



International Atomic Energy Agency

INFORMATION CIRCULAR

INFCIRC/136

6 February 1970

GENERAL Distr.

Original: ENGLISH

**THE TEXTS OF THE INSTRUMENTS CONCERNING THE AGENCY'S ASSISTANCE
TO INDONESIA FOR THE CONTINUATION OF A RESEARCH REACTOR PROJECT**

The texts [1] of the Supply Agreement between the Agency and the Governments of Indonesia and the United States of America, and of the Project Agreement between the Agency and the Government of Indonesia concerning the Agency's assistance to that Government for the continuation of a research reactor project, are reproduced in this document for the information of all Members. Both Agreements entered into force on 19 December 1969.

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

I. SUPPLY AGREEMENT

CONTRACT FOR THE TRANSFER OF ENRICHED URANIUM
FOR A RESEARCH REACTOR IN INDONESIA

WHEREAS the Government of Indonesia (hereinafter called "Indonesia"), desiring to continue a research project for peaceful purposes relating to the TRIGA Mark II reactor located at the Bandung Reactor Centre (hereinafter called the "reactor"), has requested the assistance of the International Atomic Energy Agency (hereinafter called the "Agency") in securing the special fissionable material necessary for this purpose;

WHEREAS the Board of Governors of the Agency approved the project on 19 September 1969, and the Agency and Indonesia are this day concluding an agreement for the provision by the Agency of the assistance requested by Indonesia (hereinafter called the "Project Agreement") [2] ;

WHEREAS the Agency and the Government of the United States of America (hereinafter called the "United States") on 11 May 1959 concluded an Agreement for Co-operation (hereinafter called the "Co-operation Agreement") [3] , under which the United States undertook to make available to the Agency pursuant to its Statute certain quantities of special fissionable material; and

WHEREAS Indonesia has made arrangements with a manufacturer in the United States of America (hereinafter called the "manufacturer") for the fabrication of enriched uranium into fuel elements for the reactor;

NOW, THEREFORE, the Agency, Indonesia and the United States Atomic Energy Commission (hereinafter called the "Commission"), acting on behalf of the United States, hereby agree as follows:

ARTICLE I

Transfer of Enriched Uranium

Section 1. Subject to the provisions of the Co-operation Agreement, the Commission shall transfer to the Agency and the Agency shall accept from the Commission approximately 18 025 grams of uranium enriched to approximately 20% by weight in the isotope uranium-235 (hereinafter called the "fuel material"), the precise quantities to be determined pursuant to Section 3(b), contained in 103 fuel elements for the reactor.

Section 2. The Agency shall transfer to Indonesia and Indonesia shall accept from the Agency the fuel material.

Section 3. The conditions of the transfer of the fuel material shall be as follows:

- (a) The Commission shall make available to the manufacturer, at a facility of the Commission designated by it, enriched uranium, in the form of uranium hexafluoride, for the fuel material, subject to such terms, charges and licences as the Commission may require unless the enriched uranium is to be drawn from the manufacturer's inventory.
- (b) The precise quantity and enrichment of fuel material in the fuel elements shall be determined by the manufacturer, and Indonesia shall cause the manufacturer to submit to the Agency and to the Commission a written certification of the manufacturer's determination of the enrichment by weight in the isotope uranium-235 and of the quantity of enriched uranium contained in the fabricated fuel elements. This determination may be checked by the

[2] Part II of this document.

[3] INFCIRC/5, part III.

Agency, by Indonesia and by the Commission by means of any review or analysis that any of them may deem appropriate, and shall be approved or revised by unanimous agreement of the parties. The quantity and enrichment shown in the agreed determination shall be considered to be the quantity and enrichment of the fuel material actually transferred under Sections 1 and 2 and shall be used for the calculation of the payments required to be made pursuant to Article II.

- (c) Upon completion of the fabrication and the preparation for shipment of the fuel material, and upon agreement with respect to the determination concerning such material, and upon compliance with Paragraph 3 of Annex B to the Project Agreement, Indonesia, at the request and on behalf of the Agency, shall arrange for a transporter who, after thirty (30) days' written notice to the Commission and subject to such terms, charges and licences as the Commission may require, shall transport and deliver the material to the port of export in the United States designated by the Commission after consultation with the Agency and Indonesia. The Commission, at the request of the Agency, shall thereupon transfer possession to Indonesia, acting on behalf of the Agency, at such port of export and authorize the export of the material. On behalf of the Agency, Indonesia shall thereupon make arrangements for transportation within and outside the United States and for delivering and storing the material, as well as for physically handling it, and shall pay all costs in connection therewith, including the cost of containers and packaging. On behalf of the Agency, Indonesia shall accept possession of the material at the port of export and shall forward appropriate written receipts therefor to the Agency and to the Commission on behalf of the Agency.
- (d) Title to the fuel material shall vest in the Agency at the time such material leaves the jurisdiction of the United States of America and shall thereafter immediately and automatically vest in Indonesia.

ARTICLE II

Payment

Section 4. The Agency shall send an invoice to Indonesia at or subsequent to the time the parties have agreed with respect to the determination pursuant to Section 3(b). Within thirty (30) days from the date of this invoice Indonesia shall pay to the Agency in United States currency a sum equal to that which the Agency will be obliged to pay to the Commission pursuant to Section 5. On all amounts not received by the Agency within thirty (30) days from the date of invoice, Indonesia shall pay interest at the per-annum rate (365-day basis) established from time to time by the Commission, such interest to commence on the thirty-first (31st) day from the date of invoice.

Section 5. The Commission shall send an invoice to the Agency at or subsequent to the time the Commission transfers possession pursuant to Section 3(c). Within sixty (60) days from the date of this invoice the Agency shall pay for the fuel material as per the schedule of charges for enriched uranium published in the United States Federal Register and in effect on the date of transfer of the material, provided, however, that in the event said charges in effect on the date of transfer of the material should exceed the charges set forth in the Annex to this Contract, which are the charges in effect on the date of the entry into force of this Contract pursuant to Article VI, the Agency may, and at the request of Indonesia shall, cancel this Contract without incurring obligations of any kind thereunder. Payment shall be made in United States currency to the Commission or its designated agent or contractor. On all amounts not received by the Commission within sixty (60) days from the date of invoice, the Agency shall pay interest at the per-annum rate (365-day basis) established from time to time by the Commission, such interest to commence on the sixty-first (61st) day from the date of invoice.

Section 6. In order to assist and encourage research on peaceful uses or for medical therapy, the Commission has in each calendar year offered to distribute to the Agency, free of charge, special fissionable material of a value of up to US \$50 000 at the time of transfer, to be supplied from the amounts specified in Article II. A of the Agreement for Co-operation. If the Commission finds the project to which this Contract relates eligible, it shall decide by the end of the calendar year in which this Contract is concluded on the extent, if any, to which the project shall benefit by the gift offer, and shall promptly notify the Agency and Indonesia of that decision. The payments provided in Sections 4 and 5 shall be reduced by the value of any free material thus made available.

ARTICLE III

Responsibility

Section 7. Neither the Agency nor any person acting on its behalf shall at any time bear any responsibility towards Indonesia or any person claiming through Indonesia for the safe handling and the use of the fuel material.

Section 8. After acceptance of possession pursuant to Section 3(c), the Agency shall assume full responsibility to the Commission for the fuel material, and Indonesia shall be equally responsible to the Agency; neither the United States, nor the Commission, nor any person acting on behalf of the Commission shall bear any responsibility for the safe handling and the use of such material.

ARTICLE IV

Officials not to Benefit

Section 9. No Member of the Congress of the United States of America or Resident Commissioner of the United States of America shall be admitted to or share any part of this Contract or any benefit that may arise therefrom.

ARTICLE V

Settlement of Disputes

Section 10. If the parties should be unable to reach agreement with respect to the determination provided for in Section 3(b) within thirty (30) days of the submission of such determination to them by the manufacturer, any party may request that such a determination be made by a laboratory agreed upon by all the parties. The laboratory may perform any tests or analyses that it may deem necessary, and all parties agree to facilitate its work in every way. The results of the determination by the laboratory shall be considered final and binding on all parties. The costs of the determination by the laboratory shall be borne equally by the parties, provided that, if the determination insisted on by any party or parties is confirmed by the laboratory, such party or parties shall not be obliged to bear any share of the costs.

Section 11. Any other dispute arising out of the interpretation or application of this Contract, which is not settled by negotiation or as may otherwise be agreed by the parties concerned, shall on the request of any party be submitted to an arbitral tribunal composed as follows:

- (a) If the dispute involves only two of the parties to this Contract, all three parties agreeing that the third is not concerned, the two parties involved shall each designate one arbitrator, and the two arbitrators so designated shall elect a third, who shall be the Chairman. If within thirty (30) days of the request for arbitration either party has not designated an arbitrator, either party to the

dispute may request the President of the International Court of Justice to appoint an arbitrator. The same procedure shall apply if, within thirty (30) days of the designation or appointment of the second arbitrator, the third arbitrator has not been elected.

- (b) If the dispute involves all three parties to this Contract, each party shall designate one arbitrator, and the three arbitrators so designated shall by unanimous decision elect a fourth arbitrator, who shall be the Chairman, and a fifth arbitrator. If within thirty (30) days of the request for arbitration any party has not designated an arbitrator, any party 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 third of the first three arbitrators, the Chairman or the fifth 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 procedure 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, shall be binding on all parties. The remuneration of the arbitrators shall be determined on the same basis as that of ad hoc judges of the International Court of Justice.

ARTICLE VI

Entry into Force

Section 12. This Contract shall enter into force upon signature by or for the Director General of the Agency and by the authorized representatives of the Commission and Indonesia.

DONE in Vienna, on the nineteenth day of December 1969, in triplicate in the English language.

For the INTERNATIONAL ATOMIC ENERGY AGENCY:

(signed) Sigvard Eklund

For the GOVERNMENT OF INDONESIA:

(signed) Laili Roesad

For the UNITED STATES ATOMIC ENERGY COMMISSION on behalf of the
GOVERNMENT OF THE UNITED STATES OF AMERICA:

(signed) Verne B. Lewis

ANNEX

CHARGES FOR ENRICHED URANIUM

The rates of charges for enriched uranium, as provided for in Section 5 of this Contract, are as follows:

<u>Percentage enrichment by weight in the isotope uranium-235 of the enriched uranium</u>	<u>Price US \$/g of enriched uranium</u>
18	1.88
20	2.10
25	2.66

II. PROJECT AGREEMENT

AGREEMENT BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY
AND THE GOVERNMENT OF INDONESIA FOR ASSISTANCE BY THE
AGENCY TO INDONESIA IN CONTINUING A REACTOR PROJECT

WHEREAS the Government of Indonesia (hereinafter called "Indonesia"), desiring to continue a project for research on, and development and practical application of, atomic energy for peaceful purposes, has requested the assistance of the International Atomic Energy Agency (hereinafter called the "Agency") in securing the special fissionable material necessary for this purpose;

WHEREAS the Board of Governors of the Agency approved the project on 19 September 1969;

WHEREAS the Agency and the Government of the United States of America (hereinafter called the "United States") on 11 May 1959 concluded an Agreement for Co-operation (hereinafter called the "Co-operation Agreement") [3], under which the United States undertook to make available to the Agency pursuant to its Statute certain quantities of special fissionable material; and

WHEREAS the Agency, Indonesia and the United States Atomic Energy Commission, acting on behalf of the United States, are this day concluding a contract for the transfer of enriched uranium for a research reactor in Indonesia (hereinafter called the "Supply Agreement") [4];

NOW, THEREFORE, the Agency and Indonesia hereby agree as follows:

ARTICLE I

Definition of the Project

Section 1. The project to which this Agreement relates is the operation of the research reactor TRIGA Mark II (hereinafter called the "reactor"), owned and operated by the Indonesian National Atomic Energy Agency at the Bandung Reactor Centre.

ARTICLE II

Supply of Special Fissionable Material

Section 2. The Agency hereby allocates to the project described in Article I, and provides to Indonesia, enriched uranium (hereinafter called the "supplied material") pursuant to the terms of the Supply Agreement, which constitutes an integral part of this Agreement to the extent that it creates rights and obligations between the Agency and Indonesia.

ARTICLE III

Shipment of the Supplied Material

Section 3. Any part of the supplied material, the shipment of which is arranged by Indonesia while the material is in its possession, shall be entrusted to a licensed public carrier selected by Indonesia or shall be accompanied by a responsible person designated by Indonesia.

[4] Part I of this document.

ARTICLE IV

Agency Safeguards

Section 4. Indonesia undertakes that the reactor and the supplied material, and any special fissionable material produced by their use, as well as any other material or facility while listed on the Inventory established pursuant to Annex A shall not be used in such a way as to further any military purpose.

Section 5. 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 in accordance with Annex A to this Agreement.

ARTICLE V

Health and Safety Measures

Section 6. The health and safety measures specified in Annex B shall be applied to the project.

ARTICLE VI

Agency Inspectors

Section 7. The provisions set forth in the Annex to Agency document GC(V)/INF/39 (which Annex is hereinafter called the "Inspectors Document") shall apply to Agency inspectors performing functions pursuant to this Agreement. However, paragraph 4 of the Inspectors Document shall not apply with regard to any facility or to nuclear material to which the Agency has access at all times; the actual procedures for implementing paragraph 50 of Agency document INFCIRC/66/Rev. 2 (hereinafter called the "Safeguards Document") shall be agreed by the Agency and Indonesia in an agreement supplementing this Agreement, before such facility or material is listed in the Inventory.

Section 8. The relevant provisions of the Agreement on the Privileges and Immunities of the Agency [5] shall apply to the Agency, its inspectors and its property used by them in performing their functions pursuant to this Agreement.

Section 9. Indonesia shall ensure that any protection against third party liability, including any insurance or other financial security, in respect of a nuclear incident occurring in a nuclear installation under its jurisdiction shall apply to the Agency and its inspectors when carrying out their functions under this Agreement as that protection applies to nationals of Indonesia.

ARTICLE VII

Information and Rights to Inventions and Discoveries

Section 10. In conformity with paragraph B of Article VIII of the Statute of the Agency, Indonesia shall make available to the Agency without charge all scientific information developed as a result of the assistance extended by the Agency.

Section 11. In view of its degree of 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 VIII

Languages

Section 12. Reports and other information should be submitted to the Agency in one of the working languages of the Board of Governors of the Agency.

ARTICLE IX

Settlement of Disputes

Section 13. 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 accordance with Article V of the Supply Agreement.

Section 14. Decisions of the Board of Governors of the Agency concerning the implementation of Article IV, V or VI shall, if they so provide, be given effect immediately by the Agency and Indonesia pending the final settlement of any dispute.

ARTICLE X

Entry into Force

Section 15. This Agreement shall enter into force upon signature by or for the Director General of the Agency and by the authorized representative of Indonesia.

DONE in Vienna, on the nineteenth day of December 1969, in duplicate in the English language.

For the INTERNATIONAL ATOMIC ENERGY AGENCY:

(signed) Sigvard Eklund

For the GOVERNMENT OF INDONESIA:

(signed) Laili Roesad

ANNEX A

AGENCY SAFEGUARDS

A. Inventory of Items Subject to Safeguards

1. The Agency shall establish, in accordance with paragraph 2 below, an inventory (hereinafter called the "Inventory") of all nuclear material and facilities subject to safeguards under this Agreement. The Inventory shall be maintained on the basis of the reports received from Indonesia pursuant to the procedures provided for in paragraph 6 below and of other decisions, determinations and arrangements made pursuant to this Annex. Nuclear material referred to in sub-paragraph 2(a)(ii) below shall be considered as being listed in the Inventory from the time that it is produced, processed or used within the meaning of that sub-paragraph. The Agency shall send copies of the Inventory to Indonesia every twelve months and also at any other times specified by Indonesia in a request communicated to the Agency at least two weeks in advance.
2. The following nuclear material and facilities shall be listed in the indicated parts of the Inventory:
 - (a) Main Part:
 - (i) The reactor and the supplied material, and nuclear material substituted in accordance with paragraph 25 or 26(d) of the Safeguards Document for any nuclear material listed in accordance with this sub-paragraph;
 - (ii) Nuclear material that is being or has been produced, processed or used in the reactor or produced in or by the use of any nuclear material listed in the main part of the Inventory, and nuclear material substituted in accordance with paragraph 25 or 26(d) of the Safeguards Document for any nuclear material listed in accordance with this sub-paragraph;
 - (b) Subsidiary Part: Any facility while it contains any nuclear material listed in the main part of the Inventory.
 - (c) Inactive Part:
 - (i) Nuclear material which has been exempted from safeguards pursuant to paragraph 3 below;
 - (ii) Nuclear material with regard to which safeguards have been suspended pursuant to paragraph 3 below.
3. The Agency shall exempt nuclear material from safeguards under the conditions specified in paragraph 21, 22 or 23 of the Safeguards Document and shall suspend safeguards with respect to nuclear material under the conditions specified in paragraph 24 or 25. Upon such exemption or suspension, the nuclear material affected shall be transferred from the main to the inactive part of the Inventory.
4. The Agency shall terminate safeguards with respect to nuclear material under the conditions specified in paragraph 26 of the Safeguards Document and may make arrangements with Indonesia to terminate safeguards pursuant to paragraph 27. Upon such termination the nuclear material affected shall be removed from the Inventory.

B. Safeguards Procedures

5. In applying safeguards, the Agency shall observe the principles set forth in paragraphs 9-14 of the Safeguards Document.
6. The procedures for the application of safeguards by the Agency under this Agreement shall be those set forth in Part III of the Safeguards Document. The Agency shall make arrangements with Indonesia concerning the detailed implementation of those procedures.
7. The application of safeguards to nuclear material and facilities under this Agreement shall be suspended to the extent that safeguards are applied to such material and facilities pursuant to the Agreement signed on 19 June 1967 between the Agency, Indonesia and the United States for the Application of Safeguards [6].
8. The Agency may request the information referred to in paragraph 41 of the Safeguards Document and make an initial inspection or inspections in accordance with paragraphs 51 and 52 of the Document.
9. Indonesia shall inform the Agency of its intention to transfer any nuclear material listed in the main part of the Inventory to a facility within its jurisdiction in connection with which the Agency is not applying safeguards, and shall provide to the Agency sufficient information to enable it to determine whether, and under what conditions, it can apply safeguards in connection with the facility. The material may only be transferred when all necessary arrangements with the Agency have been concluded for the application of safeguards in connection with the facility.
10. Nuclear material listed in the main part of the Inventory may only be transferred beyond the jurisdiction of Indonesia in accordance with the provisions of paragraph 28 of the Safeguards Document. The reactor may only be so transferred in accordance with such provisions, mutatis mutandis. If any material or the reactor is transferred in accordance with this Section, it shall thereupon be removed from the Inventory.
11. If the Board of Governors of the Agency determines that there has been any non-compliance with this Agreement, the Board shall call upon Indonesia to remedy such non-compliance forthwith, and shall make such reports as it deems appropriate. If Indonesia fails to take fully corrective action within a reasonable time, the Board may take any measures provided for in Article XII.C of the Statute of the Agency.

C. Interpretation and Amendment

12. This Annex shall be interpreted in the light of the Agency's safeguards system, as set forth in the Safeguards and Inspectors Documents.
13. If the Board of Governors of the Agency decides to make any change in the Safeguards or Inspectors Documents, this Agreement shall be amended, at the request of Indonesia, to take account of such change.

[6] INFCIRC/109. This Agreement entered into force on 6 December 1967.

ANNEX B

HEALTH AND SAFETY MEASURES

1. The health and safety measures applicable to the project shall be those set forth in Agency document INFCIRC/18 (hereinafter called the "Health and Safety Document"), as specified below.
2. Indonesia shall apply the Agency's Basic Safety Standards [7] and relevant provisions of the Agency's Regulations for the Safe Transport of Radioactive Materials [8], as these Standards and Regulations are revised from time to time, and shall as far as possible apply them also to any shipment of supplied material outside Indonesia. Indonesia shall endeavour to ensure safety conditions as recommended in the relevant parts of the Agency's codes of practice.
3. Indonesia shall arrange for the submission to the Agency, at least 60 days prior to the proposed transfer of any of the supplied material to the jurisdiction of Indonesia, of a detailed health hazards report containing the information specified in paragraph 29 of the Health and 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 supplied material;
 - (b) Loading of fuel into the reactor;
 - (c) Start-up and pre-operational testing of the reactor with the supplied material;
 - (d) Experimental programme and procedures involving the reactor;
 - (e) Unloading of fuel from the reactor;
 - (f) Handling and storage of fuel after unloading.

The transfer shall not take place until the Agency has determined that the safety measures, as described in the report, are acceptable. The Agency may require further safety measures in accordance with paragraph 30 of the Health and Safety Document. Should Indonesia desire to make substantial modifications to the procedures with respect to which information was submitted, or to perform any operations with the reactor (including finally closing it down) or with the supplied material as to which operation no such information was submitted, it shall submit to the Agency all relevant information as specified in paragraph 29 of the Health and Safety Document in sufficient time to enable the Agency to perform its task in accordance with paragraph 30 of the Document before such modified procedures or additional operations are carried out.

4. Indonesia shall arrange for the submission of the reports specified in paragraph 25 of the Health and Safety Document, the first report to be submitted not later than twelve months after the entry into force of this Agreement. In addition, the reports specified in paragraphs 26 and 27 of the Document shall be submitted.
5. The Agency may inspect the reactor, in accordance with paragraphs 33 to 35 of the Health and Safety Document, at the time of initial start-up with the supplied material, once during the first year of operation, and thereafter not more than once a year, provided that special inspections may be carried out in the circumstances specified in paragraph 32 of the Document.
6. Changes may be made in the safety standards and measures laid down in this Annex, in accordance with paragraphs 38 and 39 of the Health and Safety Document.

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

[8] Ibid., No. 6, 1967 Edition (STI/PUB/148).