

# **Statement of Intent**

**between**

**the United States of America**

**and**

**the Kingdom of Spain**

**Concerning a Program of Remediation for the Palomares Site**

## **I. Background**

The United States of America and the Kingdom of Spain (hereinafter collectively the “Participants”) intend to cooperate in a program to further remediate the site of a radioactive accident near Palomares, Spain, and with that aim they intend to negotiate as soon as possible an agreement to establish the necessary activities, roles and responsibilities of each Participant in that remediation and disposal project.

The Participants recall that Palomares, Spain, is the site of a January 17, 1966, accident involving the collision of two U.S. Air Force aircraft resulting in the release of four nuclear weapons carried onboard. While there was no nuclear detonation from the accident, the accidental release of fissionable materials from two of the weapons caused radioactive contamination to land in the town and surrounding rural areas. In the months following the 1966 accident, the United States Department of Defense, in full coordination with Spanish authorities, remediated many of the affected areas. Subsequently, in the Hall-Otero Agreement of February 25, 1966, the United States and Spain agreed on a set of collaborative studies of the area.

Recognizing those efforts taken by the Participants immediately after the accident to secure the area, remove contaminated soil, and decontaminate the land to ensure public health and safety were maintained, the Participants continued in succeeding years to collaborate on monitoring and analyzing contamination levels at the Palomares accident site. This cooperation, begun pursuant to the Hall-Otero Agreement, continued pursuant to the 1997 Implementing Arrangement Between the Department of Energy of the United States of America and the Ministry of Industry and Energy of the Kingdom of Spain on Cooperation in Research on Radiological Evaluations (Implementing Arrangement), which was concluded under the Agreement for Scientific and Technological Cooperation Between the Government of the United States of America and the Kingdom of Spain, signed at Madrid on June 10, 1994 (Umbrella Agreement), and remains in effect.

## **II. Cooperation to Date**

Over the past several years, especially since 2010, the Participants have collaborated on the following aspects related to the Palomares site, which are consistent with the Implementing Arrangement and the Umbrella Agreement:

1. Composed and evaluated plans, studies, and environmental assessment of the contaminated areas of the Palomares site;
2. Engaged in site monitoring, sampling, and data management to facilitate and inform additional remediation planning work;
3. Discussed remediation zones and accompanying cleanup levels and resulting waste volumes reaching mutually satisfactory technical conclusions;
4. Discussed waste treatment, packaging, waste handling and on-site storage requirements as well as site infrastructure to support remediation activities;
5. Discussed transportation options and requirements associated with the excavation of contaminated soil from the Palomares site and transport of the soil to the United States; and
6. Considered waste characterization and certification criteria for potential disposal of contaminated soil at a disposal facility in the United States.

## **III. Planned Cooperation**

Considering that the Kingdom of Spain, in order to guarantee the wellbeing of its inhabitants and the economic development potential of the Palomares area, wishes to further remediate the Palomares site, and the United States wishes to provide the assistance necessary to enable this endeavor, and given the Participants' extensive assessment of the site characteristics and options for additional remediation beyond that originally undertaken, the Participants, after completing all respective internal formalities, intend to negotiate a binding agreement for a cooperative effort to conduct further remediation of the Palomares site and arrange for disposal of the contaminated soil at an appropriate site in the United States. The Participants intend to base such an agreement on the following parameters, which are subject to the results of negotiation by the Participants:

1. Address the respective roles and responsibilities of the Participants as well as the technical, financial, and legal terms and conditions for implementation and conclusion by mutual agreement of the Participants of the remediation activities, referred to as the supplemental remediation project.
2. Develop the supplemental remediation project based on the following Americium (<sup>241</sup>Am) cleanup levels for the contaminated zones at the Palomares site (See Annex I and II: Maps of Palomares):

1 Bq/g for Zones 2, 2-bis, 3 and for the points adjacent to Zone 2

4 Bq/g for Zone 6

3. Allocate management and financial responsibility for implementing the supplemental remediation project in a mutually agreed upon manner, based on each Participant's roles and responsibilities as established by the agreement;
4. Provide for cooperation on and coordination of management and oversight of the supplemental remediation project, based on each Participant's roles and responsibilities as established by the agreement; and
5. Consider the establishment of a Joint Oversight Committee composed of representatives of the United States of America and the Kingdom of Spain, that would meet as needed, by mutual agreement, to coordinate remediation efforts.

#### **IV. General Considerations**

1. Cooperative activities under this Statement of Intent, including preparations to negotiate an agreement, are to commence immediately after signature by the Participants.
2. Each Participant is to conduct the activities contemplated by this Statement of Intent in accordance with all applicable laws and regulations and any international agreements to which it is a party. Participants intend to work toward concluding an agreement as soon as possible.
3. Cooperative activities under this Statement of Intent are subject to the availability of funds, personnel, and other resources of the Participants.
4. This Statement of Intent recognizes the willingness of both Participants to cooperate to conduct further remediation of the Palomares site, but does not create any legally binding obligations between the Participants.
5. This Statement of Intent may be revised at any time in writing by the Participants' mutual consent.
6. The Participants may discontinue activities under this Statement of Intent at any time. A Participant that decides to discontinue its participation in the activities under this Statement of Intent should provide prompt advance notice in writing to the other Participant.
7. Any decision by the Participants to proceed with an agreement to implement the supplemental remediation project would depend upon compliance with all applicable requirements of United States and Spanish law and regulation and resolution by the Participants of any technical, financial, and legal matters that may be identified during negotiation of the supplemental remediation project.

Signed in two originals, in Madrid on the 19<sup>th</sup> day of October 2015, in the English and Spanish languages.

By the United States of America:

The Secretary of State

By the Kingdom of Spain:

The Minister of Foreign Affairs and Cooperation

John F. Kerry

José Manuel Garcia-Margallo y Marfil