

No. 4213

**UNITED STATES OF AMERICA
and
FEDERAL REPUBLIC OF GERMANY
(ON BEHALF OF BERLIN)**

**Agreement (with annex) for co-operation concerning civil
uses of atomic energy. Signed at Washington, on
28 June 1957**

Official texts: English and German.

Registered by the United States of America on 17 March 1958.

**ÉTATS-UNIS D'AMÉRIQUE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
(AGISSANT POUR LE COMPTE DE BERLIN)**

**Accord de coopération (avec annexe) concernant l'utili-
sation de l'énergie atomique à des fins civiles. Signé à
Washington, le 28 juin 1957**

Textes officiels anglais et allemand.

Enregistré par les États-Unis d'Amérique le 17 mars 1958.

No. 4213. AGREEMENT¹ FOR CO-OPERATION BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF
AMERICA AND THE GOVERNMENT OF THE FEDERAL
REPUBLIC OF GERMANY ON BEHALF OF BERLIN
CONCERNING CIVIL USES OF ATOMIC ENERGY.
SIGNED AT WASHINGTON, ON 28 JUNE 1957

Whereas the peaceful uses of atomic energy hold great promise for all mankind ;
and

Whereas the Government of the United States of America desires to cooperate
with Berlin in the development of such peaceful uses of atomic energy ; and

Whereas the design and development of several types of research reactors are
well advanced ; and

Whereas research reactors are useful in the production of research quantities
of radioisotopes, in medical therapy and in numerous other research activities and
at the same time are a means of affording valuable training and experience in
nuclear science and engineering useful in the development of other peaceful uses of
atomic energy including civilian nuclear power ; and

Whereas Berlin desires to pursue a research and development program looking
toward the realization of the peaceful and humanitarian uses of atomic energy and
desires to obtain assistance from the Government of the United States of America
and United States industry with respect to this program ; and

Whereas the Government of the United States of America, acting through the
United States Atomic Energy Commission, desires to assist Berlin in such a pro-
gram ; and

Whereas the Government of the Federal Republic of Germany, as a Party to
this Agreement, is acting on behalf of Berlin ;

The Parties agree as follows :

Article I

For the purposes of this Agreement :

¹ Came into force on 1 August 1957, the date on which the Government of the United States of America and the Government of the Federal Republic of Germany advised each other in writing that they had complied with all statutory and constitutional requirements for the entry into force of such Agreement, in accordance with article XI.

(a) "Commission" means the United States Atomic Energy Commission or its duly authorized representatives.

(b) "Berlin" means those areas of Berlin over which the Berlin Senate exercises jurisdiction (the French, British, and American sectors).

(c) "Equipment and devices" means any instrument or apparatus and includes research reactors, as defined herein, and their component parts.

(d) "Research reactor" means a reactor which is designed for the production of neutrons and other radiations for general research and development purposes, medical therapy, or training in nuclear science and engineering. The term does not cover power reactors, power demonstration reactors, or reactors designed primarily for the production of special nuclear materials.

(e) The terms "Restricted Data," "atomic weapon," and "special nuclear material" are used in this Agreement as defined in the United States Atomic Energy Act of 1954.

Article II

Restricted Data shall not be communicated under this Agreement, and no materials or equipment and devices shall be transferred and no services shall be furnished under this Agreement to the Senate of Berlin or authorized persons under its jurisdiction if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

Article III

1. Subject to the provisions of Article II, the Commission and the Senate of Berlin will exchange information in the following fields :

(a) Design, construction, and operation of research reactors and their use as research, development, and engineering tools and in medical therapy.

(b) Health and safety problems related to the operation and use of research reactors.

(c) The use of radioactive isotopes in physical and biological research, medical therapy, agriculture, and industry.

2. The application or use of any information or data of any kind whatsoever, including design drawings and specifications, exchanged under this Agreement shall be the responsibility of the Party which receives and uses such information or data, and it is understood that the other cooperating Party does not warrant the

accuracy, completeness, or suitability of such information or data for any particular use or application.

Article IV

1. The Commission will lease to the Senate of Berlin uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of research reactors which the Senate of Berlin, in consultation with the Commission, decides to construct and as required in the agreed experiments related thereto. Also, the Commission will lease to the Senate of Berlin uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of such research reactors as the Senate of Berlin may, in consultation with the Commission, decide to authorize private individuals or private organizations under its jurisdiction to construct and operate, provided the Senate of Berlin shall at all times maintain sufficient control of the material and the operation of the reactor to enable the Senate of Berlin to comply with the provisions of this Agreement and the applicable provisions of the lease arrangement.

2. The quantity of uranium enriched in the isotope U-235 transferred by the Commission under this Article and in the custody of the Senate of Berlin shall not at any time be in excess of six (6) kilograms of contained U-235 in uranium enriched up to a maximum of twenty per cent (20 %) U-235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Berlin or while fuel elements are in transit, it being the intent of the Commission to make possible the maximum usefulness of the six (6) kilograms of said material.

3. When any fuel elements containing U-235 leased by the Commission require replacement, they shall be returned to the Commission and, except as may be agreed, the form and content of the irradiated fuel elements shall not be altered after their removal from the reactor and prior to delivery to the Commission.

4. The lease of uranium enriched in the isotope U-235 under this Article shall be at such charges and on such terms and conditions with respect to shipment and delivery as may be mutually agreed and under the conditions stated in Articles VIII and IX.

Article V

Materials of interest in connection with defined research projects related to the peaceful uses of atomic energy undertaken by the Senate of Berlin, or persons

under its jurisdiction, including source materials, special nuclear materials, by-product material, other radioisotopes, and stable isotopes will be sold or otherwise transferred to the Senate of Berlin by the Commission for research purposes in such quantities and under such terms and conditions as may be agreed when such materials are not available commercially. In no case, however, shall the quantity of special nuclear materials under the jurisdiction of the Senate of Berlin, by reason of transfer under this Article, be, at any one time, in excess of 100 grams of contained U-235, 10 grams of plutonium, and 10 grams of U-233.

Article VI

Subject to the availability of supply and as may be mutually agreed, the Commission will sell or lease, through such means as it deems appropriate, to the Senate of Berlin or authorized persons under its jurisdiction such reactor materials, other than special nuclear materials, as are not obtainable on the commercial market and which are required in the construction and operation of research reactors in Berlin. The sale or lease of these materials shall be on such terms as may be agreed.

Article VII

It is contemplated that, as provided in this Article, private individuals and private organizations in either the United States of America or Berlin may deal directly with private individuals and private organizations in the other country. Accordingly, with respect to the subjects of agreed exchange of information as provided in Article III, the Government of the United States of America will permit persons under its jurisdiction to transfer and export materials, including equipment and devices, to and perform services for the Senate of Berlin and such persons under its jurisdiction as are authorized by the Senate of Berlin to receive and possess such materials and utilize such services, subject to :

(a) The provisions of Article II.

(b) Applicable laws, regulations, and license requirements of the Government of the United States and the Senate of Berlin.

Article VIII

1. The Senate of Berlin will maintain such safeguards as are necessary to assure that the special nuclear materials received from the Commission shall be used solely for the purposes agreed in accordance with this Agreement and to assure the safekeeping of this material.

2. The Senate of Berlin will maintain such safeguards as are necessary to assure that all other reactor materials, including equipment and devices, purchased in the United States of America under this Agreement by the Senate of Berlin or authorized persons under its jurisdiction shall be used solely for the design, construction, and operation of research reactors which the Senate of Berlin decides to construct and operate and for research in connection therewith, except as may otherwise be agreed.

3. In regard to research reactors constructed pursuant to this Agreement, the Senate of Berlin will maintain records relating to power levels of operation and burn-up of reactor fuels and will make annual reports to the Commission on these subjects. If the Commission requests, the Senate of Berlin will permit Commission representatives to observe from time to time the condition and use of any leased material and to observe the performance of the reactor in which the material is used.

4. Some atomic energy materials which the Senate of Berlin may request the Commission to provide in accordance with this arrangement are harmful to persons and property unless handled and used carefully. After delivery of such materials to the Senate of Berlin, the Senate of Berlin shall bear all responsibility, insofar as the Government of the United States of America is concerned, for the safe handling and use of such materials. With respect to any special nuclear materials or fuel elements which the Commission may, pursuant to this Agreement, lease to the Senate of Berlin or to any private individual or private organization under its jurisdiction, the Senate of Berlin shall indemnify and save harmless the Government of the United States of America against any and all liability (including third party liability) from any cause whatsoever arising out of the production or fabrication, the ownership, the lease, and the possession and use of such special nuclear materials or fuel elements after delivery by the Commission to the Senate of Berlin or to any authorized private individual or private organization under its jurisdiction.

Article IX

The Senate of Berlin guarantees, as provided in the Annex hereto, that :

(a) Safeguards provided in Article VIII shall be maintained.

(b) No material, including equipment and devices, transferred to the Senate of Berlin or authorized persons under its jurisdiction, pursuant to this Agreement, by lease, sale, or otherwise will be used for atomic weapons or for research on or development of atomic weapons or for any other military purposes, and that no such material including equipment and devices, will be transferred to unauthorized

persons or beyond the jurisdiction of the Senate of Berlin except as the Commission may agree to such transfer to a nation and then only if in the opinion of the Commission such transfer falls within the scope of an agreement for cooperation between the United States and such nation.

Article X

At the expiration of this Agreement or of any extension thereof the Senate of Berlin shall deliver to the United States of America all fuel elements containing reactor fuels leased by the Commission and any other fuel materials leased by the Commission. Such fuel elements and such fuel materials shall be delivered to the Commission at the expense of the Senate of Berlin and such delivery shall be made under appropriate safeguards against radiation hazards while in transit.

Article XI

This Agreement shall enter into force on the date on which the Government of the United States of America and the Government of the Federal Republic of Germany have advised each other in writing that they have complied with all statutory and constitutional requirements for the entry into force of such Agreement and shall remain in force for a period of five years. Such advice from the Government of the Federal Republic of Germany shall include a notification that the Senate of Berlin has adopted the provisions of this Agreement and has made the guaranties specified in Article IX above, as provided in the Annex¹ hereto, with the approval of the Allied Commandants (*Kommandatura*).

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed pursuant to duly constituted authority.

DONE at Washington, in duplicate, in the English and German languages, both texts being equally authentic, this 28th day of June, 1957.

For the Government of the United States of America :

C. Burke ELBRICK

Lewis L. STRAUSS

For the Government of the Federal Republic of Germany :

Heinz L. KREKELER

¹ See p. 352 of this volume.

A N N E X

With regard to the Agreement for Cooperation between the Government of the United States of America and the Government of the Federal Republic of Germany on Behalf of Berlin Concerning Civil Uses of Atomic Energy, signed June 28, 1957,¹ the Senate of Berlin accepts the provisions of the Agreement and makes the following guaranties :

(a) The safeguards provided in Article VIII thereof shall be maintained.

(b) No material, including equipment and devices, transferred to the Senate of Berlin or authorized persons under its jurisdiction, pursuant to this Agreement, by lease, sale, or otherwise will be used for atomic weapons or for research on or development of atomic weapons or for any other military purposes, and no such material, including equipment and devices, will be transferred to unauthorized persons or beyond Berlin, except as the Commission may agree to such transfer to a nation and then only if in the opinion of the Commission such transfer falls within the scope of an agreement for cooperation between the United States and such nation.

¹ See p. 340 of this volume.