

No. 8869

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**INTERNATIONAL ATOMIC ENERGY AGENCY,  
MEXICO and UNITED STATES OF AMERICA**

**Contract for the lease of natural uranium and for the transfer of plutonium for a sub-critical facility in Mexico (with annex). Signed at Vienna, on 23 August 1967**

*Official text: English.*

*Registered by the International Atomic Energy Agency on 22 December 1967.*

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**AGENCE INTERNATIONALE DE L'ÉNERGIE ATOMIQUE,  
MEXIQUE et ÉTATS-UNIS D'AMÉRIQUE**

**Contrat pour la location d'uranium naturel et pour la cession de plutonium destinés à un assemblage sous-critique au Mexique (avec annexe). Signé à Vienne, le 23 août 1967**

*Texte officiel anglais.*

*Enregistré par l'Agence internationale de l'énergie atomique le 22 décembre 1967*

No. 8869. CONTRACT<sup>1</sup> BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY, MEXICO AND THE UNITED STATES OF AMERICA FOR THE LEASE OF NATURAL URANIUM AND FOR THE TRANSFER OF PLUTONIUM FOR A SUB-CRITICAL FACILITY IN MEXICO. SIGNED AT VIENNA, ON 23 AUGUST 1967

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WHEREAS the Government of the United Mexican States (hereinafter called "Mexico"), desiring to set up a project consisting of a sub-critical training facility for peaceful purposes, has requested the assistance of the International Atomic Energy Agency (hereinafter called the "Agency") in securing, among other things, the nuclear material necessary for this purpose;

WHEREAS the Board of Governors of the Agency approved the project on 21 February 1967, and the Agency and Mexico are this day concluding an agreement for the provision by the Agency of the assistance requested by Mexico;<sup>2</sup>

WHEREAS the Agency and the Government of the United States of America (hereinafter called the "United States") on 11 May 1959 concluded an Agreement for Co-operation (hereinafter called the "Co-operation Agreement"),<sup>3</sup> under which the United States undertook to make available to the Agency pursuant to its Statute<sup>4</sup> certain quantities of special fissionable material and to assist the Agency in obtaining source material; and

WHEREAS Mexico has made arrangements with a manufacturer in the United States of America (hereinafter called the "Manufacturer") for the fabrication of plutonium into three neutron sources for the sub-critical assembly;

The Agency, Mexico and the United States Atomic Energy Commission (hereinafter called the "Commission"), acting on behalf of the United States, hereby agree as follows :

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<sup>1</sup> Came into force on 23 August 1967, upon signature, in accordance with article XV.

<sup>2</sup> See p. 133 of this volume.

<sup>3</sup> United Nations, *Treaty Series*, Vol. 339, p. 359.

<sup>4</sup> United Nations, *Treaty Series*, Vol. 276, p. 3, and Vol. 471, p. 334.

## PART I

## THE SOURCE MATERIAL

*Article I*

## THE DELIVERY

*Section 1.* Subject to the provisions of the Co-operation Agreement, the Commission shall lease to the Agency, and the Agency shall lease from the Commission, 1400 fuel elements (hereinafter called the "source material"), the specifications of which are stated in the Annex to this Contract, for a Model 9000 Nuclear Chicago sub-critical training facility.

*Section 2.* The Agency shall lease to Mexico, and Mexico shall lease from the Agency, the source material.

*Section 3.* The conditions of the delivery of the source material shall be as follows :

- (a) The Commission shall pack the source material for shipment in containers, approved for this purpose by the Agency and Mexico, which containers shall in any case meet Commission requirements.
- (b) Weight, uranium content and other measurements of the source material shall be ascertained and certified by the Commission or persons acting on its behalf, in accordance with its, or their, normal practice. Prior to transfer of the source material to a carrier in accordance with Section 3(c), the Agency or Mexico, acting on behalf of the Agency, may, in accordance with mutually accepted procedures, test the material for conformity to the specifications in the Annex to this Contract, provided, however, that any claim by the Agency or Mexico that the source material does not meet the specifications, which is not submitted prior to transfer of the material to the carrier, is hereby waived.
- (c) The Commission shall make the source material available, free on board commercial conveyance at its Savannah River Plant approximately thirty days after the entry into force of this Contract unless otherwise agreed, to a carrier arranged for by Mexico acting on behalf of the Agency. The carrier will transport the material subject to such terms, charges and licences as may be required to the port of export at Laredo, Texas, unless otherwise agreed. The Commission shall thereupon transfer possession to Mexico acting on behalf of the Agency, at the port so specified, and authorize the export of the source material. On behalf of the Agency, Mexico shall accept possession of the material at the port of export and shall give appropriate written receipts therefor to the Commission on behalf of the Agency and to the Agency on behalf of Mexico.

*Section 4.* Except as provided in Article VI, title to the source material shall at all times be vested in the United States.

### *Article II*

#### THE RETURN

*Section 5.* Except as provided in Article VI, the Agency shall be responsible to the Commission for the return of all the source material at or before the date of termination of the leases in accordance with Section 11.

*Section 6.* At or before such date of termination Mexico shall, at the Agency's request and on its behalf, and after giving ninety days' notice to the Agency and the Commission, return to the Commission any source material to which it has not obtained title in accordance with Article VI.

*Section 7.* The conditions of the return of the source material shall be as follows :

- (a) Mexico shall pack the source material for shipment in containers approved for this purpose by the Agency and the Commission.
- (b) Mexico shall return the source material in accordance with appropriate health and safety measures prescribed by the Agency and the Commission, to a port of entry in the United States of America designated by the Commission after consultation with the Agency and Mexico.
- (c) Upon arrival of the source material at the port of entry, the Commission shall perform the actions required to authorize the import of such material. Unless otherwise mutually agreed, Mexico shall thereafter, on behalf of the Agency, arrange for a carrier, subject to such terms, charges and licences as may be required, to transport the material by commercial conveyance to the Commission facility or location specified by the Commission. The Commission shall accept possession of the source material at its specified facility or location and shall give an appropriate written receipt therefor, a certified copy of which Mexico shall transmit to the Agency.

### *Article III*

#### PROVISIONS COMMON TO DELIVERY AND RETURN

*Section 8.* The Agency or, at the Agency's request and on its behalf, Mexico shall pay all costs including the costs of containers and necessary packaging for transportation within and outside the United States of America and for transferring and storing the source material, as well as for physically handling it in connection with the delivery and the return; such costs shall not be the responsibility of, nor be borne by, the Commission.

*Section 9.* The parties may agree that the source material be delivered or returned in more than one shipment, in which case the provisions of this Contract shall apply, as appropriate, to each shipment.

#### *Article IV*

##### PERIOD OF LEASES

*Section 10.* The leases specified in Sections 1 and 2 shall commence at the time when, pursuant to Section 3(c), Mexico, acting on behalf of the Agency, accepts possession of the source material at the United States port of export. They shall terminate either at the time when, pursuant to Section 7(c), the Commission accepts possession upon return of the source material or, with respect to any material to which title is transferred pursuant to Article VI, at the time of such transfer. The rights and obligations under this Contract, insofar as not specifically restricted to the period of the leases, shall commence on the entry into force of this Contract and shall, to the extent unfulfilled, extend beyond the termination of the leases.

*Section 11.* The leases shall terminate on 31 December 1970, unless extended by agreement between the parties. Any party may specify an earlier termination date by sixty days' notice to the other parties if any obligation of the Co-operation Agreement or of this Contract has not been fulfilled by the other parties thereto. The Agency may specify an earlier termination date :

- (i) Under the conditions specified in Article XII.A.7 and XII.C of its Statute; or
- (ii) After consultation with or at the request of Mexico, in case of any increase, pursuant to Section 25, in the Use or Consumption Charges above the rates indicated in Sections 12(a) and (b) respectively.

If Mexico so requests, the Agency shall, by notification to the Commission, cancel this Contract before acceptance of possession of any of the source material.

#### *Article V*

##### AMOUNT OF PAYMENT

*Section 12.* Mexico shall pay the Agency and the Agency shall pay the Commission :

- (a) A Use Charge for the source material, levied for the period of the leases or until it has been determined in accordance with Section 13(b) that it is impossible to return such material, and calculated in accordance with the quantity

of natural uranium in the source material and the Commission's schedule of charges for natural uranium published in the United States Federal Register (hereinafter called the "Commission's published charges") and in effect during the appropriate period. At present the Use Charge is calculated at an annual rate of 4.75% of the values specified in sub-section (b).

- (b) A Consumption Charge equal to the value of any of the natural uranium in the source material that is lost, consumed or otherwise not returned, calculated in accordance with the Commission's published charges in effect at the time of the determination called for by Section 13(b). The present charge is US\$23.50 per kilogram of the uranium.

*Section 13.* The Commission shall bill the Agency and the Agency shall thereupon bill Mexico as follows :

- (a) For the Use Charge, at the end of June and December each year and on acceptance of possession upon return of any source material.
- (b) For the Consumption Charge, as soon as a determination has been made and agreed to by the parties that any of the source material has been lost, consumed or that a failure to or impossibility of return has occurred.

*Section 14.* At the request of the Commission, Mexico shall provide the Agency and the Commission with such information concerning the source material as may be required for the Commission to prepare its billing in accordance with Section 13.

## Article VI

### POSSIBLE TRANSFER OF TITLE

*Section 15.* At any time during the period of the leases, Mexico may acquire title to any of the source material by paying to the Commission, on behalf of the Agency, a sum equal to the Consumption Charge for such material. At the end of the month in which the Commission receives such payment, title to the material in question shall automatically vest in the Agency and shall thereafter immediately and automatically vest in Mexico.

*Section 16.* Upon any transfer of title pursuant to Section 15, the leases shall immediately terminate with respect to the material in question and no further charges pursuant to Article V shall accrue with respect to such material.

*Article VII*

## ASSIGNMENT, USE AND TRANSFER

*Section 17.* Neither the Agency nor Mexico may transfer any right or interest under this Contract to any third State.

*Section 18.* Unless otherwise agreed, Mexico shall not use any source material to which it has not obtained title in accordance with Article VI otherwise than in the sub-critical facility, nor transfer any such material outside the jurisdiction of the contracting States.

## PART II

## THE SPECIAL FISSIONABLE MATERIAL

*Article VIII*

## THE TRANSFER

*Section 19.* Subject to the provisions of the Co-operation Agreement, the Commission shall transfer to the Agency and the Agency shall accept from the Commission 80 grams of plutonium (hereinafter called the "special fissionable material"), contained in three plutonium-beryllium neutron sources with a total activity of 5 curies.

*Section 20.* The Agency shall transfer to Mexico and Mexico shall accept from the Agency the special fissionable material.

*Section 21.* The conditions of the transfer of the special fissionable material shall be as follows :

- (a) The Commission shall make available to the Manufacturer or to a properly licensed supplier of the Manufacturer, at a facility of the Commission designated by it, plutonium for the neutron source, subject to such terms, charges and licenses as the Commission may require.
- (b) The precise quantity of plutonium in the neutron source shall be determined by the Manufacturer or his supplier, and Mexico shall cause the Manufacturer to submit to the Agency and to the Commission a written certification of the Manufacturer's or his supplier's determination of the quantity of plutonium contained in the source. This determination shall be accepted as conclusive by the parties.
- (c) Upon completion of the fabrication and the preparation for shipment of the neutron source containing the special fissionable material and receipt by the parties of the determination concerning its quantity and upon compliance

with paragraph 3 of the Annex to the Project Agreement, Mexico, at the request and on behalf of the Agency, shall arrange for a carrier who, after thirty days' written notice to the Commission and subject to such terms, charges and licences as the Commission may require, shall transport and deliver the material to the port of export at Laredo, Texas, unless otherwise agreed. The Commission, at the request and on behalf of the Agency, shall thereupon transfer possession to Mexico at such port of export, and authorize the export of the special fissionable material. On behalf of the Agency, Mexico shall make arrangements for transportation within and outside the United States and for delivering and storing such material, as well as for physically handling it and shall pay all costs in connection therewith, including the costs of containers and packaging. On behalf of the Agency, Mexico shall accept possession of the material at the port of export and shall give appropriate written receipts therefor to the Commission on behalf of the Agency and to the Agency on behalf of Mexico.

- (d) Title to the special fissionable material shall vest in the Agency at the time it leaves the jurisdiction of the United States of America and shall thereafter immediately and automatically vest in Mexico.

### *Article IX*

#### AMOUNT OF PAYMENT

*Section 22.* The Agency shall pay for the special fissionable material as per the schedule of charges for plutonium published in the United States Federal Register and in effect on the date of transfer of possession of the material, provided, however, that in the event the Base Charge in effect on the date of transfer should exceed US\$43.00 per gram of contained plutonium which is the charge in effect on the date of the entry into force of this Contract pursuant to Section 37, the Agency may, and at the request of Mexico shall, cancel this Contract without incurring obligations of any kind thereunder. To the extent the Commission determines that title to any or all of the special fissionable material shall be transferred by gift, the amount payable to the Commission shall be reduced by the value of the free material. The Commission shall send to the Agency an invoice covering the amount of material sold to the Agency and the charge therefor computed in accordance with this Section at or subsequent to the time the Commission transfers possession pursuant to Section 21(c), but in no event later than the end of the calendar year in which the material is so transferred.

*Section 23.* In order to assist and encourage research on peaceful uses or for medical therapy, the Commission has in each calendar year offered to distribute to the Agency, free of charge, special fissionable material of a value of up to US\$50 000 at the time of transfer, to be supplied from the amounts specified in Article II.A of the Co-operation Agreement. If the Commission finds the



project to which this Contract relates eligible, it shall decide by the end of the calendar year in which this Contract is concluded on the extent, if any, to which the project shall benefit by the gift offer, and shall promptly notify the Agency and Mexico of that decision. The payment provided in Section 22 shall be reduced by the value of any free material thus made available for the special fissionable material.

### PART III

## GENERAL PROVISIONS

### *Article X*

#### PROCEDURE OF PAYMENT

*Section 24.* Payment shall be made by Mexico to the Agency and by the Agency to the Commission or its designated agent or contractor, in United States currency. The Commission shall be entitled to an additional charge at the rate of six per cent per annum on all amounts due and not received by the Commission within sixty days after the date of transfer of possession of the material pursuant to Sections 3(c) and 21(c). Mexico shall pay the Agency within thirty days after receipt of the Agency's invoice, to be dispatched after receipt of the Commission's invoice, and Mexico shall reimburse the Agency for, or, at the Agency's request and on its behalf, Mexico shall pay directly to the Commission, any additional interest charges.

*Section 25.* The Commission may, in accordance with its general policies, change its published charges on which are based the Use Charge referred to in Section 12(a) and the Consumption Charge referred to in Section 12(b), by giving thirty days' prior notice of such change to the Agency and to Mexico. Any such change shall be effective as of the first day of the following January or July, as stated in the notice of change furnished by the Commission.

*Section 26.* The Agency shall send an invoice to Mexico at or subsequent to the time the parties have received the determination pursuant to Section 21(b). Within thirty days from the date of this invoice Mexico shall pay to the Agency in United States currency a sum equal to that which the Agency will be obliged to pay to the Commission pursuant to Section 22. The Agency shall be entitled to any additional interest charges due pursuant to Section 24.

### *Article XI*

#### WARRANTY, RESPONSIBILITY AND LIABILITY

*Section 27.* Neither the Agency nor the Commission make any warranty either express, implied, statutory or otherwise with regard to the source material.

*Section 28.* Neither the Agency nor the Commission shall be liable for any failure to transport and deliver the source material in accordance with the date specified in Section 3(c).

*Section 29.* The Agency shall assume full responsibility to the Commission, during the period of the leases, for the source material, including any loss, destruction, contamination or consumption thereof, and after acceptance of possession pursuant to Section 21(c) for the special fissionable material. Mexico shall be equally responsible to the Agency.

*Section 30.* Neither the Agency nor any person acting on its behalf shall at any time bear any responsibility towards Mexico or any person claiming through Mexico, for the safe handling and the use of the source material and of the special fissionable material.

*Section 31.* Neither the United States nor the Commission, nor any person acting on behalf of the Commission, shall bear any responsibility for the safe handling and the use of the special fissionable material, or of the source material before its return in accordance with Section 7.

*Section 32.* The Agency shall hold harmless the Commission and Mexico shall hold harmless the Agency against any liability from any cause arising in connection with the source material during the transport of such material to the United States port of export and during the period of the leases.

*Section 33.* Unless expressly waived in writing by the Agency and the Commission, Mexico agrees to indemnify the Agency, the United States, the Commission, or any person acting on behalf of the Agency or the Commission, against liability, and resultant costs and expenses incurred, for infringement of any patent occurring in the utilization by Mexico of the source material.

## *Article XII*

### OFFICIALS NOT TO BENEFIT

*Section 34.* No Member of the Congress of the United States of America or Resident Commissioner of the United States of America shall be admitted to or share any part of this Contract or any benefit that may arise therefrom.

## *Article XIII*

### WAIVER OF RIGHTS BY COMMISSION

*Section 35.* Nothing in this Contract shall obligate the Agency or Mexico to pay any charges or observe any provisions of, or established pursuant to, this

Contract, if the Commission, in accordance with statutory or other authority available to it, determines that such charges or other provisions are not applicable.

#### Article XIV

##### SETTLEMENT OF DISPUTES

*Section 36.* Any dispute arising out of the interpretation or application of this Contract which is not settled by negotiation or as may otherwise be agreed by the parties concerned shall, on the request of any party, be submitted to an arbitral tribunal composed as follows :

- (a) If the dispute involves only two of the parties of this Contract, all three parties agreeing that the third is not concerned, the two parties involved shall each designate one arbitrator, and the two arbitrators so designated shall elect a third, who shall be the Chairman. If within thirty days of the request for arbitration either party has not designated an arbitrator, either party to the dispute may request the President of the International Court of Justice to do so. The same procedure shall apply if, within thirty days of the designation of the second arbitrator, the third arbitrator has not been elected.
- (b) If the dispute involves all three parties to this Contract, each party shall designate one arbitrator, and the three arbitrators so designated shall by unanimous decision elect a fourth arbitrator, who shall be the Chairman, and a fifth arbitrator. If within thirty days of the request for arbitration any party has not designated an arbitrator, any party may request the President of the International Court of Justice to designate the necessary number of arbitrators. The same procedure shall apply if, within thirty days of the designation of the third of the first three arbitrators, the Chairman or the fifth arbitrator has not been elected. A majority of the members of the arbitral tribunal shall constitute a quorum. All decisions shall be made by majority vote. The arbitral procedure shall be established by the tribunal, whose decisions, including all rulings concerning its constitution, procedure, jurisdiction and the division of the expenses of arbitration between the parties, shall be binding on all parties. The remuneration of the arbitrators shall be determined on the same basis as that of *ad hoc* judges of the International Court of Justice.

#### Article XV

##### ENTRY INTO FORCE

*Section 37.* This Contract shall enter into force upon signature by or for the Director General of the Agency and by the authorized representatives of the Commission and Mexico.

DONE in Vienna, on the 23rd day of August 1967, in triplicate in the English language.

For the International Atomic Energy Agency :

Upendra GOSWAMI

For the Government of the United Mexican States :

Amalia de CASTILLO LEDÓN

For the United States Atomic Energy Commission  
on behalf of the Government of the United States of America :

Verne B. LEWIS

## A N N E X

### SPECIFICATIONS

The specifications of the fuel elements to be leased pursuant to this Contract are as follows :

Geometry . . . . .	Hollow cylinder
Clad outer diameter . . . . .	3.02-3.08 cm
Overall length of fuel element . . . . .	20.07-21.50 cm
Cladding material . . . . .	Aluminium
Cladding thickness . . . . .	0.100-0.110 cm
Fuel material . . . . .	Natural uranium
Weight of fuel in fuel element . . . . .	1.678-1.860 kg

The fuel elements were manufactured at the Savannah River Plant in the United States and are to be shipped from the Commission's existing stocks.