party, as provided in the Guiding Principles for Co-operation in the Field of Energy Research and Development of the Agency, under terms and conditions provided in decisions of the Executive Committee.

For the STICHTING ENERGIEONDERZOEK CENTRUM NEDERLAND (designated by the Government of The Netherlands):	H. Rietveld
For the ROYAL MINISTRY OF PETROLEUM AND ENERGY for and on behalf of the Government of Norway*:	Thv Moe
For the CENTRO DE INVESTIGACION ENERGETICA MEDIOAMBIENTAL Y TECNOLOGICA (designated by the Government of Spain):	Valentin Gonzalez
For the NATIONAL ENERGY ADMINISTRATION** (designated by the Government of Sweden):	L-Å Erikson
For the OFFICE FÉDÉRAL DE L'ÉNERGIE for and on behalf of the Government of Switzerland:	E. Roethlisberger
For the SECRETARY OF STATE FOR ENERGY*** for and on behalf of the Government of Great Britain and Northern Ireland:	N. P. Bayne
For the DEPARTMENT OF ENERGY for and on behalf of the Government of the United States of America:	Frank Goldner

* The ROYAL NORWEGIAN MINISTRY OF INDUSTRY AND ENERGY has succeeded to the Royal Ministry of Petroleum and Energy as the Norwegian Contracting Party.

** The SWEDISH NATIONAL BOARD FOR INDUSTRIAL AND TECHNICAL DEVELOPMENT (NUTEK) has replaced The National Energy Administration as the Swedish Contracting Party.

*** The SECRETARY OF STATE FOR TRADE AND INDUSTRY has succeeded to the Secretary of State for Energy as the United Kingdom Contracting Party.

The Legal Counsel of the International Energy Agency hereby certifies that the present copy conforms to the original text deposited with the Executive Director of the International Energy Agency (as amended to the date hereof, by agreement of the Contracting Parties).

Paris,

THE LEGAL COUNSEL:

CRAIG BAMBERGER