

No. 10337

**UNITED STATES OF AMERICA
and
PORTUGAL**

**Agreement for co-operation concerning civil uses of atomic
energy. Signed at Washington on 3 July 1969**

Authentic texts: English and Portuguese.

Registered by the United States of America on 4 March 1970.

**ÉTATS-UNIS D'AMÉRIQUE
et
PORTUGAL**

**Accord de coopération concernant l'utilisation de l'énergie
atomique à des fins civiles. Signé à Washington le
3 juillet 1969**

Textes authentiques: anglais et portugais.

Enregistré par les États-Unis d'Amérique le 4 mars 1970.

AGREEMENT¹ FOR COOPERATION BETWEEN THE
GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENT OF PORTUGAL CONCERN-
ING CIVIL USES OF ATOMIC ENERGY

Whereas the Government of the United States of America and the Government of Portugal signed an "Agreement for Cooperation Between the Government of the United States of America and the Government of Portugal Concerning Civil Uses of Atomic Energy" on July 21, 1955,² which was amended by the Agreements signed on June 7, 1957,³ June 11, 1960⁴ May 28, 1962⁵ and August 11, 1964;⁶ and

Whereas the Government of the United States of America and the Government of Portugal desire to pursue a research and development program looking toward the realization of peaceful and humanitarian uses of atomic energy; and

Whereas the Government of the United States of America and the Government of Portugal are desirous of entering into this Agreement to cooperate with each other to attain the above objectives; 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 Portugal Concerning Civil Uses of Atomic Energy" signed July 21, 1955, as amended;

The Parties agree as follows :

Article I

The "Agreement for Cooperation Between the Government of the United States of America and the Government of Portugal Concerning Civil Uses of Atomic Energy" signed on July 21, 1955, as amended, is superseded on the date this Agreement enters into force.

¹ Came into force, on 19 July 1969, the date on which each Government had received from the other Government written notification that it had complied with all statutory and constitutional requirements, in accordance with article XIII.

² United Nations, *Treaty Series*, vol. 239, p. 283.

³ *Ibid.*, vol. 290, p. 336.

⁴ *Ibid.*, vol. 377, p. 428.

⁵ *Ibid.*, vol. 459, p. 298.

⁶ *Ibid.*, vol. 531, p. 336.

Article II

For the purposes of this Agreement :

(1) "Parties" means the Government of the United States of America, including the Commission on behalf of the Government of the United States of America, and the Government of Portugal. "Party" means one of the above "Parties".

(2) "Commission" means the United States Atomic Energy Commission.

(3) "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.

(4) "Byproduct material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(5) "Equipment and devices" and "equipment or devices" mean any instrument, apparatus, or facility, and include any facility, except an atomic weapon, capable of making use of or producing special nuclear material, and component parts thereof.

(6) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency, or government corporation but does not include the Parties to this Agreement.

(7) "Research reactor" means a reactor which is designed for the production of neutrons and other radiations for general research and development purposes, medical therapy and diagnosis, 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 material.

(8) "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.

(9) "Safeguards" means a system of controls designed to assure that any material, equipment and devices committed to the peaceful uses of atomic energy are not used to further any military purpose.

(10) "Source material" means (1) uranium, thorium, or any other material which is determined by the Commission or the Government of Portugal to be source material, or (2) ores containing one or more of the foregoing materials, in such concentration as the Commission or the Government of Portugal may determine from time to time.

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

(12) "Superseded Agreement" means the Agreement for Cooperation between the Government of the United States of America and the Government of Portugal signed by the Parties on July 21, 1955, as amended by the Agreements signed on June 7, 1957, June 11, 1960, May 28, 1962, and August 11, 1964.

Article III

A. Subject to the provisions of the Agreement, the availability of personnel and material, and the applicable laws, regulations, and license requirements in force in their respective countries, the Parties shall cooperate with each other in the achievement of the uses of atomic energy for peaceful purposes.

B. 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, if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

C. This Agreement shall not require the exchange of any information which the Parties are not permitted to communicate.

Article IV

Subject to the provisions of Article III, the Parties will exchange unclassified information with respect to the application of atomic energy to peaceful uses and the problems of health and safety connected therewith. The exchange of information provided for in this Article shall be accomplished through various means, including reports, conferences, and visits to facilities, and shall include information in the following fields :

- (1) Design, construction, operation, and use of research reactors, materials testing reactors, and reactor experiments;
- (2) The use of radioactive isotopes and source material, special nuclear material, and byproduct material in physical and biological research, medicine, agriculture, and industry; and
- (3) Health and safety problems related to the foregoing.

Article V

A. Materials of interest in connection with the subjects of agreed exchange of information, as provided in Article IV and subject to the provisions of Article III, including source material, heavy water, byproduct material, other radioisotopes, stable isotopes, and special nuclear material for purposes other than fueling reactors and reactor experiments, may be transferred between the Parties for defined applications in such quantities and under such terms and conditions as may be agreed when such materials are not commercially available.

B. Subject to the provisions of Article III and under such terms and conditions as may be agreed, specialized research facilities and reactor materials testing facilities of the Parties may be made available for mutual use consistent with the limits of space, facilities, and personnel conveniently available when such facilities are not commercially available.

C. With respect to the subjects of agreed exchange of information as provided in Article IV and subject to the provisions of Article III, equipment and devices may be transferred from one Party to the other under such terms and conditions as may be agreed. It is recognized that such transfers will be subject to limitations which may arise from shortages of supplies or other circumstances existing at the time.

Article VI

The application or use of any information (including design drawings and specifications), and any material, equipment and devices, exchanged or transferred between the Parties under this or the superseded Agreement, shall be the responsibility of the Party receiving it, and the other Party does not warrant the accuracy or completeness of such information and does not warrant the suitability of such information, material, equipment and devices for any particular use or application.

Article VII

A. With respect to the application of atomic energy to peaceful uses, it is understood that arrangements may be made between either Party or authorized persons under its jurisdiction and authorized persons under the jurisdiction of the other Party for the transfer of equipment and devices and materials other than special nuclear material and for the performance of services with respect thereto.

B. With respect to the application of atomic energy to peaceful uses, it is understood that arrangements may be made between either Party or authorized persons under its jurisdiction and authorized persons under the jurisdiction of

the other party for the transfer of special nuclear material and for the performance of services with respect thereto for the uses specified in Articles V and VIII and subject to the limitations of Article VIII, paragraph B.

C. The Parties agree that the activities referred to in paragraphs A and B of this Article shall be subject to the limitations in Article III and to the policies of the Parties with regard to transactions involving the authorized persons referred to in paragraphs A and B above.

Article VIII

A. As may be agreed, the Commission will transfer to the Government of Portugal or authorized persons under its jurisdiction, uranium enriched in the isotope U-235 for use as fuel in defined research applications, including research reactors, materials testing reactors, and reactor experiments, which the Government of Portugal decides to construct or operate or authorizes private persons to construct or operate in Portugal. Contracts setting forth the terms, conditions, and delivery schedule of each transfer shall be agreed upon in advance.

B. The net amount of U-235 in enriched uranium transferred under this Article during the period of this Agreement for Cooperation, or under the superseded Agreement, shall not at any time exceed twenty-five (25) kilograms. This net amount shall be the gross quantity of such contained U-235 in uranium transferred during the period of this or the superseded Agreement less the quantity of such contained U-235 in recoverable uranium which has been resold or otherwise returned to the United States of America during the period of this or the superseded Agreement or transferred to any other nation or group of nations with the approval of the Government of the United States of America.

C. Within the limitations contained in paragraph B of this Article, the quantity of uranium enriched in the isotope U-235 transferred under this Article and under the jurisdiction of the Government of Portugal for the fueling of reactors or reactor experiments shall not at any time be in excess of the quantity thereof necessary for the loading of such reactors or reactor experiments, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of such reactors or reactor experiments.

D. The enriched uranium supplied hereunder may contain up to twenty percent (20%) in the isotope U-235. All or a portion of the foregoing special nuclear material may be made available as uranium enriched to more than twenty percent (20%) by weight in the isotope U-235 when the Commission finds there is a technical or economic justification for such a transfer for use in research reactors, materials testing reactors, and reactor experiments, each capable of operating with a fuel load not to exceed eight (8) kilograms of the isotope U-235 contained in such uranium.

E. When any special nuclear material received from the United States of America pursuant to this or the superseded Agreement requires reprocessing, or any irradiated fuel elements containing fuel material received from the United States of America pursuant to this or the superseded Agreement are to be removed from a reactor and are to be altered in form and content, such reprocessing or alteration shall be performed in facilities acceptable to both Parties upon a joint determination of the Parties that the provisions of Article X may be effectively applied.

F. Special nuclear material produced as a result of irradiation processes in any part of fuel leased by the Commission under this or the superseded Agreement shall be for the account of the lessee and, after reprocessing as provided in paragraph E of this Article, shall be returned to the lessee at which time title to such material shall be transferred to the lessee.

G. No special nuclear material produced through the use of material transferred to the Government of Portugal or to authorized persons under its jurisdiction, pursuant to this or the superseded Agreement, will be transferred to any other nation or group of nations, except as the Commission may agree to such a transfer.

H. Some atomic energy materials which the Commission may be requested to provide in accordance with this Agreement, or which have been provided to the Government of Portugal under the superseded Agreement, are harmful to persons and property unless handled and used carefully. After delivery of such materials, the Government of Portugal 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 material or fuel elements which the Commission may, pursuant to this Agreement, lease to the Government of Portugal or to any person under its jurisdiction, or may have leased pursuant to the superseded Agreement to the Government of Portugal, the Government of Portugal 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 material or fuel elements after delivery by the Commission to the Government of Portugal or to any person under its jurisdiction.

Article IX

The Government of Portugal guarantees that :

- (1) Safeguards provided in Article X shall be maintained.
- (2) No material, including equipment and devices, transferred to the Government of Portugal or authorized persons under its jurisdiction by purchase or otherwise pursuant to this or the superseded Agreement and no special

nuclear material produced through the use of such material, equipment or devices, will be used for atomic weapons, or for research on or development of atomic weapons, or for any other military purpose.

- (3) No material, including equipment and devices, transferred to the Government of Portugal or authorized persons under its jurisdiction pursuant to this or the superseded Agreement will be transferred to unauthorized persons or beyond the jurisdiction of the Government of Portugal, except as the Commission may agree to such a transfer to another nation or group of nations, and then only if, in the opinion of the Commission, the transfer of the material is within the scope of an Agreement for Cooperation between the Government of the United States of America and the other nation or group of nations.

Article X

A. The Government of the United States of America and the Government of Portugal emphasize their common interest in assuring that any material, equipment or devices made available to the Government of Portugal or any person under its jurisdiction pursuant to this or the superseded Agreement shall be used solely for civil purposes.

B. Except to the extent that the safeguards rights provided for in this Agreement are suspended by virtue of the application of safeguards of the International Atomic Energy Agency, as provided in Article XI, 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
 - (a) reactor, and
 - (b) 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 under this Agreement, or have been made available under the superseded Agreement, to the Government of Portugal or to any person 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 material or special nuclear material made available to the Government of Portugal or to any person under its jurisdiction under this or the superseded Agreement by the Government of the United States of America or any person under its jurisdiction and any source material or

special nuclear material utilized in, recovered from, or produced as a result of the use of any of the following materials, equipment or devices so made available :

- (a) source material, special nuclear material, moderator material, or other material designated by the Commission,
- (b) reactors, and
- (c) any other equipment or devices designated by the Commission as an item to be made available on the condition that the provisions of this paragraph B(2) will apply,
 - (i) 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 materials, and
 - (ii) to require that any such materials in the custody of the Government of Portugal 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 paragraph B(2) of this Article which is not currently utilized for civil purposes in Portugal and which is not transferred pursuant to Article VIII 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 Portugal, personnel who, accompanied, if either Party so requests, by personnel designated by the Government of Portugal, shall have access in Portugal to all places and data necessary to account for the source material and special nuclear material which are subject to paragraph B(2) of this Article to determine 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 Portugal to carry out the provisions of this Article within a reasonable time, to suspend or terminate this Agreement and to require the return of any materials, equipment and devices referred to in paragraph B(2) of this Article;
- (6) To consult with the Government of Portugal in the matter of health and safety.

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

Article XI

A. The Government of the United States of America and the Government of Portugal note that, by an agreement signed by them and the International Atomic Energy Agency on February 24, 1965,¹ the Agency has been applying safeguards to materials, equipment and facilities transferred to the Government of Portugal under the superseded Agreement. The Parties agree that Agency safeguards, either as provided in the trilateral agreement, as it may be amended from time to time, or as provided in a new supplanting trilateral agreement, shall continue to apply to such materials, equipment and facilities transferred under the superseded agreement, or to be transferred under this Agreement, recognizing that the safeguards rights accorded to the Government of the United States of America by Article X of this Agreement are suspended during the time and to the extent that Agency safeguards apply to such materials, equipment and facilities.

B. In the event that the applicable trilateral agreement referred to in paragraph A of this Article should be terminated prior to the expiration of this Agreement and the Parties should fail to agree promptly upon a resumption of Agency safeguards, either Party may, by notification, terminate this Agreement. In the event of termination by either Party, the Government of Portugal shall, at the request of the Government of the United States of America, return to the Government of the United States of America all special nuclear material received pursuant to this or the superseded Agreement and still in its possession or in the possession of persons under its jurisdiction. The Government of the United States of America will compensate the Government of Portugal or the persons under its jurisdiction for their interest in such material so returned at the Commission's schedule of prices then in effect in the United States of America.

Article XII

The rights and obligations of the Parties provided for under this Agreement shall extend, to the extent applicable, to cooperative activities initiated under the superseded Agreement, including, but not limited to, information, materials, equipment and devices transferred thereunder.

Article XIII

This Agreement shall enter into force on the date on which each Government shall have received from the other Government written notification that it 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 (10) years.

¹ United Nations, *Treaty Series*, vol. 556, p. 47.

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

DONE at Washington, in duplicate, in the English and Portuguese languages, both equally authentic, this third day of July, 1969.

For the Government of the United States of America :

George S. SPRINGSTEEN

Glenn T. SEABORG

For the Government of Portugal :

Vasco VIEIRA GARIN
