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THE TEXTS OF THE INSTRUMENTS CONCERNING
THE AGENCY'S ASSISTANCE TO PERU IN
ESTABLISHING A RESEARCH REACTOR
PROJECT

1. The texts [1] of the Supply Agreement between the Agency and the Governments of Argentina, Peru and the United States of America, and of the Project Agreement between the Agency and the Government of Peru concerning the Agency's assistance to that Government in establishing a research reactor project, are reproduced herein for the information of all Members.
2. Both Agreements entered into force on 9 May 1978, pursuant to Article IX, Section 18 of the Supply Agreement and Article IX, Section 14 of the Project Agreement respectively.

[1] The footnotes to the texts have been added in the present information circular.

I. SUPPLY AGREEMENT

AGREEMENT 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

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 1969 (hereinafter called the "Argentina-United States Co-operation Agreement")[2], 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, as amended on 12 February 1974 (hereinafter called the "United States-IAEA Co-operation Agreement")[3];

WHEREAS the Government of the Republic of Peru on 2 March 1978 concluded with the Agency an Agreement for the Application of Safeguards in connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America[4] and the Treaty on the Non-Proliferation of Nuclear Weapons[5];

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 Peru (hereinafter called "the Project Agreement");

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:

[2] Reproduced in United Nations Treaty Series, Vol. 719, No. 10336.

[3] Reproduced in document INFCIRC/5, part III, as amended by the Government, reproduced in document INFCIRC/5/Mod. 1.

[4] Reproduced in United Nations Treaty Series, Vol. 634, No. 9068.

[5] Reproduced in document INFCIRC/140.

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 protection comparable to that set forth in Agency document INF/CIRC/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:

(signed) Raul Estrada

For the GOVERNMENT OF THE REPUBLIC OF PERU:

(signed) Gustavo Silva Aranda

For the GOVERNMENT OF THE UNITED STATES OF AMERICA:

(signed) Roger Kirk

For the INTERNATIONAL ATOMIC ENERGY AGENCY:

(signed) 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^e

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	5 kg or more	Less than 5 kg but more than 1 kg	1 kg or less ^c
	– uranium enriched to 20% ²³⁵ U or more			Less than 10 kg ^c
	– uranium enriched to 10% ²³⁵ U but less than 20%			10 kg or more
– 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 more 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.

II. PROJECT AGREEMENT

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF PERU AND THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR ASSISTANCE BY THE AGENCY TO PERU IN ESTABLISHING A RESEARCH REACTOR PROJECT

WHEREAS the Government of the Republic of Peru, desiring to establish a project relating to the operation of a zero power research reactor supplied to it by the Government of the Argentine Republic for research and training purposes, 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 Board of Governors of the Agency approved the project on 22 February 1978;

WHEREAS the Governments of the Argentine Republic, the Republic of Peru and the United States of America and the Agency are this day concluding an agreement for the transfer of enriched uranium for the research reactor (hereinafter called the "Supply Agreement") [6];

NOW, THEREFORE, the Government of the Republic of Peru and the Agency hereby agree as follows:

ARTICLE I

Definition of the Project

Section 1. The project to which this Agreement relates is the operation of a zero power research reactor (hereinafter called the "research reactor") by the Peruvian Nuclear Energy Institute at the Nuclear Research Centre, Lima, Peru.

ARTICLE II

Supply of Enriched Uranium

Section 2. Upon transfer from the Government of the Argentine Republic, the Agency shall transfer to the Government of the Republic of Peru approximately 14 785.90 grams of uranium, which is the 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, pursuant to the terms of the Supply Agreement.

[6] Part I of this document.

ARTICLE III

A g e n c y S a f e g u a r d s

Section 3. The Government of the Republic of Peru undertakes that none of the following items 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) The research reactor;
- (c) Any special fissionable material produced in or by the use of the research reactor or the supplied material, including subsequent generations of produced special fissionable material.

Section 4. It is specified that the safeguards rights and responsibilities of the Agency provided for in paragraph A of Article XII of its Statute are relevant to the project and shall be implemented and maintained with respect to the project. The Government of the Republic of Peru shall co-operate with the Agency to facilitate the implementation of the safeguards required by this Agreement.

Section 5. It is specified that the implementation of the Agency's safeguards rights and responsibilities referred to in Section 4 of this Article is satisfied by the application of the safeguards procedures pursuant to the Agreement of 2 March 1978 between the Republic of Peru and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America [4] and the Treaty on the Non-Proliferation of Nuclear Weapons [5].

Section 6. In the event the Board of Governors of the Agency (hereinafter called the "Board") determines, in accordance with Article XII.C of the Statute of the Agency, that there has been any non-compliance with Section 3 or 4 of this Article, the Board shall call upon the Government of the Republic of Peru to remedy such non-compliance forthwith, and the Board shall make such reports as it deems appropriate. In the event of failure by the Government of the Republic of Peru to take fully corrective action within a reasonable time, the Board may take any other measures provided for in Article XII.C of the Statute of the Agency.

ARTICLE IV

S a f e t y S t a n d a r d s a n d M e a s u r e s

Section 7. The safety standards and measures specified in the Annex to this Agreement shall apply to the project.

ARTICLE V

A g e n c y I n s p e c t o r s

Section 8. The relevant provisions of the Agreement between the Republic of Peru and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America [4] and the Treaty on the Non-Proliferation of Nuclear Weapons [5] shall apply to Agency inspectors performing functions pursuant to this Agreement.

ARTICLE VI

Scientific Information

Section 9. In conformity with paragraph B of Article VIII of the Statute of the Agency, the Government of the Republic of Peru shall make available to the Agency without charge all scientific information developed as a result of the assistance provided by the Agency to the project.

Section 10. In view of the extent of its participation, the Agency claims no rights in any inventions or discoveries arising from the execution of the project. The Agency may, however, be granted licences under any patents upon terms to be agreed.

ARTICLE VII

Languages

Section 11. Reports and other information shall be submitted to the Agency in one of the working languages of the Board of Governors of the Agency.

ARTICLE VIII

Settlement of Disputes

Section 12. Any dispute concerning the interpretation or application of this Agreement which is not settled by negotiation or as may otherwise be agreed, shall be settled in the same manner as that provided for in Article 22 of the Agreement between the Republic of Peru and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America [4] and the Treaty on the Non-Proliferation of Nuclear Weapons [5].

Section 13. Any decision of the Board of Governors of the Agency concerning the implementation of Article III, IV or V shall, if the decision so provides, be given effect immediately by the Agency and the Government of the Republic of Peru pending the final settlement of any dispute.

ARTICLE IX

Entry into Force

Section 14. This Agreement shall enter into force upon signature by or for the Director General of the Agency and by the authorized representative of the Government of the Republic of Peru.

DONE in Vienna, this ninth day of May 1978, in duplicate in the Spanish language.

For the GOVERNMENT OF THE
REPUBLIC OF PERU:

(signed) Gustavo Silva Aranda

For the INTERNATIONAL ATOMIC
ENERGY AGENCY:

(signed) Sigvard Eklund

ANNEX

SAFETY STANDARDS AND MEASURES

1. The safety standards and measures applicable to the project shall be those set forth in Agency document INFCIRC/18/Rev.1 (hereinafter called the "Safety Document") as specified below.

2. The Government of the Republic of Peru shall apply the Agency's Basic Safety Standards for Radiation Protection [7] and relevant provisions of the Agency's Regulations for the Safe Transport of Radioactive Materials [8], as they are revised by the Agency from time to time, and shall as far as possible apply them also to any shipment of the supplied material outside the jurisdiction of the Government of the Republic of Peru. The Government of the Republic of Peru shall endeavour to ensure safety conditions as recommended in the relevant parts of the Agency's codes of practice [9].

3. The Government of the Republic of Peru shall arrange for submission to the Agency, at least thirty days prior to the proposed transfer of any part of the supplied material to the jurisdiction of the Government of the Republic of Peru, of a detailed safety analysis report containing the information specified in paragraph 4.7 of the Safety Document, with particular reference to the following types of operations, to the extent that such information is relevant and not yet available to the Agency:

- (a) Receipt and handling of the supplied material;
- (b) Loading of the supplied material into the research reactor;
- (c) Start-up and pre-operational testing of the research reactor with the supplied material;
- (d) Experimental programme and procedures involving the research reactor;
- (e) Unloading of the supplied material from the research reactor;
- (f) Handling and storage of the supplied material after unloading.

Once the Agency has determined that the safety measures provided for are adequate, it shall give its consent for the start of the assisted operation. Should the Government of the Republic of Peru desire to make substantial modifications to the procedures with respect to which information has been submitted, or to perform any operations with the research reactor or the supplied material with respect to which operation no such information has been submitted, it shall submit to the Agency all relevant information as specified in paragraph 4.7 of the Safety Document, on the basis of which the Agency may require the application of additional safety measures in accordance with paragraph 4.8 of the Safety Document. Once the Government of the Republic of Peru has undertaken to apply the additional safety measures requested by the Agency, the Agency shall give its consent for the modifications or operations referred to above.

[7] Safety Series No. 9, 1967 Edition (STI/PUB/147).

[8] Ibid., No. 6, 1973 Revised Edition (STI/PUB/323).

[9] Ibid., No. 35, Safe Operation of Critical Assemblies and Research Reactors, 1971 Edition (STI/PUB/225).

4. The Government of the Republic of Peru shall arrange for submission to the Agency, as appropriate, of the reports specified in paragraphs 4.9 and 4.10 of the Safety Document.
5. The Agency may, in agreement with the Government of the Republic of Peru, send safety missions for the purpose of providing advice and assistance to the Government of the Republic of Peru in connection with the application of safety measures to the project, in accordance with paragraphs 5.1 and 5.3 of the Safety Document. Special safety missions may be arranged by the Agency in the circumstances specified in paragraph 5.2 of the Safety Document.
6. Changes in the safety standards and measures laid down in this Annex may be made in accordance with paragraphs 6.1 and 6.3 of the Safety Document.