

**National Interest Analysis [2024] ATNIA 14**

**with attachment on consultation**

***Agreement among the Government of Australia, the Government of the United Kingdom of Great Britain and Northern Ireland, and the Government of the United States of America for Cooperation Related to Naval Nuclear Propulsion***

(Washington, 5 August 2024)

**[2024] ATNIA 14**

**[2024] ATNIF 20**

## NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY

### **Agreement among the Government of Australia, the Government of the United Kingdom of Great Britain and Northern Ireland, and the Government of the United States of America for Cooperation Related to Naval Nuclear Propulsion**

(Washington, 5 August 2024)

[2024] ATNIA 14

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#### **Nature and timing of proposed treaty action**

1. The proposed treaty action is to bring into force the *Agreement among the Government of Australia, the Government of the United Kingdom of Great Britain and Northern Ireland, and the Government of the United States of America for Cooperation Related to Naval Nuclear Propulsion* (“Agreement”). For the Agreement to enter into force, the Parties must notify each other of the completion of their necessary domestic procedures through an exchange of notes. The Agreement will enter into force between all Parties on the date of the last note in that exchange of notes (Article XIII(A)).

2. Australia will send its note as soon as practicable after the completion of domestic processes.

#### **Overview and national interest summary**

3. The purpose of the Agreement is to establish a legally-binding framework to facilitate the communication and exchange of naval nuclear propulsion information between and among Australia, the United Kingdom (UK), and the United States of America (US), and the transfer of nuclear material and equipment from the UK and the US to Australia for conventionally armed, nuclear-powered submarines, under the enhanced trilateral security partnership ‘AUKUS’.

4. On 15 September 2021, the leaders of Australia, the UK, and the US announced a new enhanced trilateral security partnership between Australia, the UK, and the US — called AUKUS. The first initiative under AUKUS (AUKUS Pillar I) was to support Australia’s acquisition of conventionally armed, nuclear-powered submarines for operation by the Royal Australian Navy. On 14 March 2023, AUKUS leaders announced the pathway to deliver a nuclear-powered submarine capability to Australia (“Optimal Pathway”).

5. Submarines are an essential part of Australia’s naval capability, providing a strategic advantage in terms of surveillance and protection of our maritime approaches. Conventionally armed, nuclear-powered submarines, when compared to conventional submarines, maintain superior characteristics of stealth, speed, manoeuvrability, survivability, and almost limitless endurance. Nuclear-powered submarines can operate with a lower risk of detection and deter actions against Australia’s interests. The Agreement is critical to achieving the Optimal Pathway.

6. The Agreement contributes to Australia’s national interest by allowing Australia to access critical naval nuclear propulsion information, nuclear material and equipment from the UK and the US not otherwise available to Australia. All naval nuclear propulsion reactors for

Australia's nuclear-powered submarine program will be provided by the UK or the US. This Agreement will provide the UK and the US the legal authority to enable the transfer of naval nuclear propulsion reactors and related items to Australia.

7. Upon entry into force, the Agreement will supersede the *Agreement between the Government of Australia, the Government of the United Kingdom of Great Britain and Northern Ireland, and the Government of the United States of America for the Exchange of Naval Nuclear Propulsion Information* ("ENNPIA") [2022] ATS 4. The ENNPIA currently remains in force, having automatically been extended on 31 December 2023 and on 30 June 2024, for an additional period of six months on both occasions (the first two of four automatic extensions of six months up to 31 December 2025).

8. The ENNPIA facilitates only the communication and exchange of naval nuclear propulsion information. The Agreement is required to support the transfer of material and equipment related to naval nuclear propulsion, as well as the continued exchange of naval nuclear propulsion information. Without the Agreement, Australia would not be able to receive naval nuclear propulsion information from either the UK or the US beyond 31 December 2025, nor receive the nuclear material or equipment from either the UK or the US that is required to build, operate, sustain and, in time, dispose of nuclear-powered submarines.

9. The Agreement supports Australia's commitment to the highest non-proliferation standards by setting several conditions that underline this commitment, including reinforcing the role of the International Atomic Energy Agency (IAEA) in meeting its technical objectives throughout the lifecycle of the naval nuclear propulsion program.

### **Reasons for Australia to take the proposed treaty action**

10. The Agreement is critical to meeting Australia's national interest in achieving the Optimal Pathway for acquiring nuclear-powered submarines for the Royal Australian Navy. The Agreement will facilitate the transfer of nuclear information, material and equipment which is critical to Australia's nuclear-powered submarine capability. Specifically, the Agreement will enable the US to transfer at least three (and up to five) Virginia class submarines to Australia, as well as allow for the UK to transfer to Australia the naval nuclear propulsion plants required for use in Australia's SSN-AUKUS conventionally armed, nuclear powered submarines.

11. The Agreement also constitutes an enabling mechanism for the purposes of US law, and is a further demonstration of AUKUS partners' commitment to implementation of the Optimal Pathway. The disclosure by the US of naval nuclear propulsion information, and transfer of nuclear material and equipment, to foreign nations is restricted under US domestic law. The US can only disclose such information, and transfer such material and equipment to foreign nations, including Australia, in instances where an agreement, such as this Agreement, is in force. The UK is equally restricted in its ability to disclose such information, and transfer such material and equipment, to Australia due to its treaty obligations under the 1958 US-UK *Agreement for Co-operation on the Uses of Atomic Energy for Mutual Defense Purposes* ("US-UK MDA"). The Agreement will therefore provide the UK and the US with the necessary legal authority to share naval nuclear propulsion information, nuclear material and equipment, with Australia. The Agreement will also enable Australia to share necessary information with authorised Australian persons, both within government and industry, subject to the obligations set out in the Agreement.

12. The Agreement reinforces the commitment made by AUKUS leaders to setting the highest non-proliferation standard in Australia's acquisition of conventionally armed, nuclear-powered submarines. The Agreement will strengthen Australia's non-proliferation approach and is consistent with Australia's non-proliferation obligations, including under the *Treaty on the Non-Proliferation of Nuclear Weapons* ("NPT"), the South Pacific Nuclear Free Zone Treaty ("Treaty of Rarotonga") and our safeguards agreements with the IAEA. Further detail relating to non-proliferation and the NPT can be found at paragraphs 26-31 below.

13. Given the sensitivity of the nuclear technology, the Agreement also builds in robust security requirements.

## **Obligations**

### *Scope*

14. The Agreement facilitates the communication and exchange of naval nuclear propulsion information, and the transfer of nuclear material and equipment relating to naval nuclear propulsion. Such information may be communicated or exchanged, and nuclear material and equipment relating to conventionally armed, nuclear-powered submarines may be transferred, if the Originating Party (defined in the Agreement as the Party that originally communicated, exchanged or transferred information, material or equipment, pursuant to the Agreement, the ENNPIA or the US-UK MDA, as applicable) determines that such cooperation will promote, and will not constitute an unreasonable risk to its defence and security (Article I).

15. Naval nuclear propulsion information and other related technical data and technology necessary for the research, development or design of naval nuclear propulsion plants may be communicated or exchanged between or among the Parties (Article III). The UK or the US may transfer to Australia naval nuclear propulsion plants of conventionally armed, nuclear-powered submarines, including the nuclear material needed for such plants, and other related equipment (Article IV(A) and (B)).

16. Annex B to the Agreement details the nuclear material and equipment that may be transferred. Annex B provides that the nuclear material is to be transferred in complete, welded power units (Section I). It also details the equipment that may be transferred, including the training, services and program support associated with equipment provided under the Agreement (Section II).

17. Cooperation under the Agreement must be carried out by each Party in accordance with that Party's applicable laws and regulations (Article VI(A)). The Agreement also recognises Australia's international obligations under the NPT, the Treaty of Rarotonga, the *Agreement between Australia and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons* (CSA), and the *Protocol Additional to the Agreement between Australia and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons* (AP) (Preamble).

*Protection of Naval Nuclear Propulsion Information, Nuclear Material, and Equipment, and the Security Annex*

18. Noting the sensitivity of naval nuclear propulsion information, the associated nuclear material and equipment, and the restrictions on use and dissemination of nuclear information, material and equipment under US law, the Agreement governs the use, dissemination, handling and protection of such information, material and equipment, and provides for the maintenance of mutually determined information security policies (Articles VIII, IX and X).

19. Each Party commits to maintaining security standards for protecting information, nuclear material and equipment communicated, exchanged or transferred under the Agreement that are no less restrictive than those set forth in the Agreement. Information communicated or exchanged pursuant to the Agreement is to be accorded at least the same level of protection as that afforded by the Originating Party (Article VIII(A) and (B)).

20. The specific requirements regarding the administrative and security controls applicable to accessing and communicating this information, including requirements on physical security, personnel security, and control of information, are further detailed in Annex A to the Agreement. Annex A also establishes an authority that is responsible for granting individual access to naval nuclear propulsion information and endorsing the nature and quality of information security controls.

21. The Agreement obligates each Party not to communicate, exchange or transfer information, nuclear material or equipment received from another Party to any unauthorised persons or beyond the jurisdiction or control of the Parties. However, where the Parties agree in writing, such information, material or equipment may be communicated, exchanged or transferred to another nation, foreign or international entity, or individual who is not a national of the Parties (Article IX).

*Liability, Indemnity and Warranty*

22. The Agreement requires Australia to indemnify the UK and the US against any liability, loss, costs, damage, or injury (including third party claims) arising out of, related to, or resulting from nuclear risks (risks attributable to the radioactive, toxic, explosive or other hazardous properties of materials) connected with the design, manufacture, assembly, transfer, or utilisation of any material or equipment, including naval nuclear propulsion plants, parts thereof, or spare parts transferred or to be transferred pursuant to the Agreement (Article IV(E)).

23. The indemnity shall not apply in relation to a conventionally armed, nuclear-powered submarine that has been in service with the US Navy until such time as it is transferred to Australia. The indemnity shall not apply to the extent that the UK or the US have received payment for the same liabilities from a third party (Article IV(F)).

24. The Agreement provides that arrangements relating to the management of nuclear risks to be indemnified by Australia, including measures to provide appropriate visibility of activities, may be mutually determined by the Parties. The Agreement further provides that other risks that are not nuclear risks may be addressed by the applicable Parties in separate agreements or arrangements (Article IV(G)).

25. The Agreement provides that the application or use of any information, nuclear material or equipment communicated, exchanged or transferred shall be the responsibility of the Recipient Party (defined in the Agreement as the Party that receives the communication, exchange or transfer of information, material, or equipment, as applicable, pursuant to the Agreement), and the other Parties do not provide any indemnity, and do not warrant the accuracy or completeness of the information, nor the suitability or completeness of such information, nuclear material or equipment for any particular use or application (Article V).

*Nuclear Non-proliferation and Cooperation Related to the Application of Australia-IAEA Safeguards Agreements*

26. The Agreement recalls AUKUS leaders' 15 September 2021 commitment to setting the highest non-proliferation standard in Australia's acquisition of conventionally armed, nuclear-powered submarines. In that regard, the Agreement prohibits the use of naval nuclear propulsion information, nuclear material and equipment communicated, exchanged or transferred pursuant to the Agreement for any nuclear explosive device, or for research on or development of any nuclear explosive device. It acknowledges that all Australian nuclear-powered submarines will be conventionally armed (Preamble, Article VI(C) and (K)).

27. The Agreement obligates Australia to only use nuclear material transferred under the Agreement for naval nuclear propulsion, to not enrich or reprocess any nuclear material received, and to be responsible for the management, disposition, storage and disposal of any spent nuclear fuel and radioactive waste resulting from naval nuclear propulsion plants that are transferred (Articles VI and IV(D)).

28. The Agreement also provides that cooperation under the Agreement requires the application of Australia's CSA, AP and the future arrangement to be negotiated by Australia with the IAEA pursuant to Article 14 of the CSA ("Article 14 Arrangement") to all nuclear activities within the territory of Australia, under its jurisdiction or carried out under its control anywhere in accordance with the provisions of those instruments (Article VII(A)). The requirements with respect to the application of the CSA, AP and the future Article 14 arrangement will be implemented within Australia's existing regulatory framework under the *Nuclear Non-Proliferation (Safeguards) Act 1987* and managed by the Australian Safeguards and Non-Proliferation Office.

29. The Agreement obligates Australia to have in place the Article 14 Arrangement, including any necessary implementing mechanisms, prior to the UK or the US transferring any nuclear material to Australia. The Agreement obligates Australia to consult with the UK and the US during the negotiations and ensure, through that consultation, that the Parties have a shared view that the Article 14 Arrangement protects defined categories of information, equipment and material; avoids unduly hampering, delaying or interfering with Australia's use of nuclear material and equipment; fulfils the Parties' commitment to the highest non-proliferation standard; and is consistent with the Agreement (Article VII(B)). The same consultation requirements apply in relation to any proposed amendments to the Article 14 Arrangement and the Australia-IAEA Safeguards Agreements that would relate to nuclear material or equipment transferred pursuant to the Agreement (Article VII(B)-(C)).

30. The Agreement imposes obligations on the Parties regarding collaboration in relation to the development of measures to support the IAEA to implement the Australia-IAEA Safeguards Agreements and the Article 14 Arrangement to meet its objectives with respect to material and equipment transferred pursuant to the Agreement (Article VII(D)). These

objectives include enabling the IAEA to continue to verify that there is no diversion of declared nuclear material, that there is no misuse of nuclear facilities, and that there is no undeclared nuclear material or activity in Australia.

31. The Agreement obligates the Parties to ensure that Australia can provide the IAEA with information and access necessary to fulfil its obligations to the IAEA, while also ensuring the protection of naval nuclear propulsion information and related classified information (Article VII(F)).

### *Intellectual Property*

32. The Agreement provides for the management of intellectual property rights generated from information, nuclear material or equipment communicated, exchanged or transferred under the Agreement (Article XI).

33. Under the Agreement, where a Recipient Party (including its contractors) generates an invention that employs or is derived from information, material or equipment communicated, exchanged or transferred pursuant to the Agreement, that Party must obtain, and then transfer and assign to the Originating Party, all right, title and interest in the invention. The Originating Party will then provide a royalty-free, non-exclusive, irrevocable, perpetual, worldwide license to use that invention for government and mutual defence and security purposes. The Originating Party shall then grant a similar license to the other Party to the Agreement (Article XI(B)).

34. The Agreement provides that Australia will indemnify the UK and the US for patent infringement that occurs in relation to information transferred under the Agreement (Article XI(D)). The Agreement also provides that the Parties waive all legal claims against any other Party for compensation, royalty, or award with respect to any invention, including any patent application or patent, licence or sub-licence covered under relevant provisions of Article XI (Article XI(E)).

35. The Agreement also provides that the Parties may establish a licensing regime for other forms of intellectual property that may arise under the Agreement (Article IX(F)).

### *Disagreement*

36. Any disagreement that may arise between the Parties in the implementation or interpretation of the Agreement must be resolved through mutual consultations without recourse to any other dispute settlement mechanisms (Article XIII(C)).

### **Accompanying Documents**

37. The Agreement will be accompanied by the *Understanding among the Governments of Australia, the United Kingdom of Great Britain and Northern Ireland, and the United States of America* (“Understanding”), which is intended to publicly memorialise the Parties’ discussions on their intended approach to certain provisions and guide implementation, although it does not form an integral part of the Agreement.

38. The Understanding re-affirms that Australia, the UK and the US intend to jointly cooperate to facilitate Australia’s effective integration into, and use by, its naval nuclear propulsion program of any information communicated or exchanged under Article III of the

Agreement (Understanding, paragraph 1). It also provides assurance that the UK and the US should make best efforts to transfer material and equipment in a timely manner to Australia (Understanding, paragraph 2).

39. The Governments also reaffirm their commitment to setting the highest non-proliferation standard in connection with their cooperation pursuant to the Agreement (Understanding, paragraph 5).

40. Under the Understanding, the UK and the US should not unreasonably withhold information, nuclear material or equipment from Australia. The governments are also expected to take all reasonable steps to facilitate in a timely manner any communication and exchange of information or transfers of nuclear material and equipment that may be authorised pursuant to the Agreement (Understanding, paragraph 6).

41. The Understanding also provides assurances that the UK and US intend to apply their respective standards and quality control processes that they would apply for similar material and equipment for their own governmental uses (Understanding, paragraph 7).

## **Implementation**

42. Australia's implementation of the Agreement will be led by the Australian Submarine Agency, in consultation with the Department of Defence, the Department of Foreign Affairs and Trade, the Australian Safeguards and Non-Proliferation Office, the Attorney-General's Department, and other relevant Commonwealth departments and agencies. For obligations under the Agreement covered by the *Nuclear Non-Proliferation (Safeguards) Act 1987*, the Australian Safeguards and Non-Proliferation Office will be the responsible regulatory authority.

43. The Agreement provides the ability for the Parties to enter into implementing instruments to implement the provisions of the Agreement, as may be required (Article XIII(G)).

44. New legislation will not be required to implement the Agreement. No amendments to existing legislation, regulations, or legislative instruments are required on entry into force to implement the Agreement.

## **Costs**

45. Any costs that may arise in relation to the transfer of nuclear material, naval nuclear propulsion plants or related equipment will be negotiated and set out in either implementing instruments or in other government-to-government mechanisms (Article IV(A)-(C)).

46. No regulatory costs associated with this treaty action are anticipated and each Party will bear its own incidental costs of participating in the Agreement.

## **Future treaty action**

47. The Agreement specifies that amendments may be made as agreed in writing by the Parties and shall enter into force on the date of the last note in an exchange of diplomatic notes among the Parties, following the completion of any relevant domestic processes (Article XIII(F)). For Australia, any such amendment would be subject to Australia's domestic treaty-making requirements.

## **Termination**

48. The Agreement shall remain in force until 31 December 2075 (Article XIII(A)). Any Party may terminate the Agreement (including its Annexes) by giving at least one year's written notice to the other Parties (Article XIII(B)).

49. In the event a Party terminates or materially breaches the Agreement, each other Party has the right to require the return or destruction of any naval nuclear propulsion information, nuclear material and equipment that it communicated, exchanged, or transferred pursuant to the Agreement (Article XIII(D)).

50. A Party considering a determination of material breach or a decision to give a written notice to terminate the Agreement is expected to consult with the other Parties prior to finalising such a determination or decision (Article XIII(D)).

51. In the event that Australia: materially breaches its obligations under the NPT, CSA or Article 14 Arrangement; terminates, abrogates, or otherwise withdraws from any of these instruments; or, detonates a nuclear explosive device; the UK and the US have the right to cease further cooperation under the Agreement and require the return of any nuclear material or equipment transferred pursuant to the Agreement (Article VI(H)).

52. Notwithstanding any termination or expiration of the Agreement, obligations relating to: conditions and guarantees relating to the nuclear information, material and equipment transferred under the Agreement; liability, indemnity and warranty; cooperation relating to the application of Australia-IAEA Safeguards Agreements and Article 14 Arrangement; use and dissemination of nuclear information, material and equipment; intellectual property; and, security, will continue in force (Article XIII(E)).

Policy, Strategy and Engagement Division  
Program and Policy  
Australian Submarine Agency

## **ATTACHMENT ON CONSULTATION**

### **Agreement among the Government of Australia, the Government of the United Kingdom of Great Britain and Northern Ireland, and the Government of the United States of America for Cooperation Related to Naval Nuclear Propulsion**

(Washington, 5 August 2024)

**[2024] ATNIA 14**

**[2024] ATNIF 20**

#### **CONSULTATION**

##### *Commonwealth Departments*

53. The Australian Submarine Agency consulted with the Department of the Prime Minister and Cabinet, the Department of Defence, the Department of Foreign Affairs and Trade, the Australian Safeguards and Non-Proliferation Office, the Department of Finance, Treasury, the Attorney-General's Department, the Australian Border Force, the Australian Nuclear Science and Technology Organisation, the Australian Radiation Protection and Nuclear Safety Agency, the Australian Radioactive Waste Agency, the Department of Climate Change, Energy, the Environment and Water, and the Department of Home Affairs. No concerns have been identified.

##### *State and Territory Governments*

54. The Australian Submarine Agency has consulted with State and Territory Governments and no concerns have been identified. No action is expected to be required from States or Territories to implement the Agreement.

##### *Public Consultation*

55. No public consultation has been undertaken, given the classified scope of consultations between the Parties on the Agreement, including matters relating to national security and operational capability.



**Australian Government**  

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**Department of Foreign Affairs and Trade**

***Agreement among the Government of Australia, the Government of the United Kingdom of Great Britain and Northern Ireland, and the Government of the United States of America for Cooperation Related to Naval Nuclear Propulsion***

(Washington, 5 August 2024)

**ATNIA reference: [2024] ATNIA 14**

**ATNIF reference: [2024] ATNIF 20**



**AGREEMENT AMONG THE GOVERNMENT OF AUSTRALIA, THE GOVERNMENT  
OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,  
AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA FOR  
COOPERATION RELATED TO NAVAL NUCLEAR PROPULSION**

The Government of Australia (“Australia”), the Government of the United Kingdom of Great Britain and Northern Ireland (“United Kingdom”), and the Government of the United States of America (“United States”) (collectively, “Parties”),

Reaffirming their respective obligations under the Treaty on the Non-Proliferation of Nuclear Weapons, done at London, Moscow, and Washington 1 July 1968, and entered into force 5 March 1970 (“NPT”);

Recognizing that Australia, as a non-nuclear-weapon State Party to the NPT, has undertaken not to receive the transfer of nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices;

Recognizing that the United States and the United Kingdom, as nuclear-weapon States Party to the NPT, have undertaken not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly or indirectly; and not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices;

Recognizing that Australia, in furtherance of its obligations, has entered into the Agreement between Australia and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, done at Vienna 10 July 1974 (“Australia-IAEA Comprehensive Safeguards Agreement”), and the Protocol Additional to the Agreement between Australia and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, done at Vienna 23 September 1997 (collectively, “Australia-IAEA Safeguards Agreements”);

Further recognizing that Australia has announced its intention to negotiate and conclude an Article 14 arrangement with the International Atomic Energy Agency (“IAEA”) pursuant to the Australia-IAEA Comprehensive Safeguards Agreement, related to cooperation under this Agreement;

Recognizing Australia’s obligations under the South Pacific Nuclear Free Zone Treaty, done at Rarotonga 6 August 1985, and entered into force 11 December 1986;

Recalling the naval nuclear propulsion cooperation between the United States and the United Kingdom under the Agreement between the Government of the United States of America and the

Government of the United Kingdom of Great Britain and Northern Ireland for Cooperation on the Uses of Atomic Energy for Mutual Defense Purposes, done at Washington 3 July 1958, as amended (“U.S.-UK MDA”);

Recalling their leaders’ 15 September 2021, announcement of an enhanced trilateral security partnership among Australia, the United Kingdom, and the United States called AUKUS, of which the first initiative is a shared ambition to support Australia in acquiring conventionally armed, nuclear-powered submarines for the Royal Australian Navy while setting the highest nonproliferation standard;

Recalling the Agreement between the Government of Australia, the Government of the United Kingdom of Great Britain and Northern Ireland, and the Government of the United States of America for the Exchange of Naval Nuclear Propulsion Information, done at Canberra 22 November 2021, and entered into force 8 February 2022 (“ENNPIA”);

Desiring to support the leaders’ announcement on 13 March 2023, regarding their optimal pathway for Australia’s acquisition of conventionally armed, nuclear-powered submarines (“Announcement”);

Recognizing the intention in the Announcement to pursue a phased approach based on mutual commitments from Australia, the United Kingdom, and the United States to support Australia’s development of the infrastructure, technical capabilities, industry, and human capital necessary to produce, maintain, operate, and steward a sovereign fleet of conventionally armed, nuclear-powered submarines;

Recognizing the principles, standards, and quality that have supported the U.S. and UK naval nuclear propulsion programs’ unmatched safety records and that Australia has committed to upholding these same principles and standards to safely steward naval nuclear propulsion technology;

Considering that the Announcement is to be implemented consistent with the Parties’ respective international and domestic obligations and that this Agreement is a necessary step to fulfill those obligations to support the secure communication and exchange of information and the transfer of necessary Material and Equipment;

Considering that the Parties are participating in international agreements and arrangements pursuant to which they are making substantial and material contributions to their mutual defense and security;

Recognizing that their common defense and security will be advanced by the exchange of information, including Naval Nuclear Propulsion Information, and the transfer of Material and Equipment for conventionally armed, nuclear-powered submarines, in accordance with this Agreement; and

Believing that such exchanges and transfers can be undertaken without unreasonable risk to each Party’s common defense and security,

Have agreed as follows:

## **ARTICLE I**

### **General Provision**

While Australia, the United Kingdom, and the United States are participating in international agreements and arrangements for their mutual defense and security and making substantial and material contributions thereto, each Party may communicate to and exchange with the other Parties information, and the United States and the United Kingdom may transfer Material and Equipment relating to conventionally armed, nuclear-powered submarines to Australia, in accordance with this Agreement, provided that the Originating Party determines that such cooperation will promote and will not constitute an unreasonable risk to its defense and security.

## **ARTICLE II**

### **Definitions**

For the purposes of this Agreement:

- A. “Atomic Information” means Naval Nuclear Propulsion Information designated as “Restricted Data” by the United States, “ATOMIC” by the United Kingdom, and “SOUTHERN APEX” by Australia.
- B. “Classified Information” means any information, data, services, or any other matter with the security designation of United Kingdom “OFFICIAL-SENSITIVE Naval Nuclear Propulsion Program Information” or higher, United States “Confidential” or higher, and Australia “Protected” or higher applied under the laws, regulations, and policies of the Parties respectively, including Atomic Information and that designated by the United States as National Security Information.
- C. “Controlled Unclassified Information” means information created or possessed by the United States that requires safeguarding or dissemination controls pursuant to and consistent with applicable U.S. law, regulations, and government-wide policies but is not Classified Information.
- D. “National Security Information” means information that has been determined pursuant to U.S. Executive Order Number 13526 or any predecessor or successor order to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form.
- E. “Naval Nuclear Propulsion Information” or “NNPI” means information concerning the design, arrangement, development, manufacture, testing, operation, administration, training, maintenance, or repair of the Naval Nuclear Propulsion Plants of naval nuclear-powered vessels and prototypes, including the associated shipboard and shore-based nuclear support facilities, and can be Classified Information or Controlled Unclassified Information.
- F. “Equipment” means any instrument, apparatus, or facility, and includes any facility capable of making use of or producing Special Nuclear Material, and component parts and spare parts thereof, and includes Naval Nuclear Propulsion Plants or component parts and spare parts

thereof. "Equipment" does not include a nuclear explosive device or component parts thereof.

- G. "Material" means Source Material, Special Nuclear Material, or Byproduct Material, or any other material as mutually decided by the Parties.
- H. "Source Material" means uranium, thorium, or any other material as mutually decided by the Parties.
- I. "Byproduct Material" means any radioactive material (except Special Nuclear Material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing Special Nuclear Material.
- J. "Special Nuclear Material" means plutonium, uranium 233, or uranium enriched in the isotope 235, or any other material as mutually decided by the Parties.
- K. "Naval Nuclear Propulsion Plant" means the Power Unit and such control, primary, auxiliary, steam, and electric systems as may be necessary for propulsion of conventionally armed, nuclear-powered submarines.
- L. "Power Unit" means an apparatus in which a self-supporting fission chain reaction is maintained and controlled for use in naval nuclear propulsion.
- M. "Person" means:
  - 1. any individual or entity subject to the jurisdiction of a Party, including corporations, partnerships, firms, associations, trusts, estates, public or private institutions, groups, government agencies or government corporations, and employees of the foregoing entities; and
  - 2. any legal successor, representative, agent, or agency of the foregoing entities.
- N. "Originating Party" means the Party that communicated, exchanged, or transferred information, Material, or Equipment, as applicable, pursuant to this Agreement or the ENNPJA, unless the information, Material, or Equipment was first communicated, exchanged, or transferred pursuant to the U.S.-UK MDA. If the information, Material, or Equipment was originally communicated, exchanged, or transferred pursuant to the U.S.-UK MDA, the "Originating Party" means the Party that originally communicated, exchanged, or transferred the information, Material, or Equipment, as applicable, pursuant to that agreement.
- O. "Recipient Party" means the Party that received the communication, exchange, or transfer of information, Material, or Equipment, as applicable, pursuant to this Agreement.
- P. "Article 14 Arrangement" means the arrangement between Australia and the IAEA to be negotiated and concluded pursuant to Article 14 of the Australia-IAEA Comprehensive Safeguards Agreement and provisions of implementing mechanisms to the Article 14 Arrangement or to the Australia-IAEA Safeguards Agreements that relate to the Article 14 Arrangement or activities carried out pursuant to this Agreement.

- Q. “Nuclear Risks” means those risks attributable to the radioactive, toxic, explosive, or other hazardous properties of Material.

### **ARTICLE III**

#### **Communication or Exchange of Information Related to Naval Nuclear Propulsion**

- A. Each Party may communicate to or exchange with a Recipient Party NNPI and other related technical data and technology subject to any of the Parties’ export control requirements, as is determined to be necessary for the research, development, or design of Naval Nuclear Propulsion Plants, including their manufacture, operation, maintenance, regulation, and disposal, and may provide support to facilitate such communication or exchange, to the extent and by such means as may be mutually decided.
- B. Subject to terms and conditions acceptable to the Originating Party, each Party may authorize Persons to communicate, exchange, or receive information described in paragraph A of this Article.

### **ARTICLE IV**

#### **Naval Nuclear Propulsion Plants, Related Equipment, and Material**

- A. Subject to terms and conditions acceptable to it, the United States or the United Kingdom may directly, or may authorize Persons to, transfer to Australia or Persons authorized by Australia, the Naval Nuclear Propulsion Plants of conventionally armed, nuclear-powered submarines, including component parts and spare parts thereof, and other related Equipment. Such transfer shall be by sale and subject to terms and conditions that are mutually decided in writing by the applicable Parties.
- B. If any Naval Nuclear Propulsion Plants are to be transferred pursuant to paragraph A of this Article, the United States or the United Kingdom shall transfer to Australia by sale agreed amounts of Special Nuclear Material contained in complete, welded Power Units, and other Material as needed for such Naval Nuclear Propulsion Plants, subject to such terms and conditions as may be mutually decided in writing by the applicable Parties.
- C. If a sale of Special Nuclear Material occurs pursuant to paragraph B of this Article, Australia shall compensate the United States or the United Kingdom, as applicable, for Special Nuclear Material at a price based on the fair market price of comparable enriched uranium at the time of sale. For types of enriched uranium that do not have a commercial market, compensation for sale shall be made at a price to be mutually determined by the United States and the United Kingdom.
- D. Australia shall be responsible for the management, disposition, storage, and disposal of any spent nuclear fuel and radioactive waste resulting from the operation of Naval Nuclear Propulsion Plants transferred pursuant to this Article, including radioactive waste generated through submarine operations, maintenance, decommissioning, and disposal.

- E. Australia shall indemnify, subject to paragraph F of this Article, the United States and the United Kingdom against any liability, loss, costs, damage or injury (including third-party claims) arising out of, related to, or resulting from Nuclear Risks connected with the design, manufacture, assembly, transfer, or utilization of any Material or Equipment, including Naval Nuclear Propulsion Plants and component parts and spare parts thereof, transferred or to be transferred pursuant to this Article.
- F. The indemnity pursuant to paragraph E of this Article shall not apply:
1. To the extent that the United States or the United Kingdom, as applicable, has received payment from a third party for the same liabilities arising out of, related to, or resulting from Nuclear Risks; or
  2. To a conventionally armed, nuclear-powered submarine that has been in service with the U.S. Navy until such time as it is transferred to Australia.
- G. The Parties agree that arrangements:
1. Relating to the management of risks associated with the Nuclear Risks to be indemnified pursuant to paragraph E of this Article, including measures to provide appropriate visibility of activities; or
  2. Relating to the allocation of other risks that are not Nuclear Risks arising out of or connected with the design, manufacture, assembly, transfer, or utilization of any Material or Equipment, including Naval Nuclear Propulsion Plants, component parts or spare parts thereof, transferred or to be transferred pursuant to this Article,
- may be mutually entered into by the applicable Parties on terms and conditions pursuant to paragraph A of this Article or other bilateral or trilateral international agreements or arrangements between the applicable Parties connected with the transfer or prospective transfer of Material or Equipment pursuant to this Article.
- H. Australia may make payments of appropriated funds to the other Parties for the purpose of implementing this Agreement.

## **ARTICLE V**

### **Responsibility for Use of Information, Material, and Equipment**

The application or use of any information (including design drawings and specifications), Material, or Equipment communicated, exchanged, or transferred pursuant to this Agreement shall be the responsibility of the Recipient Party, and the other Parties do not provide any indemnity, do not warrant the accuracy or completeness of such information, and do not warrant the suitability or completeness of such information, Material, or Equipment for any particular use or application.

## ARTICLE VI

### Conditions and Guarantees

- A. Cooperation under this Agreement shall be carried out by each Party in accordance with that Party's applicable laws and regulations.
- B. All conditions, limitations, and guarantees contained in this Agreement that relate to the communication or exchange of information shall also apply to information that is contained in Material or Equipment transferred pursuant to this Agreement, is contained in Special Nuclear Material used in or produced through the use of any Material or Equipment transferred pursuant to this Agreement, or that results from or is derived from such information, Material, or Equipment.
- C. Information, Material, and Equipment communicated, exchanged, or transferred pursuant to this Agreement shall not be used for any nuclear explosive device, or for research on or development of any nuclear explosive device.
- D. Unless otherwise mutually decided in writing by the Parties, Australia shall use only Special Nuclear Material transferred pursuant to this Agreement for naval nuclear propulsion and shall not use Special Nuclear Material from any other source for naval nuclear propulsion. Australia shall not enrich uranium, produce nuclear fuel, or reprocess spent nuclear fuel for naval nuclear propulsion.
- E. Australia shall not enrich or reprocess Material transferred pursuant to this Agreement or Special Nuclear Material used in or produced through the use of any Material or Equipment transferred pursuant to this Agreement. Australia shall not otherwise alter in form or content Material transferred pursuant to this Agreement without the prior written consent of the United States and the United Kingdom.
- F. Information (including information incorporated in a production or utilization facility or important component part thereof) that is important to the design, construction, fabrication, operation, or maintenance of a uranium enrichment or nuclear fuel reprocessing facility or a facility for the production of heavy water shall not be communicated or exchanged pursuant to this Agreement.
- G. Except as may otherwise be mutually agreed in writing by the Parties, the Recipient Party agrees not to use information, Material, or Equipment communicated, exchanged, or transferred pursuant to this Agreement other than for purposes provided for in this Agreement.
- H. The United States and the United Kingdom shall have the right to cease further cooperation under this Agreement, including suspension or termination of transfers of Material and Equipment, and to require the return of any Material or Equipment transferred pursuant to

this Agreement, and any Special Nuclear Material produced through the use of any Material or Equipment transferred pursuant to this Agreement, if Australia: materially breaches its obligations under the NPT, the Australia-IAEA Safeguards Agreements, or the Article 14 Arrangement; terminates, abrogates, or otherwise withdraws from any of the foregoing agreements or arrangements; or detonates a nuclear weapon or other nuclear explosive device.

- I. Australia shall establish and maintain a system of accounting for and control of all Material transferred pursuant to this Agreement and any Special Nuclear Material used in or produced through the use of any Material or Equipment transferred pursuant to this Agreement. The Parties shall consult with each other regarding methods and technology for providing such accounting and control.
- J. No Special Nuclear Material transferred pursuant to this Agreement, produced through the use of any Material transferred pursuant to this Agreement, or recovered from any Material used in any Equipment transferred pursuant to this Agreement shall be stored in any facility that has not been mutually decided in writing in advance by the Parties.
- K. All Australian nuclear-powered submarines shall be conventionally armed.

## **ARTICLE VII**

### **Cooperation Related to the Application of the Australia-IAEA Safeguards Agreements**

- A. Cooperation under this Agreement shall require the application of the Australia-IAEA Safeguards Agreements and, as applicable, the Article 14 Arrangement with respect to all nuclear activities within the territory of Australia, under its jurisdiction or carried out under its control anywhere, in accordance with the provisions of those instruments. Special Nuclear Material and Source Material transferred to Australia pursuant to this Agreement, and Special Nuclear Material used in or produced through the use of Material or Equipment transferred pursuant to this Agreement, shall be subject to the Australia-IAEA Safeguards Agreements and, as applicable, the Article 14 Arrangement.
- B. Australia shall have in place the Article 14 Arrangement, including any necessary implementing mechanisms, prior to the United States or the United Kingdom transferring any Material to Australia pursuant to this Agreement. With respect to the Article 14 Arrangement:
  - 1. Australia shall consult with the United States and the United Kingdom during its negotiations with the IAEA in relation to the Article 14 Arrangement to ensure the proposed Article 14 Arrangement: protects information in accordance with paragraph F of this Article; avoids unduly hampering, delaying, or interfering with the Recipient Party's use of Material and Equipment pursuant to paragraph H of this Article; fulfills the

Parties' commitment to the highest nonproliferation standard; and is consistent with the Parties' obligations under this Agreement; and

2. Prior to Australia concluding the Article 14 Arrangement with the IAEA or any amendment or modification thereto, Australia shall ensure, through consultation with the United States and United Kingdom, that the Parties have a shared view that the proposed Article 14 Arrangement meets the requirements in subparagraph B.1 above.
- C. Australia shall ensure, through consultation with the United States and United Kingdom, that the Parties have a shared view that any proposed amendment to the Australia-IAEA Safeguards Agreements that would relate to Material or Equipment transferred pursuant to this Agreement: protects information in accordance with paragraph F of this Article; avoids unduly hampering, delaying, or interfering with the Recipient Party's use of Material and Equipment pursuant to paragraph H of this Article; fulfills the Parties' commitment to the highest nonproliferation standard; and is consistent with the Parties' obligations under this Agreement.
- D. Australia shall collaborate with the other Parties on measures to be developed with the IAEA to support the IAEA's ability to effectively implement the Australia-IAEA Safeguards Agreements and the Article 14 Arrangement to meet the IAEA's objectives with respect to Material and Equipment transferred pursuant to this Agreement.
- E. If any of the Parties becomes aware of circumstances which demonstrate that the IAEA for any reason is not or will not be applying the Australia-IAEA Safeguards Agreements or the Article 14 Arrangement, the Parties shall immediately enter into arrangements which conform with IAEA principles and procedures and the Australia-IAEA Safeguards Agreements and, as applicable, the Article 14 Arrangement, and which provide assurance equivalent to that intended to be secured by those instruments.
- F. The Parties agree to protect NNPI and related Classified Information from disclosure to the IAEA. The Parties shall ensure that Australia can provide the IAEA with other information and access necessary to fulfill its obligations to the IAEA under the Australia-IAEA Safeguards Agreements and the Article 14 Arrangement. The Parties shall mutually consult and, prior to the provision of information to the IAEA, develop written mechanisms to implement this paragraph.
- G. Upon the request of the United States or the United Kingdom, Australia shall report or permit the IAEA to report to the United States and the United Kingdom on the safeguards status of all inventories of Source Material and Special Nuclear Material transferred pursuant to this Agreement.
- H. This Article shall be implemented in such a manner as to avoid unduly hampering, delaying, or interfering in the Recipient Party's use of Material and Equipment transferred pursuant to this Agreement to the extent such use is consistent with this Agreement.

## **ARTICLE VIII**

### **Security of Information, Material, and Equipment**

- A. The Parties shall accord full security protection to information, Material, and Equipment communicated, exchanged, or transferred pursuant to this Agreement in accordance with this Agreement and in accordance with applicable laws, regulations, and policies of the Parties. In no case shall any Party maintain security standards for protecting information, Material, or Equipment communicated, exchanged, or transferred pursuant to this Agreement that are less restrictive than those set forth in this Agreement.
- B. Any information communicated or exchanged pursuant to this Agreement shall be accorded at least the same level of protection by the Recipient Party as that accorded to such information by the Originating Party. The Parties shall consult with each other regarding the appropriate protection for such information.
- C. Any information, Material, or Equipment communicated, exchanged, or transferred pursuant to this Agreement shall only be made available through channels existing or hereafter established for the communication, exchange, or transfer of such information, Material, or Equipment among the Parties.
- D. The Recipient Party shall maintain adequate physical security with respect to any information, Material, and Equipment communicated, exchanged, or transferred pursuant to this Agreement and with respect to any Special Nuclear Material used in or produced through the use of any Material or Equipment so transferred.
  - 1. Such physical security shall be maintained in accordance with any applicable international agreements and is expected to be maintained consistent with any applicable arrangements.
  - 2. Such physical security shall protect against theft, espionage, sabotage, unauthorized access, or any other hostile activity.
  - 3. The adequacy of physical security measures maintained by the Recipient Party pursuant to this paragraph with respect to Material and Equipment transferred pursuant to this Agreement and with respect to any Special Nuclear Material used in or produced through the use of any Material or Equipment so transferred shall be subject to review and consultation by the Parties periodically and whenever an Originating Party is of the view that revised measures may be required to maintain adequate physical security.
  - 4. Each Party shall identify those agencies or authorities responsible for ensuring that levels of physical security are adequately met.

This paragraph shall be implemented in such a manner as to avoid unduly hampering, delaying, or interfering in the Recipient Party's use of Material and Equipment transferred pursuant to this Agreement to the extent such use is consistent with this Agreement.

## **ARTICLE IX**

### **Dissemination of Information, Material, and Equipment**

- A. The government agencies that may authorize Persons for the purposes of Articles III.B, IV.A, IX.B, and Annex A of this Agreement shall be the Australian Submarine Agency, United Kingdom Ministry of Defence, the United States Department of Energy, or any legal successor of those agencies.
- B. Information, Material, and Equipment communicated, exchanged, or transferred pursuant to this Agreement, and any Special Nuclear Material used in or produced through the use of any Material or Equipment transferred pursuant to this Agreement, shall not be communicated, exchanged, or transferred by the Recipient Party or Persons under its jurisdiction to any unauthorized Persons or, except as provided in paragraph C of this Article, beyond the jurisdiction or control of the Parties. Each Party may stipulate the degree to which any of the information, Material, or Equipment communicated, exchanged, or transferred by it or authorized Persons under its jurisdiction pursuant to this Agreement may be disseminated or distributed; may specify the categories of Persons who may have access to such information; and may impose such other restrictions on the dissemination or distribution of such information as it deems necessary.
- C. Nothing in this Agreement shall be interpreted, or shall operate, as a bar or restriction to consultation or cooperation by any Party with other nations or international organizations. No Party, however, shall communicate, exchange, or transfer information, Material, or Equipment communicated, exchanged, or transferred pursuant to this Agreement or any Special Nuclear Material used in or produced through the use of any Material or Equipment transferred pursuant to this Agreement, to any other nations, foreign or international entities, or individuals who are not nationals of the Parties unless mutually agreed in writing by the Parties. Notwithstanding the foregoing, information communicated or exchanged pursuant to this Agreement may be provided to the IAEA to the extent permitted by, and in accordance with, Article VII.F of this Agreement.
- D. No Party shall communicate, exchange, or transfer information, Material, or Equipment made available by another Party pursuant to this Agreement to an individual who is not its national and who is a national of another Party without the written consent of that other Party.
- E. Nothing in this Agreement shall preclude the communication, exchange, or transfer of information, Material, or Equipment that may be transmitted under other applicable agreements or arrangements between any of the Parties.

## **ARTICLE X**

### **Information Security Policies**

- A. Information security policies mutually decided in writing shall be maintained with respect to all information, Material, and Equipment communicated, exchanged, or transferred pursuant to this Agreement. The Parties shall consult with each other on these matters.
- B. In the event that any Party updates its national information security terminology referred to in Article II of this Agreement, it shall notify the other Parties in writing and, upon mutual written determination, any relevant definition shall be read using the updated terminology for the purposes of this Agreement.

## **ARTICLE XI**

### **Intellectual Property**

- A. The Parties shall ensure adequate and effective protection of intellectual property created or furnished under this Agreement and relevant implementing instruments. Rights to such intellectual property shall be addressed as provided in this Article.
- B. With respect to any invention employing or derived from information, Material, or Equipment that has been communicated, exchanged, or transferred by the Originating Party pursuant to this Agreement and made or conceived by the Recipient Party, or any agency or corporation owned or controlled by that Party, or any of their agents or contractors, or any employee of any of the foregoing, after the date of such communication, exchange, or transfer:
  - 1. The Recipient Party shall obtain, by appropriate means, sufficient right, title, and interest in and to such invention, including any patent application or patent thereon, in order to fulfill its obligations under subparagraph B.2;
  - 2. The Recipient Party shall transfer and assign to the Originating Party all right, title, and interest worldwide in and to the invention, including any patent application or patent thereon, subject to the retention of a royalty-free, non-exclusive, irrevocable, perpetual, worldwide license, with the right to grant sublicenses to authorized Persons, for the governmental purposes of the Recipient Party and for the purposes of the Parties' mutual defense and security; and
  - 3. The Originating Party shall then grant to the third Party to this Agreement a royalty-free, non-exclusive, irrevocable, perpetual, worldwide license, with the right to grant sublicenses to authorized Persons, for the governmental purposes of that third Party and for purposes of the Parties' mutual defense and security.
- C. Each Party shall, to the extent owned by it, or any agency or corporation owned or controlled by that Party, grant to the other Parties a non-exclusive, irrevocable license, with

the right to grant sublicenses to authorized Persons, to use the subject matter covered by any intellectual property rights and incorporated in any Material or Equipment transferred pursuant to this Agreement for use by the other Parties for the purposes provided for in this Agreement.

- D. Neither the United States nor the United Kingdom warrants or represents that any information, Material, or Equipment communicated, exchanged, or transferred pursuant to this Agreement does not infringe any patent owned or controlled by other Persons and assumes no liability or obligation with respect thereto, and Australia agrees to indemnify the United States and the United Kingdom and their employees, for any and all liability arising out of any infringement of any such patent.
- E. With respect to any invention, including any patent application or patent thereon, or license or sublicense thereto covered by paragraph B or C of this Article, each Party hereby waives any and all of its legal claims against the other Parties for compensation, royalty, or award.
- F. The Parties may conclude legally binding instruments for the purpose of allocating intellectual property rights arising under this Agreement other than those allocated in paragraphs B and C of this Article.
- G. Notwithstanding anything to the contrary in this Article or in any instrument concluded pursuant to paragraph F of this Article:
  - 1. No patent application with respect to any invention employing or derived from information, Material, or Equipment communicated, exchanged, or transferred pursuant to this Agreement that includes Classified Information, Controlled Unclassified Information, or technical data or technology subject to export control requirements may be filed:
    - (a) By any Party or any Person in the country of any Party, except in accordance with conditions and procedures mutually decided in writing by the Parties; or
    - (b) In any jurisdiction not a Party to this Agreement, except as may be mutually agreed in writing by the Parties and subject to Articles VI and IX of this Agreement.
  - 2. Appropriate secrecy or prohibition orders shall be issued for the purpose of giving effect to paragraph G.1 of this Article.
  - 3. Any intended publication of information employing or derived from information communicated or exchanged pursuant to this Agreement or related to Material or Equipment transferred pursuant to this Agreement shall be subject to the Parties' respective review processes for: Classified Information, Controlled Unclassified Information, and technical data or technology subject to export control requirements. Classified Information, Controlled Unclassified Information, or technical data or

technology subject to export control requirements employing or derived from information communicated or exchanged pursuant to this Agreement may not be published except in accordance with the applicable laws and regulations of the Parties and only following such review by the Parties.

- H. As between the United States and the United Kingdom, intellectual property rights related to information, Material, or Equipment originally communicated, exchanged, or transferred between those Parties pursuant to the U.S.-UK MDA shall be allocated and governed by that agreement.

## **ARTICLE XII**

### **Other Agreements**

- A. Upon entry into force, this Agreement supersedes the ENNPIA, which shall terminate at that time, and the cooperation between the Parties being carried out under or envisaged by the ENNPIA shall be carried out in accordance with this Agreement. Notwithstanding Article X.C of the ENNPIA, information originally communicated or exchanged pursuant to the ENNPIA shall be treated in accordance with this Agreement.
- B. Except as provided in paragraph A of this Article, this Agreement does not affect the Parties' rights and obligations under any other agreement in force at the time of entry into force of this Agreement. If any Party identifies an inconsistency between this Agreement and such other agreement, the relevant Parties shall consult upon request.

## **ARTICLE XIII**

### **Final Provisions**

- A. This Agreement shall enter into force for all Parties on the date of the last note in an exchange of diplomatic notes among the Parties providing notification that each Party has completed all domestic requirements for the entry into force of this Agreement. This Agreement shall remain in force until 31 December 2075.
- B. Any Party may, by giving at least one year's written notice to the other Parties, terminate this Agreement.
- C. The Parties shall resolve any disagreements arising in the implementation or interpretation of this Agreement through mutual consultations without recourse to any other dispute settlement mechanisms.

- D. If any Party, at any time following the entry into force of this Agreement, materially breaches or terminates this Agreement, each other Party shall have the right to require the return or destruction of any information, Material, and Equipment that it communicated, exchanged, or transferred pursuant to this Agreement. A Party considering a determination of material breach or a decision to give a written notice to terminate this Agreement is expected to consult with the other Parties prior to finalizing such a determination or decision.
- E. Notwithstanding the termination or expiration of this Agreement, information, Material, or Equipment communicated, exchanged, or transferred pursuant to this Agreement prior to the expiration or effective date of termination shall continue to be treated in accordance with Articles IV.D-H, V, VI.B-E, G-K, VII, VIII.A-B, and D.1, 2, IX.A-D, X, and XI of this Agreement, as well as Annex A. Additionally, termination of this Agreement shall not affect rights or obligations under Article XI.
- F. Amendments to this Agreement may be made as mutually agreed in writing by the Parties and shall enter into force on the date of the last note in an exchange of diplomatic notes among the Parties providing notification that each Party has completed all domestic requirements for the entry into force of the agreement to amend.
- G. The Parties may enter into instruments or develop other mechanisms to implement this Agreement, including those provided for in Articles IV.A, IV.G, VII.F, and XI.F. For the avoidance of doubt, all such instruments or mechanisms, as well as implementation of this Agreement, shall be consistent with the terms of this Agreement, and this Agreement shall prevail to the extent of any inconsistency.

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

Done at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in three originals, in the English language.

**For the Government of Australia:**

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

**For the Government of the United States of America:**

## **ANNEX A: ANNEX RELATED TO INFORMATION, PHYSICAL, AND PERSONNEL SECURITY**

This Annex related to information, physical, and personnel security is agreed among the Parties in connection with the Agreement Among the Government of Australia, the Government of the United Kingdom of Great Britain and Northern Ireland, and the Government of the United States of America for Cooperation Related to Naval Nuclear Propulsion ("Agreement"), of which this Annex is an integral part:

### **SECTION I – INFORMATION SECURITY: GENERAL PROVISIONS**

- A. Naval Nuclear Propulsion Information (NNPI) communicated or exchanged between or among the Parties shall have the appropriate information protection markings. In order to protect the Parties' NNPI, the Recipient Party shall maintain the markings of the Originating Party and may apply a suitable handling instruction identifying a corresponding security classification of the Recipient Party and shall protect the received NNPI according to the requirements set forth in this Agreement, including this Annex.
- B. For purposes of this Annex, a "Responsible Authority" means the agencies identified in Article IX.A of this Agreement.
- C. Consistent with Article VI.B of this Agreement, all conditions, limitations, and guarantees contained in this Annex that relate to the communication or exchange of information shall also apply to information that is contained in Material or Equipment transferred pursuant to this Agreement, is contained in Special Nuclear Material used in or produced through the use of any Material or Equipment transferred pursuant to this Agreement, or that results from or is derived from such information, Material, or Equipment.

### **SECTION II – CLASSIFIED INFORMATION SECURITY: CONTROL OF NNPI THAT CONSTITUTES CLASSIFIED INFORMATION**

- A. Control programs shall be maintained to protect NNPI that constitutes Classified Information, which shall have for their basic purposes:
  - 1. Classification in strict accord with the potential harm associated with compromise of Classified Information;
  - 2. Control of access;
  - 3. Ready accountability commensurate with the degree of potential harm; and
  - 4. Destruction when no longer needed.
- B. Each Party shall classify NNPI strictly in accordance with that Party's applicable security classification policies. To promote uniformity, the following special rules shall be observed:
  - 1. Documents shall be classified according to content and not necessarily according to relationship to other documents;

2. Classification of a file or group of documents physically connected shall be at least as high as that of the most highly classified document therein;
  3. The overall classification of a document shall be at least as high as the highest classified portion of the document, even though separate pages, paragraphs, sections, or components thereof may bear different classifications;
  4. Documents and physical items shall be conspicuously marked so that current classifications are clearly visible and readily understandable. For NNPI that constitutes Classified Information that is orally communicated, the communicating Party shall clearly state the applicable classification level before it is communicated; and
  5. When a document is reproduced, all original security markings thereon shall also be reproduced or shown on each reproduction.
- C. Each Party shall identify locations where it may use NNPI that constitutes Classified Information, in accordance with its relevant security controls. Security controls for such identified locations shall be at least as restrictive as those authorized by the Originating Party. Except during the periods when such NNPI is in use by authorized individuals, it shall be stored in repositories of approved design and construction, as determined by each Party. NNPI that constitutes Classified Information that is stored or processed in information technology systems shall be protected against unauthorized access, destruction, and illegal modification. The nature and extent of the protection given shall be commensurate with the assessed threat to and vulnerability of the systems involved. Threats, vulnerabilities, and resultant risks shall be assessed by each Party's Responsible Authority. All information technology systems processing NNPI that constitutes Classified Information must meet the requirements of the United States Naval Nuclear Propulsion Program ("U.S. NNPP"). In addition, security controls shall be implemented to ensure that individuals who are not authorized for access to NNPI that constitutes Classified Information, albeit security cleared for other Classified Information, cannot gain access to such information. The nature and quality of such controls shall be endorsed by each Party's Responsible Authority.
- D. Requirements for intra-Party transmission of NNPI that constitutes Classified Information made available by another Party shall be mutually determined in writing by the Parties.
- E. Accountability procedures shall be mutually determined in writing by the Parties to control dissemination of NNPI that constitutes TOP SECRET NNPI.
- F. Documents containing NNPI that constitutes Classified Information, when no longer needed, shall be destroyed completely, to prevent anyone from reconstructing such information. Approved destruction methods shall include any method authorized by the policies of the Party in possession of the NNPI that constitutes Classified Information at the time of destruction for the equivalent classification level of the document.
- G. Storage media and similar items containing NNPI that constitutes Classified Information shall be protected and, when no longer needed, destroyed by physical destruction of components or media in the manner prescribed for documents of the same classification.

### **SECTION III – INFORMATION SECURITY: NNPI THAT CONSTITUTES CONTROLLED UNCLASSIFIED INFORMATION**

- A. Naval Nuclear Propulsion Information that constitutes Controlled Unclassified Information shall be encrypted when it is transmitted by electronic means on an unclassified network, and the method of encryption shall be determined by each Party in accordance with domestic policy. All information technology systems processing NNPI that constitutes Controlled Unclassified Information must meet the requirements of the U.S. NNPP.
- B. Documents containing NNPI that constitutes Controlled Unclassified Information, when no longer needed, shall be destroyed completely to prevent anyone from reconstructing the information. Approved destruction methods shall include any method authorized by the policies of the Party in possession of the NNPI that constitutes Controlled Unclassified Information at the time of destruction.
- C. Storage media and similar items containing NNPI that constitutes Controlled Unclassified Information shall be protected and, when no longer needed, destroyed by physical destruction of components or media. Approved destruction methods shall include any method authorized by the policies of the Party in possession of the NNPI that constitutes Controlled Unclassified Information at the time of destruction.
- D. Each Party shall identify locations where it may use NNPI that constitutes Controlled Unclassified Information, in accordance with its relevant security controls. Security controls for such identified locations shall be at least as restrictive as those authorized by the Originating Party. Except during the periods when such NNPI is in use by authorized individuals, it shall be stored in repositories of approved design and construction, as determined by each Party. NNPI that constitutes Controlled Unclassified Information stored or processed in information technology systems shall be protected against unauthorized access, destruction, and illegal modification. The nature and extent of the protection given shall be commensurate with the assessed threat to and vulnerability of the systems involved. Threats, vulnerabilities, and resultant risks shall be assessed by each Party's Responsible Authority. In addition, security controls shall be implemented to ensure that individuals who are not authorized for access to NNPI that constitutes Controlled Unclassified Information cannot gain access to such information. The nature and quality of such controls shall be endorsed by each Party's Responsible Authority.

### **SECTION IV – PERSONNEL SECURITY**

- A. Consistent with Article IX.A-B of this Agreement, prior to affording access to NNPI communicated or exchanged pursuant to this Agreement, a determination for each individual to be afforded such access shall be made by a Responsible Authority of the Recipient Party.
- B. Access to NNPI communicated or exchanged pursuant to this Agreement shall be afforded only to those individuals whose official duties require such access. No individual shall be granted access unless it is affirmatively determined by the Responsible Authority of the Party

providing access that such access will not endanger the national security of that Party or pose an undue risk to the common defense and security of the Parties.

C. Access to NNPI that constitutes Classified Information:

1. The Responsible Authority of a Party may only grant an individual access to NNPI that constitutes Classified Information if facts and circumstances indicate that the granting of the access is consistent with national security interests of the Party. Such a determination shall be based on all relevant information. Prior to this determination, an investigation shall be conducted by the Responsible Authority of the Party making the determination, and the information thus developed shall be reviewed and adjudicated using criteria developed by the Responsible Authority of the Party making the determination. The criteria may be revised by each Party. Each Party shall make available to the other Parties the established criteria used in making access determinations and shall notify the other Parties if significant changes occur to the criteria. The Responsible Authority of the Party granting individuals access to NNPI that constitutes Classified Information shall conduct periodic reviews to ensure that each individual with access to NNPI that constitutes Classified Information conforms with the current standards applicable to the individual's employment and shall be re-examined as a matter of priority when new information is received which indicates that continued employment involving access to NNPI that constitutes Classified Information may no longer be consistent with the interests of security.
2. The minimum scope and extent of such an investigation shall be related to the nature and significance of the access to be afforded to the individual in accordance with the criteria developed by the Party conducting the investigation.
3. Within each Party, effective liaison shall be maintained among the national agencies responsible for national security and the agencies responsible for the access determination and program execution to assure prompt notification of information with derogatory implications developed subsequently to the granting of access to NNPI that constitutes Classified Information.
4. Access to NNPI shall be approved separately from the adjudication of a security clearance for access to other Classified Information conducted under each Party's applicable procedures for security clearances. For the avoidance of doubt, access to NNPI that constitutes Classified Information requires both a security clearance and a separate determination related to access to NNPI pursuant to this Section.

D. Each Party shall require any non-governmental facility handling NNPI to maintain an appropriate record of the status of individuals authorized to have access to such information at that facility.

## **SECTION V – PHYSICAL SECURITY**

- A. Consistent with Article VIII.D of this Agreement, each Party shall establish programs for physical security of NNPI communicated or exchanged and for Material and Equipment transferred pursuant to this Agreement and for any Special Nuclear Material used in or produced through the use of any Material or Equipment transferred so as to assure:

1. Proper protection during use, in storage, and in transit;
  2. The establishment of security areas, with controlled access, when deemed necessary by reason of the sensitivity, character, volume, and use of the NNPI, Material, or Equipment involved, and the character and location of the building or buildings involved. Perimeter barriers (natural or structural) shall be established when considered necessary to prevent or impede unauthorized access because of the particular sensitivity or revealing characteristics of the NNPI, Material, or Equipment involved;
  3. A system of controlled access which shall embody procedures for authorization by a Party's Responsible Authority, accurate methods of personnel identification, and accountability for identification media, and a means of enforcing limitations on movement and access to security areas; and
  4. The exchange of views regarding security system technologies, and information relating to their application to Material and Equipment transferred pursuant to this Agreement and Special Nuclear Material used in or produced through the use of Material or Equipment so transferred.
- B. Facility Index. Each Party shall maintain appropriate records of its approved non-government facilities where NNPI communicated or exchanged, and Material and Equipment transferred under this Agreement or Special Nuclear Material used in or produced through the use of Material or Equipment so transferred may be used and stored.

## **SECTION VI - ADDITIONAL REQUIREMENTS**

- A. Visits. It is recognized that cooperation pursuant to this Agreement, including this Annex, may require individuals sponsored by one Party to visit another Party. In furtherance of this visit, the Responsible Authority of the sponsoring Party shall furnish (in advance) to the Responsible Authority of the Party to be visited, an assurance in writing that the individual is eligible for access to particular categories of NNPI communicated or exchanged under Article III of this Agreement in the country of the sponsoring Party.
- B. Security of Contracts. Every contract, sub-contract, consultant agreement, or other arrangement entered into by any Party or government agency or government corporation of any Party, and relating to NNPI communicated or exchanged pursuant to this Agreement, shall contain appropriate clauses imposing obligations to abide by the security arrangements in this Agreement, including this Annex.
- C. Loss or Compromise. In the event of loss or possible compromise of NNPI communicated or exchanged pursuant to this Agreement, any individual having knowledge of such loss or possible compromise shall be required to promptly report such loss or compromise to the Responsible Authority of the Party that granted the individual access. The Responsible Authority of the Party in whose jurisdiction the loss or possible compromise occurred shall undertake an immediate investigation into the circumstances surrounding the incident. The Recipient Party shall promptly notify the other Parties of the loss or compromise and the findings of the investigation.

- D. Reports. The Recipient Party shall from time to time submit such reports as are requested by the Originating Party concerning NNPI communicated or exchanged pursuant to this Agreement and the dissemination of NNPI on which particular restrictions have been placed by the Originating Party.
- E. Continuing Review of Security System. The Parties recognize that the effective and prompt implementation of their respective security policies can be materially advanced through reciprocal visits of security personnel. Accordingly, the Parties agree to continue thorough exchanges of views on security policies, standards, and procedures, and to permit their respective security working groups to examine and view at first hand the implementing procedures of the agencies responsible for the administration of the Parties' naval nuclear propulsion programs, for the purpose of achieving an understanding of adequacy and reasonable comparability of the respective systems.

## **ANNEX B: ANNEX RELATED TO SPECIAL NUCLEAR MATERIAL AND EQUIPMENT**

This Annex details Special Nuclear Material and Equipment that may be transferred to Australia by the United States and the United Kingdom pursuant to Article IV of the Agreement Among the Government of Australia, the Government of the United Kingdom of Great Britain and Northern Ireland, and the Government of the United States of America for Cooperation Related to Naval Nuclear Propulsion (“Agreement”) of which this Annex is an integral part:

### **SECTION I – SPECIAL NUCLEAR MATERIAL**

With respect to any Special Nuclear Material to be transferred only in complete, welded Power Units pursuant to Article IV.B of this Agreement:

- A. Such Power Units shall contain highly enriched uranium and, only with respect to irradiated fuel, may contain plutonium.
- B. The United States or the United Kingdom shall provide conversion, enrichment, fabrication, and other services related to the Special Nuclear Material to Australia, under such terms and conditions, and at such times, as mutually decided in writing by the applicable Parties. Consistent with Article VI.E-F of this Agreement, such services shall not include the communication or exchange of information related to enrichment or reprocessing to Australia.
- C. The total amount of such Special Nuclear Material that may be transferred shall not exceed the total amount needed for the number of conventionally armed, nuclear-powered submarines to be provided or constructed under the AUKUS trilateral security partnership.

### **SECTION II – EQUIPMENT**

Equipment that may be transferred in accordance with Article IV.A of this Agreement may include:

- A. Equipment needed for the research, development, or design, of Naval Nuclear Propulsion Plants, including their manufacture, operation, maintenance, regulation, and disposal. Such Equipment would further include any Equipment necessary for the acquisition, specification, inspection, installation, certification, testing, overhaul, refueling, and operating practices and procedures of such Naval Nuclear Propulsion Plants and security and supply support for such Naval Nuclear Propulsion Plants, as well as any special maintenance and service facilities related thereto;
- B. Training and services associated with such Equipment; and

- C. Program support associated with such Equipment in areas such as safety, security, nuclear safeguards, transportation, public information, procurement, logistics, and fiscal management.

## **Understanding Among the Government of Australia, the Government of the United Kingdom of Great Britain and Northern Ireland, and the Government of the United States of America**

During the negotiation of the Agreement Among the Government of Australia, the Government of the United Kingdom of Great Britain and Northern Ireland, and the Government of the United States of America for Cooperation Related to Naval Nuclear Propulsion (“Agreement”), the Government of Australia (“Australia”), the Government of the United Kingdom of Great Britain and Northern Ireland (“United Kingdom”), and the Government of the United States of America (“United States”) (collectively, “Governments”) discussed their intended approach to certain Articles of the Agreement. The Governments desired to memorialize those discussions in this Understanding, which guides implementation, but which does not alter or form an integral part of the Agreement:

1. The Governments intend to jointly cooperate to facilitate Australia’s effective integration into, and use by, its naval nuclear propulsion program of any information communicated or exchanged pursuant to Article III of the Agreement.
2. The United States and the United Kingdom should make best efforts to transfer Material and Equipment to Australia, as may be agreed pursuant to Article IV and in accordance with their respective export control requirements.
3. The Governments intend to do all things practicable to obtain the necessary national authorizations and approvals under Article IX.B of the Agreement, including use of export exemptions where available under the Governments’ applicable export control laws and export permits, to enable appropriate dissemination and distribution of information, Material, and Equipment within the Governments’ jurisdictions.
4. Australia may directly, or may authorize Persons to, transfer and retransfer to the United States or the United Kingdom, in accordance with the Governments’ applicable laws, Material and Equipment related to Naval Nuclear Propulsion Plants, including component parts or spare parts thereof, of conventionally armed, nuclear-powered submarines, including for manufacture, operation, maintenance, regulation, and disposal.
5. The Governments reaffirm their commitment to setting the highest nonproliferation standard in connection with their cooperation pursuant to the Agreement, including in relation to Article VII of the Agreement and the Article 14 Arrangement. In this regard, the Governments affirm their objective of enabling the International Atomic Energy Agency to continue to verify that there is no diversion of nuclear material for the production of nuclear weapons or other nuclear explosive devices, no misuse of nuclear facilities, and no undeclared nuclear material or activities in Australia throughout the lifecycle of Australia's conventionally armed, nuclear-powered submarine program.

6. The United States and the United Kingdom should not unreasonably withhold information, Material, or Equipment from Australia, and the Governments are expected to take all reasonable steps to facilitate in a timely manner any communication or exchange of information or transfer of Equipment and Material that may be authorized pursuant to the Agreement. The Governments affirm that cooperation under the Agreement is to be carried out in such a manner as to not adversely affect the ability of the United States and the United Kingdom to meet their respective military requirements and to not degrade their respective naval nuclear propulsion programs.
7. Without limiting or altering the legal rights or obligations provided for in Articles IV.E-F and V of the Agreement, the United States and the United Kingdom intend to apply their respective standards and quality control processes that they would apply for similar Material and Equipment for their own governmental uses to Material and Equipment to be transferred to Australia pursuant to the Agreement.
8. This Understanding becomes operative upon the date of the last signature below or the date on which the Agreement enters into force, whichever is later.
9. This Understanding may be modified as mutually decided in writing by the Governments.
10. This Understanding ceases to be operative on the same date that the Agreement expires or is terminated. A Government may discontinue its participation in this Understanding earlier and, in such case, should provide one year's written notice to the other Governments of its intent to do so.

Signed, in triplicate, at \_\_\_\_\_ on \_\_\_\_\_, 2024, in the English language.

**For the Government of Australia:**

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

**For the Government of the United States  
of America:**