

No. 13583

**UNITED STATES OF AMERICA
and
SPAIN**

Agreement for cooperation concerning civil uses of atomic energy (with related note). Signed at Washington on 20 March 1974

Authentic texts of the Agreement: English and Spanish.

Authentic text of the related note: English.

Registered by the United States of America on 16 October 1974.

**ÉTATS-UNIS D'AMÉRIQUE
et
ESPAGNE**

Accord de coopération concernant l'utilisation de l'énergie atomique à des fins civiles (avec note connexe). Signé à Washington le 20 mars 1974

Textes authentiques de l'Accord : anglais et espagnol.

Texte authentique de la note connexe : anglais.

Enregistré par les États-Unis d'Amérique le 16 octobre 1974.

AGREEMENT¹ FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF SPAIN CONCERNING CIVIL USES OF ATOMIC ENERGY

Whereas the Government of the United States of America and the Government of Spain signed an “Agreement for cooperation between the Government of the United States of America and the Government of Spain concerning civil uses of atomic energy” on August 16, 1957,² which was amended by the Agreement signed on November 29, 1965,³ and

Whereas the Government of the United States of America and the Government of Spain desire to pursue a research and development program looking toward the realization of peaceful and humanitarian uses of atomic energy, including the design, construction, and operation of power-producing reactors and research reactors, and the exchange of information relating to the development of other peaceful uses of atomic energy; and

Whereas the Government of the United States of America and the Government of Spain 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 Spain concerning civil uses of atomic energy” signed on August 16, 1957, as amended;

The Parties agree as follows:

Article I. For the purposes of this Agreement

(1) “Parties” means the Government of the United States of America and the Government of Spain. “Party” means one of the above Parties. For implementation of the provisions of this Agreement the Parties shall be represented by the United States Atomic Energy Commission and the Spanish Junta de Energía Nuclear, respectively.

(2) “Commission” means the United States Atomic Energy Commission.

(3) “Spanish Junta” means the Junta de Energía Nuclear of the Government of Spain.

(4) “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.

(5) “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.

(6) “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.

¹ Came into force on 28 June 1974, the date of the last of the notifications by which each of the Parties informed the other that it had complied with all the statutory and constitutional requirements, in accordance with article XV.

² United Nations, *Treaty Series*, vol. 307, p. 169.

³ *Ibid.*, vol. 586, p. 260.

(7) "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.

(8) "Reactor" means an apparatus, other than an atomic weapon, in which a self-supporting fission chain reaction is maintained by utilizing uranium, plutonium, or thorium, or any combination of uranium, plutonium, or thorium.

(9) "Restricted Data" means all data concerning (a) design, manufacture, or utilization of atomic weapons, (b) the production of special nuclear material, or (c) 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.

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

(11) "Source material" means (a) uranium, thorium, or any other material which is determined by either party to be source material, or (b) ores containing one or more of the foregoing materials, in such concentration as either Party may determine from time to time.

(12) "Special nuclear material" means (a) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission determines to be special nuclear material, or (b) any material artificially enriched by any of the foregoing.

(13) "Superseded Agreement" means the Agreement for Cooperation between the Government of the United States of America and the Government of Spain signed by the Parties on August 16, 1957, as amended by the Agreement signed on November 29, 1965.

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

- (1) development, design, construction, operation, and use of research, materials testing, experimental, demonstration power, and power 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 considerations related to the foregoing.

Article IV. A. Materials of interest in connection with the subjects of agreed exchange of information, as provided in article III and subject to the provisions of article II, 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 II 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 III and subject to the provisions of article II, 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 V. 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 Agreement 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 VI. 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 IV and VII and subject to the relevant provisions of article VIII and to the provisions of article IX.

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 II and to the policies of the Parties with regard to transactions involving the authorized persons referred to in paragraphs A and B of this article.

Article VII. A. Subject to the availability of capacity in Commission facilities for uranium enrichment and within the quantity authorized in article IX for transfer, service contracts with the Government of Spain, or with authorized persons under its jurisdiction, may be entered into by the Commission as herein set forth for the production or enrichment of uranium enriched in the isotope U-235 for use as fuel in power applications undertaken within Spain. It is understood by the Parties that, at such times as the Government of Spain, or such authorized persons,

have requirements for such services and are prepared to execute firm contracts which set forth the agreed delivery schedules and other terms and conditions of supply, the Government of Spain or such authorized persons will have access on an equitable basis with other purchasers of such services to uranium enrichment capacity then available in Commission facilities and not already allocated.

B. Additionally, upon request by the Government of Spain or authorized persons under its jurisdiction, the Commission may, at its option and under terms and conditions as may be agreed, sell uranium enriched in the isotope U-235 in such amounts as are within the quantity authorized in article IX for transfer for use as fuel in power applications undertaken within Spain.

C. Under such terms and conditions as may be agreed, the Commission may transfer (including the supply through enrichment services contracts) to the Government of Spain, or authorized persons under its jurisdiction, uranium enriched in the isotope U-235 for use as fuel in reactor experiments and reactors other than those covered under paragraphs A and B of this article, including reactors for research, materials testing, experimental, scientific, and industrial uses.

D. Special nuclear material other than uranium enriched in the isotope U-235 may be transferred to the Government of Spain, or to authorized persons under its jurisdiction, for use as fuel in reactors and reactor experiments, provided that the Commission may transfer quantities of such material only to the extent that they fall within an authorized ceiling therefor set forth in article IX and that the terms and conditions of each such transfer shall be agreed upon in advance.

E. Irradiated special nuclear material of United States origin may be transferred from third countries to the Government of Spain, or to authorized persons under its jurisdiction, under such terms and conditions as the Parties may agree and within such quantities as may be authorized in article IX, for chemical reprocessing and subsequent retention in Spain for applications within the scope of this Agreement, or subsequent transfer to another nation other than the United States of America or group of nations pursuant to article X.

F. Special nuclear material may also be transferred (including *inter alia* supply through enrichment services contracts) to the Government of Spain or to authorized persons under its jurisdiction, under such terms and conditions as may be agreed, for the performance in Spain of conversion or fabrication services, or both, and for subsequent transfer to another nation or group of nations in accordance with the provisions of this Agreement.

Article VIII. A. The enriched uranium supplied under this Agreement may contain up to twenty percent (20%) in the isotope U-235. A portion of the uranium enriched in the isotope U-235 so supplied may be made available as material containing more than twenty percent (20%) in the isotope U-235 when there is a technical or economic justification for such a transfer.

B. Subject to the provisions of article IX, the quantity of uranium enriched in the isotope U-235 transferred under article VI or article VII and under the jurisdiction of the Government of Spain may include such amounts as are mutually agreed are necessary for the accomplishment of the purposes authorized in this Agreement, including the fueling of reactors and reactor experiments in Spain and their efficient and continuous operation.

C. When any special nuclear material received from the United States of America pursuant to this Agreement or the superseded Agreement requires reprocessing, or any irradiated fuel elements containing fuel material received from the United States of America pursuant to this Agreement or the superseded Agree-

ment are to be removed from a reactor and are to be altered in form or content, such reprocessing or alteration shall be performed in facilities acceptable to both Parties upon a joint determination that the provisions of article XI may be effectively applied.

D. Special nuclear material produced as a result of irradiation processes in any part of the fuel that may be leased by the Commission under this Agreement, or may have been leased under the superseded Agreement, shall be for the account of the lessee and, after reprocessing as provided in paragraph C of this article, title to such produced material shall be in the lessee unless the Commission and the lessee otherwise agree.

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

F. Some atomic energy materials which may be provided in accordance with this Agreement, or which may have been provided under the superseded Agreement, are harmful to persons and property unless handled and used carefully. After delivery of such materials, the Government of Spain 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 Spain or to any person under its jurisdiction, or may have leased pursuant to the superseded Agreement, the Government of Spain 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 Spain or to any person under its jurisdiction.

Article IX. The separative work required to produce the uranium enriched in the isotope U-235 transferred under this Agreement, or the superseded Agreement, from the United States of America to Spain for power applications shall not exceed that necessary to support the fuel cycles of reactors having a total installed capacity of thirty thousand (30,000) megawatts electric.

Article X. The Government of Spain guarantees that:

- (1) Safeguards provided in article XI shall be maintained.
- (2) No material, including equipment and devices, transferred to the Government of Spain or authorized persons under its jurisdiction by purchase or otherwise pursuant to this Agreement or the superseded Agreement, and no special nuclear material produced through the use of such material, equipment and 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 Spain or to authorized persons under its jurisdiction pursuant to this Agreement or the superseded Agreement will be transferred to unauthorized persons or beyond the jurisdiction of the Government of Spain except as the Commission may agree to such a transfer to the jurisdiction of another nation or group of nations, and then only if, in the opinion of the Commission, the transfer 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 XI. A. The Government of the United States of America and the Government of Spain emphasize their common interest in assuring that any material, equipment or devices made available to the Government of Spain or any person under its jurisdiction pursuant to this Agreement 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 XII, 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 Spain 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 Spain or to any person under its jurisdiction under this Agreement 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 material in the custody of the Government of Spain 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 X.
- (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 Spain and which is not transferred pursuant to article VIII or otherwise disposed of pursuant to an arrangement mutually acceptable to the Parties.

- (4) To designate, after consultation with the Government of Spain, personnel who, accompanied, if either Party so requests, by personnel designated by the Government of Spain, shall have access in Spain 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 noncompliance with the provisions of this article or the guarantees set forth in article X and the failure of the Government of Spain 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 Spain in the matter of health and safety.

C. The Government of Spain undertakes to facilitate the application of safeguards provided for in this article.

Article XII. A. The Government of the United States of America and the Government of Spain note that, by an agreement signed by them and the International Atomic Energy Agency on December 9, 1966,¹ the Agency has been applying safeguards to materials, equipment and facilities transferred to the jurisdiction of the Government of Spain under the superseded Agreement. The Parties, recognizing the desirability of continuing to make use of the facilities and services of the International Atomic Energy Agency, agree that Agency safeguards shall continue to apply to materials, equipment and facilities transferred under the superseded agreement or to be transferred under this Agreement.

B. The continued application of Agency safeguards pursuant to this article will be accomplished either as provided in the above-mentioned trilateral agreement among the Parties and the Agency, as it may be amended from time to time or supplanted by a new trilateral agreement, or as provided in an agreement entered into between the International Atomic Energy Agency and the Government of Spain pursuant to article III of the Treaty on the Non-Proliferation of Nuclear Weapons.² It is understood that, without modification of this Agreement, the safeguards rights accorded to the Government of the United States of America by article XI of this Agreement will be suspended during the time and to the extent that the Government of the United States of America agrees that the need to exercise such rights is satisfied by a safeguards agreement as contemplated in this paragraph.

C. In the event the applicable safeguards agreement referred to in paragraph B of this article should be terminated prior to the expiration of this Agreement and the Parties should fail to agree promptly upon resumption of Agency safeguards, either Party may, by notification, terminate this Agreement. Before either Party takes steps to terminate, the Parties will carefully consider the economic effect of any such termination. Neither Party will invoke its termination rights until the other Party has been given sufficient advance notice to permit arrangements by the Government of Spain, if it is the other Party, for an alternative source of power and to permit adjustment by the Government of the United States of America, if it is the other Party, of production schedules. In the event of such termination by either Party, the Government of Spain 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

¹ United Nations, *Treaty Series*, vol. 589, p. 55.

² *Ibid.*, vol. 729, p. 161.

nuclear material received pursuant to this Agreement 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 Spain or the authorized 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 XIII. 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 XIV. The "Agreement for cooperation between the Government of the United States of America and the Government of Spain concerning civil uses of atomic energy" signed on August 16, 1957, as amended, is superseded by this Agreement on the date this Agreement enters into force.

Article XV. Each of the Parties shall provide the other Party with a written notification that it has complied with all statutory and constitutional requirements for entry into force of this Agreement. This Agreement shall enter into force on the date one of the Parties has received the later of such notifications and shall remain in force for a period of forty (40) years. The forty-year period may be extended for such additional period as may be agreed between the Parties in accordance with their statutory and constitutional requirements.

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

DONE at Washington, in duplicate, in the English and Spanish languages, both equally authentic, this twentieth day of March, 1974.

For the Government of the United States of America:

[Signed — Signé]¹

[Signed — Signé]²

For the Government of Spain:

[Signed — Signé]³

¹ Signed by Arthur A. Hartman — Signé par Arthur A. Hartman.

² Signed by Dixy Lee Ray — Signé par Dixy Lee Ray.

³ Signed by Angel Sagaz — Signé par Angel Sagaz.

RELATED NOTE

DEPARTMENT OF STATE
WASHINGTON

March 20, 1974

Excellency:

I have the honor to refer to the proposed new Agreement for cooperation between our two Governments concerning civil uses of atomic energy.

In connection with this Agreement and with the related trilateral safeguards Agreement between our two Governments and the International Atomic Energy Agency, and consistent with the position of this Government in the case of all other agreements of these types to which the Government of the United States of America is a party, it is understood that the material subject thereto will not be used for any nuclear explosive device, regardless of how the device itself is intended to be used, and that the safeguards provided under the trilateral Agreement will verify that such material is not so used.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

ARTHUR A. HARTMAN

His Excellency Angel Sagaz
Ambassador of Spain
