

U.S. Department of Energy

National Energy Technology Laboratory

PROCEDURE

P 142.2-1

DATE: 8/26/03

SUBJECT: INTERNATIONAL AGREEMENT FOR SCIENCE AND TECHNOLOGY
COOPERATION

1. PURPOSE. To establish the National Energy Technology Laboratory (NETL) procedures concerning international agreements for science and technology (S&T) cooperation where NETL is an implementing party in whole or in part.
2. CANCELLATION. None.
3. REFERENCES.
 - a. NETL Order 142.2, [International Agreements for Science and Technology Cooperation](#).
 - b. DOE International Agreement Handbook - dated November 3, 1998, and updated August 2000 (includes guidance by several principal Federal agencies - U.S. State Department, Office of Science and Technology Policy, the United States Trade Representative, the U.S. Commerce Department, and the Office of Management and Budget that review DOE's international science and technology agreements).
 - c. Memorandum from the Assistant Secretary for Fossil Energy, "Initiating and Renewing International Agreements - dated September 25, 1996.
 - d. Policies and Procedures for Fossil Energy International Collaboration, dated July 1988.
4. DEFINITIONS.
 - a. Freestanding Technical Agency Bilateral Science and Technology Agreement -- An agreement (implementing arrangements, annex, project annex, amendment, extensions, etc.) similar to the subsidiary agreement described above, but which is concluded in the absence of a DOE science and technology agreement. Freestanding agreements often require the inclusion of provisions that would normally be incorporated in an umbrella agreement. For instance, provision for the protection and allocation of intellectual property, which are often incorporated in the text of umbrella agreements, would need to be included in the text of the free-standing agreement.

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- b. Science and Technology Umbrella Agreement (S&T Umbrella) -- An agreement concluded by the United States and a foreign country, signed by:
- (1) The President of the United States, the Secretary of State, or the Secretary's designee.
 - (2) A representative of the head of state or government of the partner country. An S&T umbrella agreement establishes a formal framework for collaboration in science and technology research and development between two countries and signifies a willingness and desire on the part of the governments of both nations to collaborate to this end. An S&T umbrella agreement typically does not specify particular technical projects and/or technical areas in which joint research and development will occur, nor does it indicate other modalities of cooperation (e.g., technical agencies involved, management and financial arrangements).
- c. Statement of Intent -- An undertaking usually signed by the Secretary of Energy (though it can be signed at the Assistant Secretary, or equivalent level) and an official of comparable status from a foreign agency stating that DOE and the respective foreign agency wish to collaborate in S&T projects in specified or unspecified technical areas. Statements of Intent frequently are signed by the Secretary during missions abroad, and are intended to prepare the way for collaboration with nation(s) with which the U.S. or DOE does not have umbrella agreement(s). A Statement of Intent is not an international agreement and thus does not obligate the United States or the foreign government to any specific action.
- d. Technical Agency Bilateral/Multilateral Science and Technology Umbrella Agreement -- An agreement to which a technical agency of the U.S. Government and a technical agency of foreign government(s) are parties, and which is usually signed by Cabinet-level officials. A technical agency umbrella agreement establishes a formalized framework for science and technology cooperation between parties. Although the umbrella agreement usually does not discuss the specific technical areas in which collaboration will occur, it may contain specific conditions of a legal or administrative nature that will then apply to activities undertaken via subsidiary agreements in specific technical projects in specific technical areas. For example, in establishing new umbrella S&T agreements, DOE seeks to include provisions for the allocation and protection of intellectual property that might result from cooperative ventures undertaken by the parties. Inclusion of such provisions in the text of the umbrella agreement obviates the need for their negotiation on a case-by-case basis with each subsidiary agreement, instead requiring that the text of the subsidiary agreement contain a simple reference to the provisions in the umbrella agreement. An S&T Umbrella Agreement is also referred to as a Memorandum of Understanding (MOU).
- e. Technical Agency Bilateral Science and Technology Umbrella Subsidiary Agreements -- An agreement to which a programmatic element of DOE and an agency of a foreign government with which DOE has concluded a bilateral/multilateral umbrella agreement(s), are parties. Subsidiary agreements are drafted and negotiated by the cognizant program office and the staff members, in consultation with the Office of International Science and

Technology Cooperation, PI-43, in DOE's Office of Policy and International Affairs, the DOE Office of General Counsel, and the proposed foreign partner agency, and are usually signed by the Assistant Secretary, or equivalent, of the relevant Program Office. Subsidiary agreements are binding agreements that describe in detail, the technical areas, tasks, and duration of collaboration, and specify the administrative and financial terms of the agreement. If the bilateral/multilateral umbrella agreement does not cover intellectual property rights (IPR) provisions, the IPR will be covered in the subsidiary agreement.

5. QUALITY CONTROL. Quality control measures to ensure compliance with procedures will include periodic reviews of NETL's international program activities by the Office of Systems and Policy Support.
6. RESPONSIBILITIES.
 - a. The NETL Director or Designee shall:
 - (1) Ensure that international agreements to which NETL is a party to, or participates in, are to be used to advance DOE program objectives and are consistent with U.S. government, foreign policy, nonproliferation policy, international energy policy, and national security policy.
 - (2) Ensure that counterintelligence and intelligence interests, security interests, sensitive subjects (a list of which is maintained by the Office of Security), and sensitive information is protected in a manner consistent with program requirements, including compliance with export control laws and regulations.
 - (3) Formulate criteria and priorities for S&T cooperation and develops specific long-term policy guidance.
 - (4) Review and grant management approval to international agreements in which NETL is a participating party, including renewals/extensions of all such agreements.
 - (5) Review periodically NETL's portfolio of S&T agreements to ensure consistency with Departmental and Administration policy and program objectives.
 - b. The Office of Systems and Policy Support shall:
 - (1) Implement the NETL Director's directions and policy guidelines on S&T agreements.

- (2) Serve as NETL's focal point for guidance and the coordination in all international agreement phases that leads to the negotiation and execution of any international S&T Agreement, including any subsequent amendments or extensions.
- (3) Coordinates with the DOE's Office of International Science and Technology Cooperation, U.S. Department of State, and other Federal agencies that have a direct impact on NETL's conduct of international S&T cooperation.
- (4) Apprise the NETL Director, or designee, on major interagency or policy issues concerning the negotiation of particular agreements, and as appropriate, provides advice to the NETL Director and the NETL program organization on the agreement-negotiating strategies issued by DOE's Office of Policy and International Affairs.
- (5) Ensure that NETL complies fully with all aspects of the DOE's international agreement procedures and U.S. Department of State's Circular 175 process, including obtaining Circular 175 authority to enter into negotiations, and facilitates timely intra- and interagency coordination of the Departmental S&T Agreements.
- (6) Ensure implementation of this Procedure.
- (7) Review and provide oversight to all international agreements and any subsequent amendments or extensions in which NETL is involved.
- (8) Coordinate arrangements for the agreement signing with foreign country or organization, including the delegation of authority and translation.
- (9) Provide updates to DOE's International Agreement Database.
- (10) Develop internal policies and procedures to meet the outlined responsibilities and ensures compliance with other specific requirements that are issued by DOE or other Federal agencies.
- (11) Provides an assessment on the anticipated benefits and risks from a cooperation arrangement to the NETL Director and the appropriate NETL organizational element.
- (12) Maintain a copy of the international agreement, signed by all parties, and any subsequent amendments or extensions.

c. The NETL Office of Chief Counsel shall:

- (1) Review and concur on all international agreements and any subsequent amendments or extensions before submission to the NETL Director.

- (2) Serve as the sole point of contact with DOE's Office of General Counsel on all international agreements.

d. The NETL Associate Directors shall:

- (1) Take into consideration the NETL's Director guidance and determine each program's role in international S&T cooperation.
- (2) Identify and assist in the evaluation of DOE program opportunities for international S&T cooperation.
- (3) Coordinate with the cognizant Product Manager(s) during the development phase of the agreement.
- (4) Coordinate with the Office of Systems and Policy Support in early consultations and exploratory discussions with potential foreign partners.
- (5) Seek private sector views on the desirability and the conditions for entering into international S&T cooperative effort, and report their assessment and their intentions to participate in or use the results of such to the NETL Senior Management Technical Advisor for International and the cognizant Associate Director for Product Management.

e. The NETL Project Managers shall:

- (1) Notify the cognizant Product Manager(s), cognizant Division Director, and/or cognizant Associate Director and the NETL Senior Management and Technical Advisor for International of the intent to develop an international agreement and any subsequent amendments or extensions.
- (2) Prepare the technical scope of work to be undertaken within the agreement and the International Agreement Questionnaire.
- (3) Manage the technical progress conducted under the agreement.
- (4) Protect U.S. interests and comply with the export control regulations.
- (5) Notify the cognizant Division Director and/or cognizant Associate Director and the NETL Senior Management and Technical Advisor for International of any potential problems.
- (6) Host all foreign visitors pertaining to the agreement and hold preparative discussions with the NETL organizational elements involved in the visit.

- (7) Maintain an awareness of the significant events, trends, and policies that may effect the implementation of the agreement.
- (8) Assist in the preparation of policy responses pertaining to the agreement with the cognizant Product Manager, NETL Senior Management, and Technical Advisor for International or the NETL International Program Coordinator (IPC).

7. TRAINING REQUIREMENTS. All NETL personnel shall be familiar with this Procedure. An annual reminder of this Procedure will be issued by the Office of Systems and Policy Support.

8. DOCUMENT CONTROL. The NETL International Program Coordinator shall retain the original working copy at all times and ensure that all original international agreements are filed with the U.S. Department of State and provide copies to DOE's Office of International Science and Technology Cooperation. The NETL International Program Coordinator maintains the log of all international agreements in which NETL participates in or provides support to DOE/HQ, work for others, etc.

9. PROCEDURE.

a. International Agreement Initiation Process

- (1) Scientist/Project Manager notifies the cognizant Product Manager(s), Division Director, and/or cognizant Associate Director and the NETL Senior Management and Technical Advisor for International of the interest in developing an international agreement including the proposed collaboration and the potential bilateral/multilateral partners. The Associate Director, in consultation with the Product Manager(s), NETL Director, and NETL's Senior Management and Technical Advisor for International, decides whether or not to initiate the international agreement process.

Note: International agreements often arise from the need or desire of researchers in NETL program areas to collaborate with researchers from other nations as in specific technical areas. NETL Scientists/Project Managers may initiate the international agreement process only through informal discussions with the proposed bilateral partner concerning the areas of possible cooperation. It is important to note that these early consultations do not constitute formal negotiations or a commitment. No written text of the proposed agreement should be shared with the proposed bilateral partner at this time in order not to preempt subsequent negotiations of terms and conditions, thus only the general technical contents of the agreement text may discussed.

- (2) The NETL International Program Coordinator (IPC) is responsible for providing a detailed explanation of the international agreement process, its estimated time-frames, and to identify any potential political, policy, or programmatic issues that might arise.

- (3) The Scientist/Project Manager with assistance from the IPC drafts the proposed agreement and the international agreement questionnaire. The Scientist/Project Manager/IPC begin discussions with the Senior Management and Technical Advisor for International, NETL Chief Counsel Office, cognizant Product Manager(s), and the NETL Technology Transfer Officer, and the NETL Export Compliance Officer. The Scientist/Project Manager is responsible for keeping the respective DD/AD and Product Manager(s) informed of the progress. The IPC will provide a progress report to the Associate Director for the Office of Systems and Policy Support/Senior Management Technical Advisor for International.
- (4) The IPC prepares the document package (draft agreement, 10-point evaluation questionnaire, briefs, and transmittal memo) and obtains all required concurrences. The final document is submitted to the Director for approval. If approved, the IPC submits the documents to the HQ Program Office for concurrence and subsequent submission to the Office of Policy and International Affairs.
- (5) The IPC tracks the status of the agreement at HQ and the U.S. Department of State's Circular 175 Reviews. The IPC will provide a progress report to the Project Manager and Associate Director for the Office of Systems and Policy Support/Senior Management Technical Advisor for International.

Note: The Circular 175 review provides a formalized process by which many different forms of international agreements, with a wide variety of partners, can be assessed. The objectives of this Procedure are to ensure that the making of treaties and other international agreements are in accordance with the legal authorities and to provide for appropriate review by the Department of State and Congress, as appropriate, to make sure that the agreements are consistent with U.S. policy objectives. In conducting the Circular 175 review, the Department of State consults a number of U.S. Government agencies prior to granting DOE or any agency authority to negotiate and sign an international agreement.

- (6) The U.S. Department of State decides whether to grant authorization to negotiate and sign the international agreement. Formal negotiations with the bilateral partner begins, following the receipt of the Department of State authorization by the Office of Policy and International Affairs. Final document preparation including language translation (if required) is completed by the NETL IPC.
- (7) The Office of International Science and Technology Cooperation approves the final document for signature and prepares the signature authority memorandum on behalf of the Assistant Secretary for Policy and International Affairs. The Assistant Secretary then sends the memorandum to appropriate Program Secretarial Officer which grants signature authority to sign and execution of the agreement.

Note: The Program Secretarial Officer, if they so chose, may delegate signature to the NETL Director.

- (8) If signature authority is granted to the NETL Director, the IPC initiates the protocol preparations for the actual signing of the agreement.
- (9) Upon execution of the agreement, the IPC is responsible for returning one signed original of the agreement (in both countries languages, if required) to the Office of Policy and International Affairs for formal documentation at the U.S. Department of State and NETL Office of Systems and Policy Support. In addition, the IPC is responsible for ensuring the agreement is placed in the DOE International Agreement Database and for disseminating copies of the document to the appropriate individuals.
- (10) The responsible NETL office implements the technical scope of the agreement. The Office of Systems and Policy Support is responsible for monitoring and reviewing progress on the agreement and for the development of reporting documents and status reporting at bilateral meetings.

b. International Agreement Renewal Process

- (1) Six months prior to the expiration of an international agreement, the IPC notifies the NETL Project Manager and the Senior Management Technical Advisor for International. The IPC, with assistance from the Project Manager, prepares an evaluation summary of the agreement. The IPC submits the summary for review by the appropriate Project Manager/DD/AD.
- (2) Discussions are initiated by the cognizant Product Manager(s), Division Director, Associate Director, and the NETL Senior Management and Technical Advisor for International with the NETL Director to determine whether there is sufficient interest in the continuation of the international agreement. If the NETL Director decides to renew the international agreement, the IPC notifies the Office of Policy and International Affairs of NETL's intent to renew the agreement and to determine if the Circular 175 review is required.
- (3) The Scientist/Project Manager with assistance from the IPC drafts the renewal agreement and updates the international agreement questionnaire. The Scientist/Project Manager/IPC begin discussions with the Senior Management Technical Advisor for International, NETL Legal, cognizant Product Manager(s), and the Export Control Officer. The Scientist/Project Manager is responsible for keeping the respective DD/AD informed on the technical status. The IPC will provide a progress report to the Associate Director for the Office of Systems and Policy Support/Senior Management Technical Advisor for International.

- (4) The IPC prepares the document package and obtains all required concurrences. The final document is submitted to the Director for approval. If approved, the IPC submits the documents to the HQ Program Office for concurrence and subsequent submission to the Office of Policy and International Affairs.

Note: Depending on the timeframe, the Office of Policy and International Affairs may institute provisional renewal procedures with the Department of State. Provisional renewal procedures by secured a 1-year grace period that enable NETL to continue work under an expired agreement while the renewal negotiations proceed.

- (5) The IPC tracks the status of the agreement at HQ and, if required, the U.S. Department of State's Circular 175 Reviews. The IPC will provide a progress report to the Project Manager, Product Manager(s), cognizant Associate Director, Associate Director for the Office of Systems and Policy Support, and the Senior Management Technical Advisor for International.
- (6) The U.S. Department of State decides whether to grant authorization to negotiate and sign the international agreement. Formal negotiations with the bilateral partner begins, following the receipt of the Department of State authorization by the Office of Policy and International Affairs. Final document preparation, including language translation (if required), is completed by the NETL IPC.
- (7) The Office of International Science and Technology Cooperation approves the final document for signature and prepares the signature authority memorandum on behalf of the Assistant Secretary for Policy and International Affairs. The Assistant Secretary then sends the memorandum to appropriate Program Secretarial Officer which grants signature authority to sign and execution of the agreement.

Note: The Program Secretarial Officer, if they so chose, may delegate signature to the NETL Director.

- (8) If signature authority is granted to the NETL Director, the IPC initiates the protocol preparations for the actual signing of the agreement.
- (9) Upon execution of the agreement, the IPC is responsible for returning one signed original of the agreement (in both countries languages, if required) to the Office of Policy and International Affairs for formal documentation at the Department of State and NETL Office of Systems and Policy Support. In addition, the IPC is responsible for ensuring the agreement is placed in the DOE International Agreement Database and for disseminating copies of the document to the appropriate individuals.

- (10) The responsible NETL Office implements the technical scope of the agreement. The Office of Systems and Policy Support is responsible for monitoring and reviewing progress on the agreement and for the development of reporting documents and status reporting at bilateral meetings.

c. Exclusions -- This Procedure does not apply to:

- (1) Contracts and subcontracts between non-government foreign organizations and DOE for specific services or materials (such as analytical services, dosimetry, irradiation, environmental studies, and translation services). This work is to be performed in accordance with Federal and DOE acquisition regulations.
- (2) Foreign procurement activities. These actions are conducted in accordance with Federal and DOE acquisition regulations.

Associate Director, OSP

U.S. Department of Energy

National Energy Technology Laboratory

ORDER

142.2

DATE: 3/6/03

SUBJECT: INTERNATIONAL AGREEMENTS FOR SCIENCE AND TECHNOLOGY
COOPERATION

1. OBJECTIVE. To set forth the requirements for International Agreements for Science and Technology cooperation.
2. CANCELLATION. None.
3. APPLICABILITY. This order applies to all International Agreements where NETL is a party in whole or in part.
4. REQUIREMENTS.
 - a. All International Agreements will be approved by the NETL Director.
 - b. A procedure will be developed to implement the requirements of this order. The procedure will be in compliance with the references listed in Section 7 of this order and any other guidance issued by DOE Headquarters.
5. RESPONSIBILITIES. This order will be implemented by the Office of Systems and Policy Support who will also ensure compliance with Departmental requirements related to International Agreements.
6. POLICY. It is the policy of NETL to ensure that International Agreements advance the mission of the Department of Energy while adhering to governmental, foreign, nonproliferation, international, and national security policies which protect the security interests of the United States.
7. REFERENCES.
 - a. DOE International Agreement Handbook, and any future revisions.
 - b. Memorandum from Assistant Secretary for Fossil Energy entitled "Initiating and Renewing International Agreements," dated September 25, 1996.
 - c. Policies and procedures for Fossil Energy International Collaboration, dated July 1988.

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8. DEFINITIONS. See the references in Section 7 of this order for definitions.

Deputy Director for Operations

The most recent and official controlled hard copy version of this directive resides with NETL's Directives Coordinator.
An electronic version of the controlled directive has been placed on the NETL Intranet for employee use. Printed
hard copies of this electronic version are considered noncontrolled documents.