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Международное агентство по атомной энергии

Organismo Internacional de Energia Atómica

Mr Mavag Chadraabal

RCA Chair and  
Head, Nuclear Technology Department  
Executive Office  
Nuclear Energy Commission of Mongolia  
Uildverchdin Street 2  
17032 ULAANBAATAR  
MONGOLIA

Vienna International Centre, PO Box 100, 1400 Vienna, Austria

Phone: (+43 1) 2600 • Fax: (+43 1) 26007

Email: [Official.Mail@iaea.org](mailto:Official.Mail@iaea.org) • Internet: <http://www.iaea.org>

In reply please refer to: 170-N5.41.01

Dial directly to extension: (+43 1) 2600-21506

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Dear Mr Chadraabal,

Further to your e-mail message of 31 July 2016 we have looked into your request for further information and clarification concerning the role of the RCAO Managed Projects under the Regional Cooperative Agreement for Research, Development and Training Related to Nuclear Science and Technology for Asia and the Pacific (RCA), as raised by the Government of Japan.

In this context, please let me note that while the interpretation of a treaty, including the RCA, is for the Government Parties to that treaty, our Department of Technical Cooperation has prepared brief answers to those questions that directly relate to the IAEA Secretariat and their answers are enclosed with this letter.

Yours sincerely,

Peri Lynne Johnson  
Legal Advisor and Director  
Office of Legal Affairs

Enclosure

### 3. The Nature of RCARO Managed Projects

1) Does the IAEA take the view that RCARO Managed Projects can be considered as IAEA-TC projects?

*There are no IAEA-TC projects managed by Governments or "other relevant parties" (i.e. RCARO), and there is no mechanism to allow third parties to manage the TC projects under the IAEA TC Programme. RCARO Managed Projects will therefore not be considered as IAEA-TC projects.*

2) I understand that current RCA projects are provided project numbers (RAS...) of the IAEA-TC projects by the IAEA and related documents such as project reports are managed by the Agency according to the project number. Is the IAEA going to allot the IAEA-TC project number (RAS...) to RCARO Managed Projects?

*No. All regional projects approved under the TC programme are defined as RAS projects and are managed solely by the IAEA. RCARO managed projects are not defined as RAS projects and do not fall under the IAEA-TC programme.*

3) With regard to the IAEA-TC projects to which IAEA-TC project number are allotted to which organization (or body) do the intellectual property rights of the outcomes of IAEA-TC projects including the documents such as project reports belong?

*All intellectual property derived from the IAEA-TC projects belong to the IAEA.*

4) Paragraph 3 of Article IX in the new Agreement is a disclaimer which protects the Agency, any Government and appropriate international organization from liability on the implementation of co-operative projects. However, there are no such provisions for "other relevant bodies" in the Agreement. If the RCARO Managed Projects is deemed as activities implemented under the Agreement, will the RCARO be exempted from liability on the implementation of the RCARO Managed Projects?

*There will be no liability for "any other bodies" (e.g. RCARO) in the management of the RCA projects under the IAEA-TC programme.*

### 4. Question on the interpretation of the Agreement which came up from the discussion among some Government Parties

In the 38th RCA National Representative Meeting, some National Representatives mentioned that the mandate of RCARO to implement (or manage) RCARO Managed Projects could be read in the paragraph 1 of Article VII of the new Agreement. Please clarify the points below regarding this issue.

What does "secretariat duties" in this paragraph mean?

*In line with past practice, and as the Agency informed before, these duties refer to (i) administrative tasks in support of the efficient management of the RCA Agreement (i.e. preparation of the Agenda and background documents for Policy Meetings and preparation of the RCA Annual Report); and (ii) administrative tasks in support of the efficient monitoring and review of the RCA programme under the IAEA-TC programme according to TC guidance and procedures for quality assurance (i.e. Lead Country Coordinators (LCCs) support in the submission of progress reports to the IAEA based on IAEA established guidelines).*

b) If other relevant bodies "assist" (≠perform on behalf) the Agency's secretariat duties, which shall be ultimately responsible for these secretariat duties performed by other relevant bodies, the Agency or other relevant bodies?

*In this case, the Agency will be ultimately responsible and accountable.*

c) It is stated that an authorization by the Meeting of Representatives is required for other relevant bodies to assist the Agency's secretariat duties. What form of authorization is expected (written document/verbal statement, comprehensive authorization/authorization for each project, etc.)?

*While this is ultimately for the Parties to the RCA to decide, in line with past practice, all decisions made by the RCA Government Parties are recorded in written form by way of a Meeting Report by the designated rapporteurs and Current RCA Chair, which is circulated to all RCA National Representatives (NRs) for review and final approval following the Policy Meeting.*

d) Does the IAEA support the view that implementation of RCARO Managed Projects by RCARO can be interpreted as "assisting" the Agency in performing its secretariat duties stipulated in paragraph 1 of Article VII? If so, who shall be responsible for the implementation of RCARO Managed Projects?

*No, the IAEA does not support such interpretation.*