

No. 18346

**INTERNATIONAL ATOMIC ENERGY AGENCY
and
ARGENTINA, PERU and UNITED STATES
OF AMERICA**

**Agreement concerning the transfer of enriched uranium for
a zero power research reactor (with annex). Signed at
Vienna on 9 May 1978**

Authentic texts: English and Spanish.

Registered by the International Atomic Energy Agency on 14 March 1980.

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

**Accord relatif au transfert d'uranium enrichi destiné à un
réacteur de recherche de puissance nulle (avec annexe).
Signé à Vienne le 9 mai 1978**

Textes authentiques : anglais et espagnol.

Enregistré par l'Agence internationale de l'énergie atomique le 14 mars 1980.

AGREEMENT¹ BETWEEN THE GOVERNMENTS OF THE ARGENTINE REPUBLIC, THE REPUBLIC OF PERU AND THE UNITED STATES OF AMERICA AND THE INTERNATIONAL ATOMIC ENERGY AGENCY CONCERNING THE TRANSFER OF ENRICHED URANIUM FOR A ZERO POWER RESEARCH REACTOR

I. SUPPLY AGREEMENT

WHEREAS the Government of the Republic of Peru has made arrangements with the Government of the Argentine Republic for the transfer of a zero power research reactor (hereinafter called the “research reactor”) and the fuel elements for the research reactor;

WHEREAS, under the Agreement for Co-operation between the Government of the Argentine Republic and the Government of the United States of America concluded on 29 June 1969² (hereinafter called the “Argentina-United States Co-operation Agreement”) the Government of the United States of America sold enriched uranium to the Government of the Argentine Republic, and its transfer beyond the jurisdiction of the Government of the Argentine Republic is subject to the terms of that Agreement;

WHEREAS the fuel elements the Government of the Argentine Republic intends to provide for the research reactor have been manufactured with enriched uranium of United States of America origin, bought by the Government of the Argentine Republic pursuant to the Argentina-United States Co-operation Agreement;

WHEREAS the Government of the Republic of Peru has requested the assistance of the International Atomic Energy Agency (hereinafter called the “Agency”) in securing the special fissionable material contained in fuel elements for the research reactor;

WHEREAS the Agency and the Government of the United States of America on 11 May 1959 concluded an Agreement for Co-operation,³ as amended on 12 February 1974⁴ (hereinafter called the “United States-IAEA Co-operation Agreement”);

WHEREAS the Government of the Republic of Peru on 2 March 1978 concluded with the Agency an Agreement for the Application of Safeguards⁵ in connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America⁶ and the Treaty on the Non-Proliferation of Nuclear Weapons;⁷

WHEREAS the Government of the Republic of Peru and the Agency are this day concluding an agreement for the provision by the Agency of the assistance requested by the Government of the Republic of Peru⁸ (hereinafter called “the Project Agreement”);

¹ Came into force on 9 May 1978 by signature, in accordance with section 18.

² Should read: “25 June 1969”. See United Nations, *Treaty Series*, vol. 719, p. 229.

³ *Ibid.*, vol. 339, p. 359.

⁴ *Ibid.*, vol. 951, p. 412.

⁵ See p. 207 of this volume.

⁶ United Nations, *Treaty Series*, vol. 634, p. 281.

⁷ *Ibid.*, vol. 729, p. 161.

⁸ See p. 291 of this volume.

NOW, THEREFORE, the Governments of the Argentine Republic, the Republic of Peru and the United States of America and the Agency hereby agree as follows:

Article I. SUPPLY OF ENRICHED URANIUM

Section 1. The Government of the Argentine Republic shall, subject to the provisions of the Argentina–United States Co-operation Agreement, transfer to the Agency and the Agency shall, subject to the provisions of the United States–IAEA Co-operation Agreement, retransfer to Peru approximately 14,785.90 grams of uranium property of the Argentine Republic and of United States of America origin, enriched to approximately 20.09 per cent by weight in the isotope uranium-235, contained in fuel elements (hereinafter called the “supplied material”) for the research reactor. It is understood that these transfers shall not affect ownership of the supplied material, which ownership shall at all times rest with the Government of the Argentine Republic.

Section 2. The Government of the United States of America shall approve the transfer specified in Section 1 above, pursuant to the Argentina–United States Co-operation Agreement. Upon transfer to the Government of the Republic of Peru, the supplied material shall be subject to the terms and conditions of the United States–IAEA Co-operation Agreement.

Section 3. The Government of the Republic of Peru undertakes that the supplied material shall not be retransferred beyond its jurisdiction unless otherwise agreed to by the Parties to this Agreement (hereinafter called the “Parties”); provided that eighteen months after the transfer of the supplied material to the Government of the Republic of Peru, the Government of the United States of America shall, upon the request of the Governments of the Argentine Republic and the Republic of Peru and following consultations with the Agency, approve its return to Argentina; provided that upon return to Argentina the material shall be subject to the applicable Argentina–United States Agreement for Co-operation.

Section 4. The supplied material and any special fissionable material produced through its use shall only be stored or reprocessed or otherwise altered in form or content under conditions and in facilities acceptable to the Governments of the United States of America, the Argentine Republic and the Republic of Peru. Such material shall not be further enriched unless specifically provided for by an amendment to this Agreement or by a subsequent separate agreement between the Governments of the United States of America, the Argentine Republic and the Republic of Peru.

Article II. SHIPMENT OF THE SUPPLIED MATERIAL

Section 5. All arrangements for the export from the Argentine Republic of the supplied material shall be the responsibility of the Governments of the Argentine Republic and the Republic of Peru. Prior to the export of any part of such material, the Government of the Argentine Republic shall notify the Government of the United States of America and the Agency of the amount thereof and of the date, place and method of shipment.

Article III. COMPETENCE OF THE PARTIES

Section 6. Except as otherwise specified in this Agreement and the Project Agreement, the terms and conditions connected with the transfer of the supplied material are to be determined solely by the Governments of the Argentine Republic and the Republic of Peru.

Article IV. TRANSPORT, HANDLING AND USE

Section 7. The Governments of the Argentine Republic and the Republic of Peru shall take all appropriate measures to ensure the safe transport, handling and use of the supplied material. After export from the Argentine Republic, such measures shall be the responsibility of the Government of the Republic of Peru.

Section 8. Neither the Government of the United States of America nor the Agency warrants the suitability or fitness of the supplied material for any particular use or application.

Section 9. Neither the Government of the Argentine Republic, the Government of the United States of America nor the Agency shall at any time bear any responsibility towards the Government of the Republic of Peru or any person for the safe handling and use of the supplied material or for any claims arising out of the transport, handling or use of the supplied material by the Government of the Republic of Peru.

Article V. AGENCY SAFEGUARDS

Section 10. The Government of the Republic of Peru undertakes that none of the following material shall be used for the manufacture of any nuclear weapon or any nuclear explosive device or for research on or the development of any nuclear weapon or any nuclear explosive device, or for any other military purpose:

- (a) The supplied material;
- (b) Any special fissionable material produced in or by the use of the supplied material, including subsequent generations of produced special fissionable material.

Section 11. The Agency shall apply safeguards to the nuclear material referred to in Section 10 above in accordance with the provisions of the Project Agreement.

Section 12. The Government of the Republic of Peru shall permit the Agency and the Agency undertakes to inform the Governments of the Argentine Republic and the United States of America of the status of all inventories of any materials required to be safeguarded under this Agreement, should the Government of the Argentine Republic or the Government of the United States of America so request.

Article VI. SAFETY STANDARDS AND MEASURES

Section 13. The safety standards and measures specified in the Project Agreement shall, to the extent relevant, apply to the nuclear material subject to this Agreement.

Article VII. PHYSICAL PROTECTION

Section 14. The Government of the Republic of Peru undertakes that adequate physical protection shall be maintained with respect to the supplied material and any special fissionable material produced through the use of the supplied material.

Section 15. The Parties agree to the levels for the application of physical protection set forth in the Annex to this Agreement, which levels may be modified by mutual consent of the Parties without amendment to this Agreement. The Government of the Republic of Peru shall maintain adequate physical protection measures in accordance with such levels. These measures shall as a minimum provide protec-

tion comparable to that set forth in Agency document INFCIRC/225/Rev. 1, entitled "The Physical Protection of Nuclear Material", as it may be revised from time to time.

Article VIII. SETTLEMENT OF DISPUTES

Section 16. Any dispute arising out of the interpretation or implementation of this Agreement, which is not settled by negotiation or as may otherwise be agreed by the Parties concerned, shall on the request of any such Party be submitted to an arbitral tribunal composed as follows: each Party to the dispute shall designate one arbitrator and the arbitrators so designated shall by unanimous decision elect an additional arbitrator, who shall be the Chairman. If the number of arbitrators so selected is even, the Parties to the dispute shall by unanimous decision elect an additional arbitrator. If within thirty (30) days of the request for arbitration any Party to the dispute has not designated an arbitrator, any other Party to the dispute may request the President of the International Court of Justice to appoint the necessary number of arbitrators. The same procedure shall apply if within thirty (30) days of the designation or appointment of the arbitrators, the Chairman or any required additional arbitrator has not been elected. A majority of the members of the arbitral tribunal shall constitute a quorum, and all decisions shall be made by majority vote. The arbitral procedures 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 to the dispute, shall be final and binding on all the Parties concerned. The remuneration of the arbitrators shall be determined on the same basis as that of *ad hoc* judges of the International Court of Justice.

Section 17. Any decision of the Board of Governors of the Agency concerning the implementation of Article V or VI shall, if the decision so provides, be given effect immediately by the Government of the Republic of Peru and the Agency pending the final settlement of any dispute.

Article IX. ENTRY INTO FORCE AND DURATION

Section 18. This Agreement shall enter into force upon signature by the authorized representatives of the Governments of the Argentine Republic, the Republic of Peru and the United States of America and by or for the Director General of the Agency.

Section 19. This Agreement shall continue in effect so long as any nuclear material which was ever subject to this Agreement remains in the territory of the Republic of Peru or under the jurisdiction of the Government of the Republic of Peru or under its control anywhere, or until such time as the Parties agree that such material is no longer usable for any nuclear activity relevant from the point of view of safeguards.

DONE in Vienna, this ninth day of May 1978, in quadruplicate in the English and Spanish languages, the texts in both languages being equally authentic.

For the Government of the Argentine Republic:

RAÚL ESTRADA

For the Government of the Republic of Peru:

GUSTAVO SILVA ARANDA

For the Government of the United States of America:

ROGER KIRK

For the International Atomic Energy Agency:

SIGVARD EKLUND

ANNEX

LEVELS OF PHYSICAL PROTECTION

Pursuant to Article VII, the agreed levels of physical protection to be ensured by the competent national authorities in the use, storage and transportation of nuclear material listed in the attached table shall as a minimum include protection characteristics as follows:

Category III

Use and storage within an area to which access is controlled.

Transportation under special precautions including prior arrangements between sender, recipient and carrier, and prior agreement between entities subject to the jurisdiction and regulation of the supplier State and the recipient State, respectively, in case of international transport, specifying time, place and procedures for transferring transport responsibility.

Category II

Use and storage within a protected area to which access is controlled, i.e. an area under constant surveillance by guards or electronic devices, surrounded by a physical barrier with a limited number of points of entry under appropriate control, or any area with an equivalent level of physical protection.

Transportation under special precautions including prior arrangements between sender, recipient and carrier, and prior agreement between entities subject to the jurisdiction and regulation of the supplier State and the recipient State, respectively, in case of international transport, specifying time, place and procedures for transferring transport responsibility.

Category I

Materials in this category shall be protected with highly reliable systems against unauthorized use as follows:

Use and storage within a highly protected area, i.e. a protected area as defined for Category II above, to which, in addition, access is restricted to persons whose trustworthiness has been determined, and which is under surveillance by guards who are in close communication with appropriate response forces. Specific measures taken in this context should have as

their objective the detection and prevention of any assault, unauthorized access or unauthorized removal of material.

Transportation under special precautions as identified above for transportation of Category II and III materials and, in addition, under constant surveillance by escorts and under conditions which assure close communication with appropriate response forces.

TABLE: CATEGORIZATION OF NUCLEAR MATERIAL^c

Material	Form	Category		
		I	II	III
1. Plutonium ^{a,f}	Unirradiated ^b	2 kg or more	Less than 2 kg but more than 500 g	500 g or less ^c
2. Uranium-235 ^d	Unirradiated ^b			
	—uranium enriched to 20% ²³⁵ U or more	5 kg or more	Less than 5 kg but more than 1 kg	1 kg or less ^c
	—uranium enriched to 10% ²³⁵ U but less than 20%	—	10 kg or more	Less than 10 kg ^c
	—uranium enriched above natural, but less than 10% ²³⁵ U	—	—	10 kg or more
3. Uranium-233	Unirradiated ^b	2 kg or more	Less than 2 kg but than 500 g	500 g or less ^c

^a All plutonium except that with isotopic concentration exceeding 80% in plutonium-238.

^b Material not irradiated in a reactor or material irradiated in a reactor but with a radiation level equal to or less than 100 rads/hour at one meter unshielded.

^c Less than a radiologically significant quantity should be exempted.

^d Natural uranium, depleted uranium and thorium and quantities of uranium enriched to less than 10% not falling in Category III should be protected in accordance with prudent management practice.

^e Irradiated fuel should be protected as Category I, II or III nuclear material depending on the category of the fresh fuel. However, fuel which by virtue of its original fissile material content is included as Category I or II before irradiation should only be reduced one Category level, while the radiation level from the fuel exceeds 100 rads/h at one meter unshielded.

^f The State's competent authority should determine if there is a credible threat to disperse plutonium malevolently. The State should then apply physical protection requirements for category I, II or III of nuclear material, as it deems appropriate and without regard to the plutonium quantity specified under each category herein, to the plutonium isotopes in those quantities and forms determined by the State to fall within the scope of the credible dispersal threat.