

No. 17663

BRAZIL
and
FEDERAL REPUBLIC OF GERMANY

Special Agreement between the Comissão Nacional de Energia Nuclear and the Kernforschungszentrum Karlsruhe GmbH on co-operation in the field of the peaceful uses of nuclear energy. Signed at Bonn on 8 March 1978

Authentic texts: Portuguese and German.

Registered by Brazil on 27 March 1979.

BRÉSIL
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

Convention spéciale entre la Comissão Nacional de Energia Nuclear et le Kernforschungszentrum Karlsruhe GmbH relative à la coopération dans le domaine des utilisations pacifiques de l'énergie nucléaire. Signée à Bonn le 8 mars 1978

Textes authentiques : portugais et allemand.

Enregistrée par le Brésil le 27 mars 1979.

[TRANSLATION — TRADUCTION]

SPECIAL AGREEMENT¹ BETWEEN THE COMISSÃO NACIONAL DE ENERGIA NUCLEAR AND THE KERNFORSCHUNGSZENTRUM KARLSRUHE GmbH ON CO-OPERATION IN THE PEACEFUL USES OF NUCLEAR ENERGY

The Comissão Nacional de Energia Nuclear (CNEN) (National Nuclear Energy Commission) and the Kernforschungszentrum Karlsruhe GmbH (KFK) (Karlsruhe Nuclear Research Centre), hereinafter referred to as “the Parties”, conclude this Special Agreement pursuant to article 1, paragraph 3, of the General Agreement concerning co-operation in scientific research and technological development, signed by the Governments of the Federative Republic of Brazil and the Federal Republic of Germany at Bonn, on 9 June 1969,² and in connection with the Agreement signed by the two Governments on 27 June 1975 on co-operation in the peaceful uses of atomic energy.³

Article 1. PURPOSE OF CO-OPERATION

1. The Parties shall co-operate in the following areas of the peaceful use of nuclear energy:

- (a) Safeguards and physical protection;⁴
- (b) Safety of nuclear installations;
- (c) Treatment of radioactive wastes;
- (d) Protection against radiation and protection of the environment.

2. Co-operation shall include the exchange of scientists and technicians, joint scientific projects, courses and the exchange of information.

Article 2. EXCHANGE OF PERSONNEL

1. By mutual agreement, in each case, each Party shall send personnel to the other Party on assignment. In particular, the Parties shall mutually agree on:

- The number of personnel assigned and the period of assignment;
- The work to be done by assigned personnel during the respective period of assignment, and possible participation in the programme of the receiving Party;
- The person to be assigned.

The receiving Party shall be entitled to obtain requisite information from the assigning Party.

At the request of the receiving Party, the assigning Party shall recall the assigned personnel, who may be replaced by other personnel, by agreement between the Parties.

¹ Came into force on 31 May 1978 by an exchange of notes, in accordance with article 9.

² United Nations, *Treaty Series*, vol. 833, p. 151.

³ *Ibid.*, vol. 1022, p. 357.

⁴ The authentic German text reads as follows: “Supervision of fissionable material and protection at nuclear installations”.

2. In no circumstances shall assignment affect the work contracts of assigned personnel. Assigned personnel shall comply with the internal regulations and the general and specific instructions of the receiving Party. A declaration to this effect shall be signed by assigned personnel.

The assigning Party shall require assigned personnel to treat as confidential such service matters as may come to their knowledge in the performance of their duties.

3. Each person assigned shall, at the end of his assignment, draft a report on his activities and on the results achieved during that period and submit it to the receiving Party which shall transmit a copy to the assigning Party.

4. The costs incurred by assigned personnel under this Agreement shall be defrayed in the following manner:

- (a) Travel costs shall be borne by the assigning Party;
- (b) Unless otherwise mutually agreed by the Parties in each individual case, living expenses shall be defrayed by the receiving Party in accordance with the general rules in force in its organization.

Article 3. COSTS

Each Party shall pay the costs incurred by it from the implementation of this Agreement, without prejudice to the provisions of article 2, section 4, of this Agreement, and of other written agreements.

Article 4. EXCHANGE OF INFORMATION

1. The Parties shall exchange information in the fields agreed upon. The exchange of information shall include:

- (a) Official reports, i.e., publications on research and development, describing scientific and technological work; and
- (b) Reports containing unpublished information of a preliminary nature.

2. Information may also be exchanged in the context of joint technical and scientific meetings of the Parties.

3. All information transmitted under this Agreement shall be based on the best knowledge of the Party on the subject. However, the informing Party shall not vouch for the accuracy thereof, nor may it be held responsible for any consequences of the use of such information by the other Party.

4. In other respects, article 7 of the General Agreement of 9 June 1969 shall be applicable.

Article 5. INFORMATION AND INDUSTRIAL PROPERTY RIGHTS IN THE EXCHANGE OF PERSONNEL

1. Each Party shall have the right to make use of the results of the work done by the personnel sent to it during their assignment, it being understood that these results may also be used by the other Party.

2. With regard to inventions or shares in inventions made or conceived by the personnel of either Party during their assignment in connection with the purpose for which co-operation is provided:

- (a) The receiving Party shall acquire all rights, claims and shares in respect of the invention, patent application or patent in its own country and in third-party countries, provided that a non-exclusive, irrevocable, royalty-exempt licence is granted to the sending Party, with the right to grant sublicences for such invention, patent application or patent;
- (b) The sending Party shall acquire all rights, claims and shares in respect of the invention, patent application or patent in its own country, provided that a non-exclusive, irrevocable, royalty-exempt licence shall be granted to the receiving Party, with the right to grant sublicences for such invention, patent application or patent.

3. Each Party shall waive any claims for financial compensation or indemnification in connection with the inventions, patent applications or patents referred to in paragraphs 1 and 2, and shall not assert such claims.

Article 6. REPORTS TO THE GERMAN-BRAZILIAN MIXED COMMISSION

The Parties shall keep the German-Brazilian Mixed Commission informed of the status of co-operation by means of annual reports on the co-operation programme.

Article 7. LIABILITY FOR INJURY AND DAMAGE

The Parties agree that the following provisions shall apply with respect to compensation for injury or damage caused in the implementation of this Agreement. It is agreed that compensation shall be governed by the laws of the country in whose territory the injury or damage occurs, except as otherwise provided in individual cases.

1. Injury or damage caused to either Party by the other:

- (a) Each Party shall be exclusively liable to make compensation for injuries caused to its personnel, regardless of the place where such injury occurs, and shall not claim compensation for damage caused to its property, except as otherwise provided in paragraph 1, subparagraphs (b) and (c). A Party which sends personnel to the other Party under article 2 of this Agreement shall be responsible *vis-à-vis* the other Party for ensuring the provision of adequate insurance covering bodily injury and impairment of health, occupational diseases, incapacitation or disablement of the assigned personnel, for the period of their stay in the territory of the receiving Party;
- (b) Where injury to the personnel of either Party is caused through gross negligence or wilful action by the personnel of the other Party, the latter Party shall incur liability in accordance with the third-party liability laws of the country in which the injury occurred; and
- (c) Where damage to the property of either Party is caused through gross negligence or wilful action by the personnel of the other Party, the latter Party shall compensate the former Party for the damage sustained.

2. Injuries and damage involving third parties:

- (a) Injuries or damage caused by personnel:
With respect to injuries caused to personnel or damage caused to property of third parties by the personnel of one of the Parties, the Party in whose

territory the injury or damage occurred shall be liable to make compensation, except as provided for in the following subparagraph (b).

(b) Gross negligence or wilful action:

Where the injury or damage specified in paragraph 2, subparagraph (a), is caused through gross negligence or wilful action by the personnel of one of the Parties, that Party shall be financially liable *vis-à-vis* third parties.

(c) Injuries or damage caused by third parties:

Where third parties cause injury to the personnel or damage to the property of one of the Parties, each Party shall assist the other Party in instituting judicial or extrajudicial proceedings against third parties.

(d) Settlement of differences:

The Party in whose territory injuries or damage occur shall be responsible for settling, in co-ordination with the other Party, all matters relevant to determining the causes of the injury or damage, the extent thereof and the need for compensation. Any agreement with third parties on such matters shall require the prior consent of the other Party. After the differences with third parties have been settled, the two Parties shall together reach an agreement on compensation.

3. Nuclear damage:

The foregoing provisions shall not apply to damage caused by a nuclear accident. "Nuclear accident" means any event, or series of successive events having the same origin, involving damage or injury, provided that the event, the series of events or any of the damage or injuries caused originates in, or results from, radioactive properties or a combination of radioactive properties and toxic, explosive or other dangerous properties of nuclear fuels or radioactive products or wastes. The liability for damage caused by a nuclear accident shall be governed by the laws in force in the country of the Party concerned. There shall be no right of recourse as between the Parties.

Article 8. AGREEMENTS WITH THIRD PARTIES

This Agreement shall not affect rights and obligations of the Parties arising from other agreements.

Article 9. DATE OF ENTRY INTO FORCE

This Special Agreement shall enter into force upon an exchange of notes between the two Governments.

Article 10. DENUNCIATION

This Agreement may be denounced by either of the Parties by prior notification of at least 12 months.

DONE at the Kernforschungszentrum Karlsruhe, on 8 March 1978.

For the Comissão Nacional
de Energia Nuclear:

[Signed]

HERVÁSIO G. DE CARVALHO

For the Kernforschungszentrum
Karlsruhe GmbH:

[Signed]

RUDOLF HARDE

[Signed]

HORST BOHM