



NS Miscellaneous

NOTIFICATION OF INVESTMENT DISPUTE

[BERKELEY ENERGIA LIMITED](#)

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Berkeley submits Notification of Investment Dispute

Berkeley Energia Limited ("Berkeley" or the "Company") advises that through the Company's wholly owned subsidiaries, Berkeley Minera España, S.L.U. ("BME") and Berkeley Exploration Limited ("BEL"), it has submitted a written notification of an investment dispute to the Prime Minister of Spain and the Ministry for the Ecological Transition and the Demographic Challenge ("MITECO"). Berkeley's notification informs the Kingdom of Spain of the nature of the dispute and the Energy Charter Treaty ("ECT") breaches, and proposes to seek prompt negotiations for an amicable solution pursuant to article 26.1 of the ECT.

In November 2021, the Company received formal notification from MITECO that it had rejected the Authorisation for Construction for the uranium concentrate plant as a radioactive facility ("NSC II") at the Company's Salamanca project. This decision followed the unfavourable report for the grant of NSC II issued by the Board of the Nuclear Safety Council ("NSC") in July 2021.

Berkeley strongly refutes the NSC's assessment and, in the Company's opinion, the NSC has adopted an arbitrary decision with the technical issues used as justification to issue the unfavourable report lacking in both technical and legal support.

Berkeley submitted documentation, including an 'Improvement Report' to supplement the Company's initial NSC II application, along with the corresponding arguments that address all the issues raised by the NSC, and a request for its reassessment by the NSC, to MITECO in July 2021.

Further documentation was submitted to MITECO in August 2021, in which the Company, with strongly supported arguments, dismantled all of the technical issues used by the NSC as justification to issue the unfavourable report. The Company again restated that the project is compliant with all requirements for NSC II to be awarded and requested its NSC II Application be reassessed by the NSC.

In addition, the Company requested from MITECO access to the files associated with the Authorisation for Construction and Authorisation for Dismantling and Closure for the radioactive facilities at La Haba (Badajoz) and Saelices El Chico (Salamanca), which are owned by ENUSA Industrias Avandias S.A., in order to verify and contrast the conditions approved by the competent administrative and regulatory bodies for other similar uranium projects in Spain.

Based on a detailed comparison of the different licensing files undertaken by the Company following receipt of these files, it is clear that Berkeley, in its NSC II submission, has been required to provide information that does not correspond to: (i) the regulatory framework, (ii) the scope of the current procedural stage (i.e., at the NSC II stage), and/or (iii) the criteria applied in other licensing processes for similar radioactive facilities). Accordingly, the Company considers that the NSC has acted in a discriminatory and arbitrary manner when assessing the NSC II application for the Salamanca project.

In Berkeley's strong opinion, MITECO has rejected the Company's NSC II Application without following the legally established procedure, as the Improvement Report has not been taken into account and sent to the NSC for its

assessment, as requested on multiple occasions by the Company.

In this regard, the Company believes that MITECO have infringed regulations on administrative procedures in Spain but also under protection afforded to Berkeley under the ECT, which would imply that the decision on the rejection of the Company's NSC II Application is not legal.

The Company has previously submitted an administrative appeal against MITECO's decision under Spanish law in December 2021 which has still not been resolved to date.

Whilst Berkeley's focus is on resolving the current permitting situation, and ultimately advancing the Salamanca project towards production, the Company will continue to strongly defend its position and take all necessary actions to preserve its rights.

More recently, there have also been numerous media reports stating that Spain has initiated the procedure to withdraw from the ECT.

The notification of an investment dispute submitted to the Spanish Government is necessary in order to preserve the Company's rights to initiate international arbitration should the dispute not be satisfactorily resolved. The Company, however, has informed to Spanish Government that it is prepared to collaborate and remains hopeful that the dispute can be resolved amicably through prompt negotiations.

The dispute notice is an initial step to request amicable negotiations to overturn the rejection of NSC II and does not currently comment on the size of any potential damages should the dispute not be resolved amicably. Berkeley will continue to update the market in relation to this matter as required.

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