

**IMPLEMENTING ARRANGEMENT  
BETWEEN  
THE UNITED STATES ARMY CORPS OF ENGINEERS AND  
THE MINISTRY OF LAND, INFRASTRUCTURE AND TRANSPORT OF  
JAPAN  
CONCERNING COOPERATION IN THE FIELDS OF  
FLOOD CONTROL AND WATER RESOURCES MANAGEMENT**

The United States Army Corps of Engineers ("USACE"), and the Ministry of Land, Infrastructure and Transport of Japan ("MLIT"), hereinafter jointly referred to as "the Parties":

Having a common interest in flood control and water resources management;

Desiring to promote and enhance public safety and community welfare by fostering research, development and the improvement of flood control and water resources management, and to promote, encourage and advance systems of safer, more economical, efficient and environmentally sound flood control and water resources management through research, development and cooperation including the exchange of information and experiences; and

Agreeing to implement cooperative activities pursuant to and governed by all of the provisions of the Agreement Between the Government of the United States of America and the Government of Japan on Cooperation in Research and Development in Science and Technology, signed at Toronto on June 20, 1988, as amended and extended (hereinafter referred to as "the Agreement");

Have agreed, in accordance with Paragraph 3 of Article II of the Agreement, as follows:

**Article I. Definition of Terms and Abbreviations**

a. "Authorities" means Government officials listed in this Implementing Arrangement that are authorized to act on behalf of the Parties in matters pertinent to this Implementing Arrangement.

b. "Classified Information" means information or material that discloses information requiring protection in the interests of national defense or foreign relations of either government and is classified in accordance with applicable national laws and regulations.

c. "Contract" means any mutually binding legal relationship that obligates a contractor to furnish supplies or services.

d. "Contracting" means the obtaining of supplies or services by Contract from sources outside the government organizations of the Parties. Contracting includes description of supplies and services required, solicitation and selection of sources, preparation and award of Contracts, and all phases of Contract administration.

e. "Contractor Support Personnel" means persons who are under contract to provide administrative and professional support services to the Parties.

f. "Controlled Unclassified Information (CUI)" means unclassified information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations of either Party, and which will be marked by the originating Party and handled in accordance with this Implementing Arrangement.

g. "Technical Information" means recorded or documented information of a scientific or technical nature, regardless of format or other documentary characteristics, including: experimental and test data; specifications; design process; inventions or discoveries, whether or not patentable; technical writings; sound recordings; magnetic records; computer software documentation, both programmatic and data base; computer memory printouts or data retained in computer memory; works of a technical nature; and any other relevant technical data in whatever form presented, whether or not copyrighted as well as experiences (whether written or unwritten) gained in the management of flood control projects and water resources development projects.

h. "Technical Project Officers (TPOs)" means representatives of government organizations who are specifically authorized to exchange Technical Information.

i. "Third Party" means any person or other entity whose government is not a Party to this Implementing Arrangement.

## **Article II. Objective and Scope**

a. The purpose of this Implementing Arrangement is to set forth particular conditions for the exchange of Technical Information concerning flood control and water resources management of mutual interest to the Parties, and to provide a framework for cooperation between the Parties in these fields for civil purposes. Subject of Technical Information exchanged under this Implementing Arrangement may include:

1. Flood control and water resources management policies;
2. Flood plain management;
3. Drought management;
4. Navigation;
5. Configuration of systems for flood control and water control management using advanced technologies (Global Positioning Satellites, Geographical Information System, Digital Elevation Model, river information system);

6. River engineering technologies including, but not limited to, levees, levee protection and channel improvement, and dams (including those of 15 meters high or lower);
7. Water and cost allocation for multi-purpose dams;
8. Preservation of river environments and wetlands and habitat evaluation;
9. Economic evaluation of the policies for flood control, water resources management, environmental protection and restoration, and recreation;
10. Salt water intrusion;
11. Coastal management planning;
12. Consensus building in the community;
13. Flood fighting; and
14. Seismic engineering for river-related structures.

b. Exchanges of Technical Information under this Implementing Arrangement shall be on a reciprocal, balanced basis such that the Technical Information exchanged between the Parties shall be of approximately equivalent value, quantitatively and qualitatively.

c. The activities of the Parties under this Implementing Arrangement shall be carried out in accordance with their respective national laws and regulations.

### **Article III. Management**

a. The Parties hereby establish the following Authorities to coordinate their respective efforts under this Implementing Arrangement, or their equivalents in the event of reorganization:

USACE: Director Civil Works, or his authorized agent

MLIT: Director General of River Bureau, or his authorized agent

- b. The Authorities shall be responsible for:
1. Exercising executive-level oversight of the efforts;
  2. Resolving issues brought forth by the TPOs;
  3. Reviewing and recommending to the Parties amendments to this Implementing Arrangement in accordance with Article XIV (Amendment, Termination, Entry Into Force, and Duration); and
  4. Coordinating requests for Third Party transfers on behalf of the Parties in accordance with Article XI (Third Party Transfers).

c. The Parties hereby establish the following TPOs, or their equivalents in the event of reorganization, to represent each Party:

USACE: Chief of Hydrology and Hydraulics, CEMVS-ED-HP.

MLIT: Director of River Planning Division, River Bureau.

Either Party may change its TPOs upon 60 days written notice to the other Party

d. TPOs shall be responsible for:

1. Exercising day-to-day management of efforts;
2. Preparing documents necessary for the implementation of Project Annexes in accordance with Article XII (Project Annexes) of this Implementing Arrangement;
3. Establishing and maintaining annual Technical Information exchange objectives for the Implementing Arrangement, as appropriate;
4. Maintaining oversight of the security aspects of the Implementing Arrangement in accordance with Article VIII (Controlled Unclassified Information) and Article X (Security);
5. Acting as the national focal point for exchange of Technical Information under this Implementing Arrangement, and maintaining lists of Technical Information exchanged; and
6. Any other unique responsibilities required for management of this Implementing Arrangement.

#### **Article IV. Channels of Communication and Visits**

a. The exchanges contemplated by this Implementing Arrangement will primarily take the form of annual visits by a team of technical experts from one of the Parties to the other Party. Each Party will host the other Party on a biennial basis, alternating between the Parties every year. Further exchanges may take place in the form of direct communication between the technical experts of the Parties, so long as all Technical Information exchanged in this manner is exchanged in accordance with the provisions of this Article.

b. Only those TPOs specified in this Implementing Arrangement are authorized to exchange Controlled Unclassified Information (CUI) related to this

Implementing Arrangement. CUI exchanged between the Parties shall be forwarded by TPOs to their counterparts via official channels for appropriate dissemination.

c. Each Party shall permit visits to its TPOs by personnel of the other Party, provided that the visit is authorized by both Parties and visiting personnel have appropriate security clearances and need-to-know.

d. All visiting personnel shall be required to comply with security regulations of the host Party. Any Technical Information disclosed or made available to visitors shall be treated as if supplied to the Party sponsoring the visiting personnel, and shall be subject to the provisions of this Implementing Arrangement.

e. Requests for visits by personnel of one Party to the other Party shall be coordinated between Parties, and shall conform with the established visit procedures of the host country. Requests for visits shall include a proposed list of topics to be discussed. When requests for visits also include visits to contractor facilities of the host country, such requests will comply with that country's contractor visit procedures.

f. Lists of personnel of each Party required to visit, shall be exchanged between the Parties.

#### **Article V. Financial Arrangements**

Each Party shall bear the full costs it incurs in making, managing, and administering any Technical Information exchanges under this Implementing Arrangement, and its activities shall be subject to the availability of appropriated funds for such purposes.

#### **Article VI. Contractual Arrangements**

This Implementing Arrangement provides no authority for placing contracts on the other Party's behalf in connection with any Technical Information exchanges pursuant to Article IV (Channels of Communication and Visits) of this Implementing Arrangement. Furthermore, this Implementing Arrangement creates no obligation to place contracts to implement any Technical Information exchanges under this Implementing Arrangement.

#### **Article VII. Disclosure and Use of Technical Information**

a. Technical Information shall not be used by the receiving Party for any purpose other than the purposes for which it was furnished, without the specific prior written consent of the furnishing Party. The receiving Party shall not disclose Technical Information exchanged under this Implementing Arrangement to contractors or any other

persons, other than its Contractor Support Personnel, without the specific prior written consent of the furnishing Party.

b. The receiving Party shall ensure that Contractor Support Personnel, contractors, or any other persons to whom it discloses Technical Information received under this Implementing Arrangement, that they are under a legally binding obligation to comply with the provisions of this Implementing Arrangement with respect to the use, control, and protection of such information.

c. No transfer of ownership of Technical Information shall take place under this Implementing Arrangement. Technical Information shall remain the property of the originating Party or its contractors.

d. Technical Information shall be exchanged only when it may be done:

1. Without incurring liability to holders of proprietary rights; and
2. Where disclosure is consistent with national disclosure policies and regulations of the furnishing Party.

e. All Technical Information shall be reviewed, identified, marked, and handled in accordance with Article I, section b and f, Article VIII (Controlled Unclassified Information) and Article X (Security).

f. Technical Information that is exchanged under this Implementing Arrangement shall be disclosed to Third Parties by the receiving Party only in accordance with Article XI (Third Party Transfers).

#### **Article VIII. Controlled Unclassified Information**

a. Except as otherwise provided in this Implementing Arrangement or as authorized in writing by the originating Party, Controlled Unclassified Information provided pursuant to this Implementing Arrangement will be controlled as follows:

1. Such information will be used only for the purposes authorized for the use of Technical Information as specified in Article VII (Disclosure and Use of Technical Information);
2. Access to such information will be limited to personnel whose access is necessary for the permitted use under subparagraph a.1. of this Article, and shall be subject to the provisions of Article XI (Third Party Transfers); and
3. Each Party will take all lawful steps, which may include national classification, available to it to keep such information free from further

disclosure (including requests under any legislative provisions), except as provided in subparagraph a.2. of this Article, unless the originating Party consents to such disclosure. In the event of unauthorized disclosure, or if it becomes probable that the information may have to be further disclosed under any legislative provision, immediate notification will be given to the originating Party.

b. To assist in providing the appropriate controls, the originating Party will ensure that Controlled Unclassified Information is appropriately marked. The Parties will decide, in advance and in writing, on the markings to be placed on the Controlled Unclassified Information.

c. Controlled Unclassified Information provided pursuant to this Implementing Arrangement will be handled in a manner that ensures control as provided for in paragraph a. of this Article.

d. Prior to authorizing the release of Controlled Unclassified Information to Contractors, the Parties will ensure to contract with Contractors to control such information in accordance with the applicable provisions of this Article.

#### **Article IX. Intellectual Property Rights**

a. The protection and distribution of all intellectual property rights and other rights of a proprietary nature shall be governed as set forth in Annex IV of the Agreement, except as otherwise provided in the text of this Implementing Arrangement or any subsequent Project Annex.

b. Each Party shall be entitled to a non-exclusive, irrevocable, royalty-free license in all countries where copyright protection is available, to translate, reproduce, and publicly distribute scientific and technical journal articles, reports and books not containing any proprietary information, created in the course of any cooperative activities under this Implementing Arrangement. All publicly distributed copies of a copyrighted work prepared under the cooperative activities under this Implementing Arrangement will indicate the name of the author of the work unless the author explicitly declines to be named. When scientific and technical journal articles, reports and books not containing any proprietary information, created in the course of any cooperative activity under this Implementing Arrangement are translated and publicly distributed, the Parties concerned shall be given the opportunity to review the translation prior to its public distribution.

c. Technical Information of a non-proprietary nature derived from the cooperation activities conducted under this Arrangement may be made available to the public through customary channels and in accordance with the normal procedures of the Parties.

#### **Article X. Security**

No Classified Information shall be provided or exchanged under this Implementing Arrangement.

#### **Article XI. Third Party Transfers**

In accordance with Article VII (Disclosure and Use of Technical Information), a Party shall not sell, transfer title to, transfer possession of, or otherwise disclose Technical Information or Project Equipment to any Third Party without the prior written consent of the Party that provided such information. The providing Party shall be solely responsible for authorizing any Third Party sales or transfers and, as applicable, specifying the method and conditions for implementing any such sales or transfers.

#### **Article XII. Project Annexes**

Any activity carried out under this Implementing Arrangement, other than the activities envisioned in Article IV (Channels of Communication and Visits), shall be agreed upon in advance by the Parties in writing. Such activity shall be described in an agreed Project Annex (PA) to this Implementing Arrangement, which shall set forth in terms appropriate to the activity, a work plan, staffing requirements, cost estimates, funding sources, and other undertakings, obligations, or conditions not included in this Implementing Arrangement. In case of any inconsistency between the terms of this Implementing Arrangement and the terms of a Project Annex, the terms of this Implementing Arrangement shall be controlling.

#### **Article XIII. Settlement of Disputes**

Any disputes between the Parties arising under or relating to this Implementing Arrangement shall be resolved by consultation between the Parties.

#### **Article XIV. Amendment, Termination, Entry Into Force, and Duration**

- a. This Implementing Arrangement may be amended upon the written consent of the Parties.
- b. This Implementing Arrangement may be terminated at any time by the written consent of the Parties. In the event that the Parties decide to terminate the Implementing Arrangement, they shall consult at the appropriate level prior to the date of its termination to ensure termination on the most equitable terms.
- c. A Party may terminate this Implementing Arrangement upon 180 days written notification to the other Party. Such termination shall not affect the completion of ongoing activities, unless the Parties so agree.



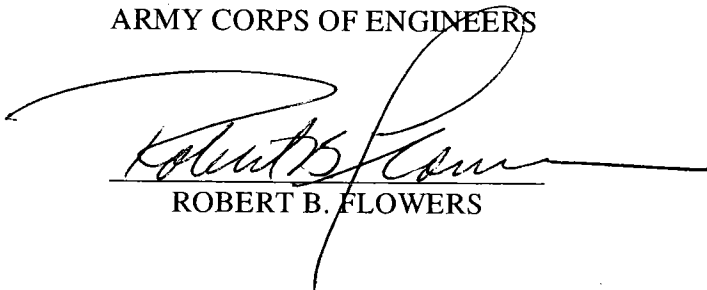
d. This Implementing Arrangement shall enter into force upon signature by both Parties and shall remain in force for five years. The Parties shall consult no later than two years prior to the expiration of this Implementing Arrangement and decide whether or not to extend its duration. It may then be extended by written consent of the Parties.

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IN WITNESS WHEREOF, the undersigned, being duly authorized have signed this  
Implementing Arrangement:


Signed at Kyoto, Japan on 18 March 2003. This Implementing Arrangement is signed in  
duplicate, in the English language.

FOR THE UNITED STATES  
ARMY CORPS OF ENGINEERS



ROBERT B. FLOWERS

FOR THE MINISTRY OF  
LAND, INFRASTRUCTURE  
AND TRANSPORT OF JAPAN



HISAKAZU OISHI