



**BERKELEY**energía

## **INFORMACIÓN PRIVILEGIADA**

Berkeley Energia Limited (“Berkeley” o la “Sociedad”), en cumplimiento de lo previsto en el artículo 17 del Reglamento (UE) nº 596/2014 sobre abuso de mercado y en el 228 del Texto Refundido de la Ley del Mercado de Valores aprobado por el Real Decreto Legislativo 4/2015, de 23 de octubre, mediante el presente escrito informa sobre el comienzo del Arbitraje Internacional frente a España.

Se adjunta a continuación el texto íntegro de nota informativa para conocimiento de los accionistas de la Sociedad.

En Salamanca, a 10 de abril de 2024.

Ignacio Santamartina Aroca,  
representante, a efectos de notificaciones



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**NEWS RELEASE | 10 April 2024**

## **Berkeley to Commence International Arbitration against Spain**

Berkeley Energia Limited (**Berkeley** or the **Company**) advises that the Company, through its wholly owned subsidiary, Berkeley Exploration Limited (**BEL**), will refer its investment dispute with the Kingdom of Spain (**Spain**) to international arbitration under the International Centre for Settlement of Investment Disputes (**ICSID**).

In November 2022, BEL 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**) informing them of the nature of the dispute and the Energy Charter Treaty (**ECT**) breaches, and that it proposed to seek prompt negotiations for an amicable solution pursuant to article 26.1 of the ECT. At the date of this announcement, the Spanish government has not engaged in any discussions related to the dispute and Berkeley has had no option but to take action and enforce its rights at the Salamanca project through international arbitration. BEL has engaged specialist teams at Herbert Smith Freehills Spain LLP and LCS Abogados to jointly prepare and submit the 'Request for Arbitration' to the ICSID, and represent it in these proceedings.

Notwithstanding the investment dispute, Berkeley remains committed to the Salamanca project and continues to be open to a constructive dialogue with Spain. Berkeley is ready to collaborate with the relevant Spanish authorities to find an amicable resolution to the permitting situation and remains hopeful discussions can take place in the near term.

The Company will continue to update the market in relation to this matter as required.

### **For further information please contact:**

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*This announcement has been authorised for release by Mr Robert Behets, Director.*



## DETAILS OF THE DISPUTE

In April 2021, the Spanish Government approved an amendment to the draft climate change and energy transition bill relating to the investigation and exploitation of radioactive minerals (e.g. uranium). The Government reviewed and approved the amendment to Article 10 under which: (i) new applications for exploration, investigation and direct exploitation concessions for radioactive materials, and their extensions, would not be accepted following the entry into force of this law; and (ii) existing concessions, and open proceedings and applications related to these, would continue as per normal based on the previous legislation. The new law was published in the Official Spanish State Gazette and came into effect in May 2021.

The Company currently holds legal, valid and consolidated rights for the investigation and exploitation of its mining projects, including the 30-year mining licence (renewable for two further periods of 30 years) for the Salamanca project, however any new proceedings opened by the Company is now not allowed under the aforementioned new law.

In November 2021, the Company received formal notification from MITECO that it had rejected NSC II at the Company's Salamanca project following an 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 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 Avandadas 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.

In April 2023, the Company's wholly owned Spanish subsidiary, Berkeley Minera Espana (**BME**) submitted a contentious-administrative appeal before the Spanish National Court in an attempt to overturn the MITECO decision denying NSC II.



Further, the Company also received formal notifications in December 2023 which upheld appeals submitted by a non-governmental organisation, Plataforma Stop Uranio, and the city council of Villavieja de Yeltes (the **appellants**) to revoke the first instance judgements related to the Authorisation of Exceptional Land Use (**AEUL**) and the Urbanism License (**UL**), which annuled both the AEUL and UL

The AEUL and the UL were granted to the Company in July 2017 and August 2020 by the Regional Commission of Environment and Urbanism, and the Municipality of Retortillo respectively (**Regional Government**).

The appellants subsequently filed administrative appeals against the AEUL and the UL at the first instance courts in Salamanca. The administrative appeals against the AEUL and UL were dismissed in September 2022 and January 2023 respectively.

One of the appellants subsequently lodged appeals before the High Court of Justice of Castilla y León (**TSJ**), with the TSJ delivering judgements in December 2023 to revoke the first instance judgements and declare the AEUL and the UL null.

The Company strongly disagrees with the fundamentals of the TSJ's judgement and having submitted cassation appeals against the TSJ judgements before the Spanish Supreme Court, the Company has now withdrawn the appeals to preserve its rights under international arbitration.