

No. 5242

**UNITED STATES OF AMERICA
and
AUSTRIA**

**Agreement for co-operation concerning civil uses of atomic
energy. Signed at Washington, on 22 July 1959**

Official text: English.

Registered by the United States of America on 13 July 1960.

**ÉTATS-UNIS D'AMÉRIQUE
et
AUTRICHE**

**Accord de coopération concernant l'utilisation de l'énergie
atomique à des fins civiles. Signé à Washington, le
22 juillet 1959**

Texte officiel anglais.

Enregistré par les États-Unis d'Amérique le 13 juillet 1960.

No. 5242. AGREEMENT¹ FOR CO-OPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF AUSTRIA CONCERNING CIVIL USES OF ATOMIC ENERGY. SIGNED AT WASHINGTON, ON 22 JULY 1959

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

Whereas the Government of the United States of America and the Government of the Republic of Austria desire to cooperate with each other 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 the Government of the Republic of Austria 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 the Government of the Republic of Austria in such a program; and

Whereas the Parties desire this Agreement to supersede the Agreement for Cooperation between the Government of the United States of America and the Government of the Republic of Austria Concerning Civil Uses of Atomic Energy, signed at Washington on June 8, 1956;²

The Parties agree as follows :

¹ Came into force on 25 January 1960, the date on which each Government received from the other Government written notification that it had complied with all statutory and constitutional requirements for the entry into force of the Agreement, in accordance with article XII.

² United Nations, *Treaty Series*, Vol. 253, p. 139.

Article I

For the purposes of this Agreement :

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

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

(c) " 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.

(d) " Restricted Data " means all data concerning (1) design, manufacture or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the category of Restricted Data by the appropriate authority.

(e) " Special nuclear material " means : (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, or any other material which the Commission or the Government of the Republic of Austria determines to be special nuclear material; or (2) any material artificially enriched by any of the foregoing.

(f) " Atomic weapon " means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

(g) " Under its jurisdiction " as used in Articles II, VIII, IX and XI means subject to the laws of; and as used in Articles IV, V, VI and VII means within the territory and subject to the laws of. " Beyond the jurisdiction of " as used in Article IX means not within the territory and not subject to the laws of.

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 Republic of Austria 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

A. Subject to the provisions of Article II, the Parties hereto will exchange information in the following fields :

1. Design, construction, and operation of research reactors and their use as research, development, and engineering tools and in medical therapy.
2. Health and safety problems related to the operation and use of research reactors.
3. The use of radioactive isotopes in physical and biological research, medical therapy, agriculture, and industry.

B. The application or use of any information or data of any kind whatsoever, including design drawings and specifications, shall be the responsibility of the Party which receives and uses such information or data, and it is understood that the other Party does not warrant the accuracy, completeness, or suitability of such information or data for any particular use or application.

Article IV

A. The Commission will sell or lease, as may be agreed, to the Government of the Republic of Austria, uranium enriched up to twenty per cent (20%) in the isotope U-235, except as otherwise provided in paragraph C of this Article, in such quantities as may be agreed in accordance with the terms, conditions, and delivery schedules set forth in contracts for fueling defined research and materials testing reactors which the Government of the Republic of Austria, in consultation with the Commission, decides to construct or authorize private organizations to construct and which are constructed in Austria; provided, however, that the net amount of any uranium which shall have been sold or leased under this Article during the period of this Agreement shall not at any time exceed fifty (50) kilograms of contained U-235. This net amount shall be the gross quantity of such contained U-235 in uranium less the quantity of contained U-235 in recoverable uranium which has been resold or otherwise returned to the Government of the United States of America during the period of this Agreement or transferred to any other nation or international organization with the approval of the Government of the United States of America.

B. Within the limitations contained in paragraph A of this Article, the quantity of uranium enriched in the isotope U-235 transferred by the Commission under this Article and in the custody of the Government of the Republic of Austria shall not at any time be in excess of the quantity necessary for the full loading of each defined reactor project which the Government of the Republic of Austria or persons under its jurisdiction construct and fuel with uranium received from the United States of America, as provided herein, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of such reactor or reactors while replaced fuel is radioactively cooling, is in transit, or, subject to the provisions of paragraph E of this Article, is being reprocessed in Austria, it being the intent of the Commission to make possible the maximum usefulness of the material so transferred.

C. The Commission may, upon request and in its discretion, make a portion of the foregoing special nuclear material available as uranium enriched up to ninety per cent (90%) in the isotope U-235 for use in research or materials testing reactors each capable of operating with a fuel load not to exceed eight (8) kilograms of contained U-235 in uranium.

D. It is understood and agreed that although the Government of the Republic of Austria may distribute uranium enriched in the isotope U-235 to authorized users in Austria, the Government of the Republic of Austria will retain title to any uranium enriched in the isotope U-235 which is purchased from the Commission at least until such time as private users in the United States of America are permitted to acquire title in the United States of America to uranium enriched in the isotope U-235.

E. It is agreed that when any source or special nuclear material received from the United States of America requires reprocessing, such reprocessing shall be performed at the discretion of the Commission in either Commission facilities or facilities acceptable to the Commission, on terms and conditions to be later agreed; and it is understood, except as may be otherwise agreed, that the form and content of any irradiated fuel shall not be altered after its removal from the reactor and prior to delivery to the Commission or the facilities acceptable to the Commission for reprocessing.

F. With respect to any special nuclear material not subject to the option referred to in paragraph G of this Article and produced in reactors fueled with materials received from the United States of America which is in excess of the need of the Republic of Austria for such material in its program for the peaceful uses of atomic energy, the Government of the United States of America shall have and is hereby granted (a) a first option to purchase such material at prices

then prevailing in the United States of America for special nuclear material produced in reactors which are fueled pursuant to the terms of an agreement for cooperation with the Government of the United States of America, and (b) the right to approve the transfer of such material to any other nation or international organization in the event the option to purchase is not exercised.

G. Special nuclear material produced in any part of fuel leased hereunder as a result of irradiation processes shall be for the account of the Government of the Republic of Austria and after reprocessing as provided in paragraph E of this Article shall be returned to the Government of the Republic of Austria at which time title to such material shall be transferred to that Government, unless the Government of the United States of America shall exercise the option, which is hereby granted, to retain, with appropriate credit to the Government of the Republic of Austria, any such special nuclear material which is in excess of the needs of the Republic of Austria for such material in its program for the peaceful uses of atomic energy.

H. Some atomic energy materials which the Commission may provide in accordance with this Agreement are harmful to persons and property unless handled and used carefully. After delivery of such materials to the Government of the Republic of Austria the Government of the Republic of Austria 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 which the Commission may, pursuant to this Agreement, lease to the Government of the Republic of Austria or to any private individual or private organization under its jurisdiction, the Government of the Republic of Austria shall indemnify and save harmless the Government of the United States of America against any and all liability (including third party liability) for 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 after delivery by the Commission to the Government of the Republic of Austria or to any authorized private individual or private organization under its jurisdiction.

Article V

Materials of interest in connection with defined research projects related to the peaceful uses of atomic energy undertaken by the Government of the Republic of Austria 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 Government of the Republic of Austria 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.

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 Government of the Republic of Austria 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 Austria. 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 Austria may deal directly with private individuals and private organizations in the other country. Accordingly, with respect to the subject of agreed exchange of information as provided in Article III, each Party will permit persons under its jurisdiction to transfer and export materials, including equipment and devices, to and perform services for the other Party and such persons under its jurisdiction as are authorized by the other Party 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 each Party.

Article VIII

A. The Government of the United States of America and the Government of the Republic of Austria emphasize their common interest in assuring that any material, equipment, or device made available to the Government of the Republic of Austria pursuant to this Agreement shall be used solely for civil purposes.

B. Except to the extent that the safeguards provided for in this Agreement are supplanted, as provided in Article XI, by safeguards of the International Atomic Energy Agency, the Government of the United States of America, notwithstanding any other provisions of this Agreement, shall have the following rights :

1. With the objective of assuring design and operation for civil purposes and permitting effective application of safeguards, to review the design of any

- (i) reactor and
- (ii) other equipment and devices the design of which the Commission determines to be relevant to the effective application of safeguards,

which are to be made available to the Government of the Republic of Austria or persons under its jurisdiction by the Government of the United States of America or any person under its jurisdiction, or which are to use, fabricate, or process any of the following materials so made available: source material, special nuclear material, moderator material, or other material designated by the Commission;

2. With respect to any source or special nuclear material which is to be made available to the Government of the Republic of Austria or any person under its jurisdiction and any source or special nuclear material utilized in, recovered from, or produced as a result of the use of any of the following materials, equipment, or device so made available:

- (i) source material, special nuclear material, moderator material, or other material designated by the Commission,
- (ii) reactors,
- (iii) any other equipment or device designated by the Commission as an item to be made available on the condition that the provision of this subparagraph B 2 will apply,

(a) to require the maintenance and production of operating records and to request and receive reports for the purpose of assisting in ensuring accountability for such material; and (b) to require that any such material in the custody of the Government of the Republic of Austria or any person under its jurisdiction be subject to all of the safeguards provided for in this Article and the guarantees set forth in Article IX;

3. To require the deposit in storage facilities designated by the Commission of any of the special nuclear material referred to in subparagraph B 2 of this Article which is not currently utilized for civil purposes in Austria and which is not purchased or retained by the Government of the United States of America pursuant to Article IV of this Agreement, or otherwise disposed of pursuant to an arrangement mutually acceptable to the Parties;

4. To designate, after consultation with the Government of the Republic of Austria, personnel who, accompanied, if either Party so requests, by personnel designated by the Government of the Republic of Austria, shall have access in Austria to all places and data necessary to account for the source and special nuclear materials which are subject to subparagraph B 2 of this Article to deter-

mine whether there is compliance with this Agreement and to make such independent measurements as may be deemed necessary;

5. In the event of non-compliance with the provisions of this Article, or the guarantees set forth in Article IX, and the failure of the Government of the Republic of Austria to carry out the provisions of this Article within a reasonable time, to suspend or terminate this Agreement and require the return of any materials, equipment, and devices referred to in subparagraph B 2 of this Article;

6. To consult with the Government of the Republic of Austria in the matter of health and safety.

C. The Government of the Republic of Austria undertakes to facilitate the application of the safeguards provided for in this Article.

Article IX

The Government of the Republic of Austria guarantees that :

(a) Safeguards set forth in Article VIII shall be maintained.

(b) No material, including equipment and devices, transferred to the Government of the Republic of Austria 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 Government of the Republic of Austria except as the Commission may agree to such transfer to another nation and then only if in the opinion of the Commission such transfer falls within the scope of an agreement for cooperation between the Government of the United States of America and the other nation.

Article X

It is the hope and expectation of the Parties that this Agreement will lead to consideration of further cooperation extending to the design, construction, and operation of power producing reactors. Accordingly, the Parties will consult with each other from time to time concerning the feasibility of an additional agreement for co-operation with respect to the production of power from atomic energy in Austria.

Article XI

The Government of the United States of America and the Government of the Republic of Austria affirm their common interest in the International Atomic Energy Agency and to this end :

(a) The Parties will consult with each other, upon the request of either Party, to determine in what respects, if any, they desire to modify the provisions of this Agreement. In particular, the Parties will consult with each other to determine in what respects and to what extent they desire to arrange for the administration by the International Atomic Energy Agency of those conditions, controls, and safeguards including those relating to health and safety standards required by the Agency in connection with similar assistance rendered to a cooperating nation under the aegis of the Agency.

(b) In the event the Parties do not reach a mutually satisfactory agreement following the consultation provided for in subparagraph (a) of this Article, either Party may by notification terminate this Agreement. In the event this Agreement is so terminated, the Government of the Republic of Austria shall return to the Commission all source and special nuclear materials received pursuant to this Agreement and in its possession or in the possession of persons under its jurisdiction.

Article XII

A. The Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Austria Concerning Civil Uses of Atomic Energy signed at Washington on June 8, 1956 is superseded in its entirety on the day this Agreement enters into force.

B. This Agreement shall enter into force on the day on which each Party shall have received from the other Party written notification that such other Party has complied with all statutory and constitutional requirements for the entry into force of such Agreement and shall remain in force for a period of ten years.

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

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Agreement.

DONE at Washington, in duplicate, this twenty-second day of July 1959.

For the Government of the United States of America :

Ivan B. WHITE
Harold S. VANCE

For the Government of the Republic of Austria :

Wilfried PLATZER
