

No. 2839

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND,
UNITED STATES OF AMERICA, FRANCE
and
FEDERAL REPUBLIC OF GERMANY**

**Administrative Agreement (with annex) concerning the
Arbitral Tribunal and the Mixed Commission under
the Agreement on German External Debts. Signed at
Bonn, on 1 December 1954**

Official texts: English, French and German.

*Registered by the United Kingdom of Great Britain and Northern Ireland on
26 May 1955.*

**ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD,
ÉTATS-UNIS D'AMÉRIQUE, FRANCE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Accord administratif (avec annexe) relatif au Tribunal
d'arbitrage et à la Commission mixte prévus par
l'Accord sur les dettes extérieures allemandes. Signé à
Bonn, le 1^{er} décembre 1954**

Textes officiels anglais, français et allemand.

*Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le
26 mai 1955.*

No. 2839. ADMINISTRATIVE AGREEMENT¹ BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, THE UNITED STATES OF AMERICA, FRANCE AND THE FEDERAL REPUBLIC OF GERMANY CONCERNING THE ARBITRAL TRIBUNAL AND THE MIXED COMMISSION UNDER THE AGREEMENT ON GERMAN EXTERNAL DEBTS.² SIGNED AT BONN, ON 1 DECEMBER 1954

The Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland, the French Republic and the Federal Republic of Germany, in implementation of Annexes IX and X to the Agreement on German External Debts of February 27, 1953,² have agreed as follows :—

Article 1

SEAT

The seat of the Arbitral Tribunal and of the Mixed Commission (hereinafter referred to as “the Tribunal” and “the Commission” respectively) shall be at Bremen in the Federal Republic of Germany.

Article 2

THE MEMBERS

1. The President and the Vice-President of the Tribunal and of the Commission shall assume judicial office on the entry into force of the present Agreement. The other Members of the Tribunal and of the Commission shall assume office on a date which will be determined by their respective Governments, but not later than the date of the first meeting of the Tribunal and of the Commission, as provided in Article 12 herein.

2. Members of the Tribunal and of the Commission appointed after the entry into force of the present Agreement shall assume judicial office as soon as their appointments have been duly notified to the Government of the United Kingdom.

3. The President of the Tribunal shall supervise the compliance by the Members of the Tribunal and of the Commission with the provisions of Article 3, paragraph 2, of the Charter of the Tribunal and of Article 3, paragraph 2,

¹ Came into force on 1 December 1954, as from the date of signature, in accordance with article 14.

² United Kingdom : “ Germany No. 1 (1953),” Cmd. 8781.

of the Charter of the Commission. The decision whether a Member has complied with the aforesaid provisions will be made by the Tribunal in plenary session on the motion of the President.

Article 3

THE REGISTRAR

1. The President of the Tribunal, in consultation with the Administrative Board, shall appoint a Registrar who shall be the Registrar both of the Tribunal and of the Commission. The first appointment shall be for a period of five years. The terms and conditions of service of the Registrar shall be regulated in a contract concluded with him by the President of the Tribunal. This contract shall require the approval of the Administrative Board. The term of office of the Registrar may be extended in a like manner but in any event shall terminate when the Tribunal and the Commission cease to function.

2. The term of office of the Registrar may be terminated before the expiry of his contract :—

- (a) summarily or after the expiry of a period of notice, on notification by the President, as a result of a decision of the Tribunal to which at least five members have subscribed;
- (b) after the expiry of a period of at least three months' notice given by the Registrar to the President.

3. The Registrar is a court officer (*Rechtspflegeorgan*) whose official duties and powers shall be defined in Rules of Procedure to be issued by the Tribunal and the Commission.

4. The Registrar must have recognised legal qualifications and a knowledge of German legal procedure and of the German, English and French languages.

5. The Registrar shall reside at the seat of the Tribunal.

Article 4

STAFF OF THE REGISTRAR

1. The Registrar shall have an adequate staff at his disposal to enable him to fulfil his duties. In respect of such duties, the staff shall be responsible to the Registrar who, in turn, shall be responsible to the Tribunal and the Commission.

2. The service regulations for the staff of the Registrar shall be formulated by the Registrar and the Administrative Officer, in consultation with the President, and require the approval of the Administrative Board. Conditions of

appointment and the remuneration shall be in accordance with the provisions applicable in corresponding cases in the public service of the Federal Republic.

Article 5

THE ADMINISTRATIVE OFFICER

1. The administration of the Tribunal and of the Commission shall, in so far as it is not within the province of the Registrar, be in the hands of an Administrative Officer who shall be in the service of the Federal Republic. The appointment of the Administrative Officer shall be made by the Federal Republic in consultation with the Administrative Board.

2. The Administrative Officer shall deal exclusively with administration (*Verwaltungsorgan*) and in particular shall :—

- (a) prepare the budget;
- (b) administer the revenue and expenditure and render account therefor;
- (c) deal, in consultation with the Registrar, with matters connected with accommodation;
- (d) in consultation with the Registrar engage and dismiss employees in the name of the Federal Republic, in accordance with the provisions applicable to the public service of the Federal Republic, provided, however, that the staff of the Registrar may not be dismissed without the concurrence of the President of the Tribunal;
- (e) perform the functions of the Federal Republic as the employer of the employees, in so far as such functions are not to be performed by other agencies pursuant to the provisions of the present Agreement.

3. The person holding the post of Administrative Officer shall be removed from office if the President of the Tribunal and three representatives on the Administrative Board so require.

Article 6

ADMINISTRATIVE BOARD

1. An Administrative Board shall be constituted, consisting of three representatives appointed by the Federal Republic of Germany and one representative appointed by each of the other parties to the present Agreement. The representatives on the Administrative Board may not be Members of the Tribunal or of the Commission or have any other employment with the Tribunal or the Commission. The names of the representatives shall be notified to the President of the Tribunal.

2. The Administrative Board shall meet at least once a year at a place and time agreed upon by the representatives, as notified by the Administrative Officer. The Administrative Board shall also meet, if so requested by the representatives of at least two of the parties to the present Agreement. Such request shall be addressed to the Administrative Officer who shall inform the other representatives.

3. The Administrative Board shall exercise the powers conferred upon it by the present Agreement. In particular, it shall have the following rights:—

- (a) to give general instructions on administrative matters to the Administrative Officer and to supervise the implementation of such instructions;
- (b) to approve the budget submitted by the Administrative Officer;
- (c) to summon the Administrative Officer to attend meetings of the Administrative Board and to require him to give the Board all the information it may require regarding the affairs of the Tribunal or the Commission for which he is responsible;
- (d) within the scope of the present Agreement, to resolve differences of opinion between the Registrar and the Administrative Officer in matters of joint concern to them.

4. Except in the case of a decision taken pursuant to paragraph 3 (b) above, which shall be unanimous, decisions of the Administrative Board shall be by majority vote.

5. The President of the Tribunal shall be entitled to attend meetings of the Administrative Board in an advisory capacity.

6. Each party to the present Agreement shall bear the cost occasioned by the activity of its representative or representatives on the Administrative Board.

Article 7

INTERNAL ADMINISTRATION

The Registrar and the Administrative Officer shall be responsible to the President of the Tribunal for the day-to-day administration and shall be subject to his instructions.

Article 8

REMUNERATION

1. The President of the Tribunal shall receive a fixed annual remuneration of DM. 20,000 commencing on the date on which he assumes judicial office. To this shall be added DM. 1,000 for each calendar week during which the President has spent at least three days at the seat of the Tribunal, provided, however, that his total annual remuneration shall not exceed DM. 40,000.

2. The Vice-President of the Tribunal shall receive a fixed annual remuneration of DM. 10,000 commencing on the date on which he assumes judicial office. To this shall be added DM.800 for each calendar week during which the Vice-President has spent at least three days at the seat of the Tribunal, provided, however, that his total annual remuneration shall not exceed DM. 30,000.

3. The remuneration of the President and the Vice-President shall be paid in the first instance by the Federal Republic. In accordance with Article 8, paragraph 1, of the Charter of the Tribunal, one-half of the total expenditure shall be reimbursed to the Federal Republic by the other parties to the present Agreement at the end of each calendar year.

Article 9

ALLOWANCES IN RESPECT OF TRAVEL AND CHANGE OF RESIDENCE

1. The cost of duty travel undertaken by the Members on the business of the Tribunal or of the Commission shall be included in the other costs of the Tribunal and of the Commission within the meaning of paragraph 3, Article 8, of their respective Charters. The Members shall have reimbursed to them the amounts actually spent on fares. Other expenditure incurred in connexion with duty travel shall be defrayed by the payment, at fixed rates, of daily and overnight subsistence allowances. The rates shall be the maximum permissible at the time under the German Law on Travel Allowances (*Reisekostengesetz*). For duty travel within the territory of the Federal Republic, the inland rates shall be paid and, for duty travel outside the territory of the Federal Republic, the appropriate foreign rates shall be paid.

2. In the event that the President or Vice-President establishes his permanent residence in the Federal Republic, the Federal Republic will pay one-half and the other parties to the present Agreement will pay, in equal shares, the other half of the expenses incurred by the President or the Vice-President in moving with their families from their usual places of residence to their new residences and the expenses incurred in moving from the Federal Republic to their previous places of residence or to not more distant places after termination of their terms of office.

3. Payments in accordance with this Article shall, in principle, be made in German currency. On the request of the entitled person, however, payment shall be made in the currency in which the expenses were incurred.

Article 10

FINANCE

1. The fees payable by parties to proceedings before the Commission under Article 8, paragraph 2, of the Charter of the Commission shall be in accordance with the Annex¹ hereto which forms a part of the present Agreement.

¹ See p. 210 of this volume.

2. All revenue of the Tribunal and of the Commission shall be included in their budget and applied to meet expenditure. Expenditure shall include the travel allowances payable to Members of the Tribunal or the Commission.

3. In so far as the revenue of the Tribunal and of the Commission which has not originated from the budgetary funds of the Federal Republic exceeds the expenditure, the surplus shall be divided equally between the Federal Republic on the one hand, and the other parties to the present Agreement, on the other hand.

4. The Administrative Officer shall be responsible to the Federal Minister of Finance and the Bundesrechnungshof for the administration of the finances of the Tribunal and of the Commission.

Article 11

MISCELLANEOUS

1. The Federal Government undertakes to provide the accommodation, furniture, fittings, motor transport and public services and utilities required by the Tribunal and the Commission.

2. The Federal Government undertakes to obtain suitable living accommodation at appropriate rentals for the Members and the Registrar of the Tribunal and of the Commission.

3. The Federal Republic shall remain the owner of all tangible property provided by it for the use of the Tribunal or the Commission or the Members or the Registrar. All tangible property acquired from the budgetary funds of the Tribunal and of the Commission shall be the property of the Federal Republic, subject to financial arrangements to be agreed to by the Administrative Board on the termination of the activities of the Tribunal and the Commission.

Article 12

FIRST MEETING OF THE TRIBUNAL AND OF THE COMMISSION

The first meeting of the Tribunal and of the Commission shall be called by the President upon receipt by the Registrar of the submission of a case of the nature envisaged by Articles 28 or 31 of the Agreement on German External Debts. The President shall notify the Governments signatory to this Agreement of the date of the first meeting which shall not be less than thirty nor more than sixty days from the date of the receipt of the submission of a case.

Article 13

ESTABLISHMENT OF THE REGISTRY

The Registry shall be built up and staff appointments made in proportion to the number of cases submitted to the Tribunal and to the Commission and to the amount of work resulting therefrom.

Article 14

EFFECTIVE DATE OF AGREEMENT

The present Agreement shall enter into force on the date of signature.

IN WITNESS WHEREOF the undersigned duly authorised representatives of their respective Governments have signed this Agreement.

DONE at Bonn this first day of December, 1954, in the English, French and German languages, all three texts being equally authoritative, in a single copy which shall be deposited in the archives of the Government of the United Kingdom of Great Britain and Northern Ireland, which Government shall transmit certified copies thereof to all the other signatory Governments.

For the Government of the United States of America :
Hervé J. L'HEUREUX

For the Government of the United Kingdom of Great Britain
and Northern Ireland :
F. R. HOYER MILLAR

For the Government of the French Republic :
André FRANÇOIS-PONCET

For the Government of the Federal Republic of Germany :
ADENAUER

ANNEX TO THE ADMINISTRATIVE AGREEMENT CONCERNING THE
ARBITRAL TRIBUNAL AND THE MIXED COMMISSION UNDER THE
AGREEMENT ON GERMAN EXTERNAL DEBTS

Article 1

1. The costs of proceedings before the Mixed Commission (hereinafter referred to as the Commission) shall consist of fees (*Gebühren*) and disbursements (*Auslagen*).

2. The fees payable by parties to proceedings before the Commission shall be in accordance with the tariff annexed hereto. The fees shall be doubled if there is an oral hearing or a recording of testimony by the interrogation of witnesses or by the taking of expert opinion. The Commission may order a refund of the fees, in whole or in part if in any pending proceedings the submission to the Commission is withdrawn before a final decision is taken. If an oral hearing or a recording of testimony has taken place, only the second part of the doubled fees may be ordered to be refunded in whole or in part.

3. The amount of the fees will be fixed by the Commission in accordance with the tariff. The fees will be in accordance with the value of the subject matter of the dispute (*Streitgegenstand*) as assessed by the Commission.

4. Disbursements shall be those specified in paragraph 71 and 72 of the German Court Costs Law (*Gerichtskostengesetz*).

Article 2

Persons liable to the Commission for costs are the party or parties who make the submission to the Commission and, in so far as ordered by the Commission, the other party or parties to the proceedings. In so far as deposits for costs made by a petitioner or petitioners and payments made by another party or other parties to the Commission exceed the costs fixed by the Commission, the deposits for costs shall be refunded by the Commission to the petitioner or petitioners.

Article 3

1. Subject to the provisions of paragraph 2 of this Article, the Commission shall only carry out its functions if the person or persons liable for costs have made a deposit in respect of the estimated fees and disbursements. The Commission will fix the amount of the initial deposit and such further deposits as may be required.

2. The Commission may include in its Rules of Procedure provisions laying down the conditions under which it may forgo, in whole or in part, deposits for fees if the party or parties liable for costs are not, by reason of their financial circumstances, in a position to make such deposits in whole or in part. Only natural persons may be freed wholly or partly from the liability to make deposits for fees.

3. The Registrar will only submit case records to the Commission if the Administrative Officer has certified that deposits fixed by the Commission have been paid.

Article 4

No fees shall be payable in respect of proceedings arising out of a case submitted to the Commission pursuant to Article 16, third paragraph, final sentence of Annex IV to the Agreement on German External Debts by a court of arbitration established pursuant to Article 17 of the said Annex IV.

TARIFF OF FEES

<i>Value of the Subject Matter of the Dispute</i>	<i>Fee Per cent.</i>
Up to and including 10,000 DM	4
Any excess over 10,000 DM. up to 100,000 DM. inclusive	2
Any excess over 100,000 DM. up to 1,000,000 DM. inclusive	1
Any excess over 1,000,000 DM.	0.5

The maximum amount of the fees is 40,000 DM. or, if double fees are payable, 80,000 DM.

Up to and including 20,000 DM. the value of the subject matter of the dispute shall be rounded up to the nearest multiple of 100 DM. for the purpose of calculating the amount of the percentage.

In excess of 20,000 DM. the value of the subject matter of the dispute shall be rounded up to the nearest multiple of 1,000 DM. for the purpose of calculating the amount of percentage.