

gado de Negocios a.i.

La Embajada

de la República Federal de
Alemania

Lima, 28 de febrero de 1983

Excelentísimo Señor Ministro:

Con referencia al contrato concertado entre el Instituto Peruano de Energía Nuclear, Lima, y NUKEM GmbH, Hanau, el 30 de noviembre de 1981 sobre el abastecimiento de elementos combustibles para el reactor de investigación RP 10 en el Instituto Peruano de Energía Nuclear (IPEN), tengo el honor de proponer a Vuestra Excelencia el siguiente acuerdo entre el Gobierno de la República Federal de Alemania y el Gobierno de la República del Perú:

Handwritten: JRMW 3/5/83

1. The Government of Peru confirms that equipment and nuclear material supplied for the said RP 10 research reactor as well as nuclear material used, produced, processed, converted or developed from, by, in or with the use of any of these supplies, including all subsequent generations of special fissionable material thereof, shall not be used in a way as to result in any nuclear explosive device.

MINISTERIO DE RELACIONES EXTERIORES
Oficina de Trámite Documentario
REGISTRO
Número: 6-5/67
Clasificación
Asignación a cargo de
[Signature]

03 MAR. 1983

Notas para información

2. The Government of Peru shall take measures of effective physical protection to prevent unauthorized use or handling with regard to the nuclear material supplied, including subsequent generations thereof. The Government of Peru understands that the level of physical protection on which these measures have to be based with respect to the use, storage and transportation of the said nuclear material shall be governed by the following criteria:

Observaciones:

Excelentísimo Señor
Dr. Fernando Schwalb López Aldana
Ministro de Relaciones Exteriores del Perú

Ciudad.-

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The agreed levels of physical protection to be ensured by the competent national authorities in the use, storage and transportation of the materials 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 among sender, recipient and carrier, and prior agreement between entities subject to the jurisdiction and regulation of supplier and recipient States, 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 among sender, recipient and carrier, and prior agreement between entities subject to the jurisdiction and regulation of supplier and recipient States, respectively, in case of international transport, specifying time, place and procedures of 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.

Suppliers should request identification by recipients of those agencies or authorities having responsibility for ensuring that levels of protection are adequately met and having responsibility for internally co-ordinating response/recovery operations in the event of unauthorized use or handling of protected materials. Suppliers and recipients should also designate points of contact within their national authorities to cooperate on matters of out-of-country transportation and other matters of mutual concern.

...

3. It is the understanding of the Government of the Federal Republic of Germany and of the Government of Peru that the nuclear material supplied, including all subsequent generations thereof, used, produced, processed, converted or developed from, by, in or with the use of any of the supplies referred to above, is subject to IAEA safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons. If, for any reason or at any time IAEA safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons/are not applied, IAEA safeguards will continue to cover in particular the equipment and the nuclear material before-mentioned, including all subsequent generations thereof.

4. Reprocessing of nuclear material contained in fuel elements supplied as well as transfer of the spent fuel elements for reprocessing of the nuclear material contained therein should only take place after consultation and in facilities acceptable to both the Government of the Federal Republic of Germany and the Government of Peru and placed under IAEA safeguards.

5. The Government of Peru confirms that the retransfer of equipment and nuclear material supplied as well as the retransfer of nuclear material derived from the foregoing supplies, including all subsequent generations of produced special fissionable material, to a third state shall only take place when the recipient of the retransfer has provided the same assurances as those given by the Government of Peru for the original transfer.

Furthermore, any weapons-usable material derived from the nuclear material of the aforementioned reactor shall be retransferred only upon mutual agreement between the Government of the Federal Republic of Germany and the Government of Peru.

6. The two Governments may consult with each other on any matters arising from different interpretations of the arrangement contained in this Exchange of Notes.
7. The two Governments shall communicate this Exchange of Notes to the International Atomic Energy Agency. 4

Tengo el honor de proponer a Vuestra Excelencia que esta nota y la nota de respuesta de Vuestra Excelencia en la que conste la conformidad de su Gobierno con el contenido, constituirán un acuerdo entre el Gobierno de la República Federal de Alemania y el Gobierno de la República del Perú que entrará en vigor en la fecha de su nota de respuesta y tendrá también vigencia para el Land Berlin, siempre que el Gobierno de la República Federal de Alemania no haga una declaración en sentido contrario al Gobierno de la República del Perú dentro de tres meses desde la entrada en vigor de este acuerdo.

Ruego a Vuestra Excelencia acepte las seguridades de mi más alta y distinguida consideración.


fdo. Dr. Kunzmann

(Dr. Karl-Heinz Kunzmann)

29 MAR. 1983

Lima,

6-5/34

Excelencia:

Tengo el honor de avisar recibo de su Nota de 28 de febrero de 1983, con la que propone el siguiente Acuerdo entre el Gobierno del Perú y el Gobierno de la República Federal de Alemania referido al abastecimiento de elementos combustibles para el reactor de investigación RP10 del Instituto Peruano de Energía Nuclear (IPEN), en base al Contrato celebrado el 30 de noviembre de 1981 entre el IPEN y la firma NUHEM GmbH, Hanau:

- "1. The Government of Peru confirms that equipment and nuclear material supplied for the said RP10 research reactor as well as nuclear material used, produced, processed, converted or developed from, by, in or with the use of any of these supplies, including all subsequent generations of special fissionable material thereof, shall not be used in a way as to result in any nuclear explosive device.
- 2. The Government of Peru shall take measures of effective physical protection to prevent unauthorized use or handling with regard to the nuclear material supplied, including subsequent generations thereof. The Government of Peru undertakes that the level of physical protection on which these measures have to be based with respect to the use, storage and transportation of

Excelentísimo Señor
Hans-Joachim Hille
Embajador de la República
Federal de Alemania.
Ciudad.-

the said nuclear material shall be governed by the following criteria:

The agreed levels of physical protection to be ensured by the competent national authorities in the use, storage and transportation of the materials 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 among sender, recipient and carrier, and prior agreement between entities subject to the jurisdiction and regulation of supplier and recipient States, 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 among sender, recipient and carrier, and prior agreement between entities subject to the jurisdiction and regulation of supplier and recipient States, respectively, in case of international transport, specifying time, place and procedures of transferring transport responsibility.

CATEGORY I

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Use and Storage with 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.

Suppliers should request identification by recipients of those agencies or authorities having responsibility for ensuring that levels of protection are adequately met and having responsibility for internally co-ordinating response/recovery operations in the event of unauthorized use or handling of protected materials. Suppliers and recipients should also designate points of contact within their national authorities to co-operate on matters of out-of-country transportation and other matters of mutual concern.

3. It is the understanding of the Government of the Federal Republic of Germany and of the Government of Peru that the nuclear material supplied, including all subsequent generations thereof, used, produced, processed, converted or developed from, by, in or with the use of any of the supplies referred to above, is subject to IAEA safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons. If, for any reason or at any time IAEA safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons are not applied, IAEA safeguards will continue to cover in particular the equipment and the nuclear material before-mentioned, including all subsequent generations thereof.
4. Reprocessing of nuclear material contained in fuel elements supplied as well as transfer of the spent fuel elements for reprocessing of the nuclear material contained therein should only take place after consultation and in facilities acceptable to both the Government of the Federal Republic of Germany and the Government of Peru and placed under IAEA safeguards.

5. The Government of Peru confirms that the retransfer of equipment and nuclear material supplied as well as the retransfer of nuclear material derived from the foregoing supplies, including all subsequent generations of produced special fissionable material, to a third state shall only take place when the recipient of the retransfer has provided the same assurances as those given by the Government of Peru for the original transfer.

Furthermore, any weapons-usable material derived from the nuclear material of the aforementioned reactor shall be retransferred only upon mutual agreement between the Government of the Federal Republic of Germany and the Government of Peru.

6. The two Governments may consult with each other on any matters arising from different interpretations of the arrangement contained in this Exchange of Notes.
7. The two Governments shall communicate this Exchange of Notes to the International Atomic Energy Agency."

Tengo el honor de informar a Vuestra Excelencia que, con la opinión favorable del Instituto Peruano de Energía Nuclear, y tal como se manifestó mediante Nota No (ONG) 6-5/30, de 7 del mes en curso, el Gobierno del Perú acepta la propuesta contenida en su Nota, y que esa Nota de 28 de febrero

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y esta Nota en respuesta constituirá el Acuerdo sobre el particular, el que deberá entrar en vigencia en la fecha de la presente Nota.

Renuevo a Vuestra Exceclencia las seguridades de mi más alta consideración,