

No. 6639

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**UNITED STATES OF AMERICA  
and  
FEDERAL REPUBLIC OF GERMANY**

**Agreement on the use of territorial waters and ports by the  
N.S. Savannah. Signed at Washington, on 29 November  
1962**

*Official texts: English and German.*

*Registered by the United States of America on 18 April 1963.*

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**ÉTATS-UNIS D'AMÉRIQUE  
et  
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Accord concernant l'utilisation des eaux territoriales et des  
ports par le N.S. Savannah. Signé à Washington, le  
29 novembre 1962**

*Textes officiels anglais et allemand.*

*Enregistré par les États-Unis d'Amérique le 18 avril 1963.*

No. 6639. AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY ON THE USE OF TERRITORIAL WATERS AND PORTS BY THE N.S. SAVANNAH. SIGNED AT WASHINGTON, ON 29 NOVEMBER 1962

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The Governments of the United States of America and the Federal Republic of Germany, having a mutual interest in the peaceful uses of atomic energy, including its application to the merchant marine, have agreed as follows :

*Article I*

ENTRY OF THE N.S. "SAVANNAH" INTO GERMAN TERRITORIAL WATERS AND PORTS

a. The Government of the Federal Republic of Germany (hereinafter referred to as the "Federal Government") is favorable in principle to the proposed visits of the N.S. *Savannah* (hereinafter designated as the "Ship") to German territorial waters and ports and in accordance with the terms and conditions of this Agreement welcomes the intention of the Government of the United States to bring the Ship into German territory.

b. Entry of the Ship into German territorial waters and ports and the use thereof shall be subject to the prior approval of the Federal Government. In German territorial waters and ports the Ship shall be subject to German law.

*Article II*

SAFETY ASSESSMENT

a. To enable the Federal Government to consider the grant of approval for entry and use of German territorial waters and ports by the Ship, the Government of the United States shall provide a Safety Assessment prepared in accordance with Regulation 7 of Chapter VIII of the Safety of Life at Sea Convention of 1960<sup>2</sup> and in accordance with Recommendation 9 of Annex C of that Convention.

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<sup>1</sup> Came into force on 29 November 1962, upon signature, in accordance with article X.

<sup>2</sup> The following information is given by the Department of State of the United States of America (*Treaties and Other International Acts Series* 5223, p. 2, footnote 1) : "Done at London June 17, 1960. Ratified by the President of the United States of America May 11, 1962, but not in force at the time of this publication. For the text thereof, see S. Ex. Doc. D, 87th Cong., 2d sess."

b. As soon as practicable after receipt of the Safety Assessment, the Federal Government shall notify the Government of the United States if it approves the use of the territorial waters and designated ports of Germany by the Ship. This approval will be given only if the operator of the Ship's nuclear plant has applied through the Federal Government for a license under the Atomic Energy Act (of December 23, 1959, *Bundesgesetzblatt* I, p. 814) and the regulations issued thereunder and after this license either has become effective or has become provisionally executable.

c. The Federal Government will also notify the Government of the United States in due time of the competent authorities referred to in this Agreement.

### *Article III*

#### REGULATIONS FOR APPROACHING, ENTERING AND UTILIZING THE GERMAN PORTS

a. The Ship shall approach the German Coast via routes to be approved by the Federal Government. The Master of the Ship shall give 36 hours' notice to the competent German authorities of his routes of approach and of his estimated time of arrival at the outer pilot station, and will proceed from the outer pilot station upon obtaining the approval of the competent German authorities.

b. In addition to the general regulations in force for the approaches to German ports the Ship shall be subject to special instructions by competent German authorities in regard to pilotage, identification and tug assistance.

c. Local governmental authorities are responsible, in accordance with relevant laws and regulations, in particular for fire and police protection, crowd control and the general preparation of the harbor with respect to acceptance of the Ship.

### *Article IV*

#### INSPECTION

While the Ship is within German territorial waters and ports, competent German authorities shall have reasonable access to the Ship for normal inspection purposes, including access to its operating records and program data.

### *Article V*

#### RADIOACTIVE WASTE

a. The Government of the United States agrees to take all necessary precautions to prevent the uncontrolled release of radioactive substances from the Ship during normal operating conditions. No radioactive substances will be discharged on the high seas under normal operating conditions except as stated in the Operating Manual.

b. Disposal of radioactive liquid or solid substances within German territorial waters and ports shall take place from the Ship only with the specific prior approval of competent German authorities.

c. Release of any radioactive gaseous substances from the Ship while within German territorial waters and ports shall be at or below permissible levels as specified by competent German authorities. Disposal or release of any radioactive gaseous substances within German territorial waters and ports which exceed such permissible levels shall be subject to prior approval of competent German authorities.

#### *Article VI*

##### CASUALTIES

An immediate report, such as is required by Chapter VIII Regulation 12 of the Safety of Life at Sea Convention of 1960, shall be made to the competent German authorities by the Master of the Ship in the event of any accident, likely to lead to an environmental hazard, while the Ship is in or is approaching German territorial waters.

#### *Article VII*

##### LIABILITY, INDEMNIFICATION, JURISDICTION

A. The parties agree that

(1) German law, in particular the Atomic Energy Act (of December 23, 1959, *Bundesgesetzblatt I*, p. 814), without prejudice to the rules on conflicts of law, shall apply to any liability arising from damage caused by the Ship, provided that

- (a) The incident causing damage occurs in the territory, including the territorial waters, of the Federal Republic of Germany irrespective of the place where such damage is suffered, or
- (b) Although the incident causing damage occurs outside the territory, including the territorial waters, of the Federal Republic of Germany such damage is suffered in the territory, including the territorial waters, of the Federal Republic of Germany ;

(2) The provisions on the limitation of liability of ship owners shall not apply to damage caused by a nuclear incident ; the term "nuclear incident" means any occurrence causing bodily injury, sickness, disease, or death, or loss of or damage to property, or for loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material.

B. (1) The United States represents that there is in effect an agreement of indemnification between the United States Atomic Energy Commission and the United States Maritime Administration whereunder the Atomic Energy Commission, acting upon the authority of Section 170 of the United States Atomic Energy Act of 1954, as amended, has agreed to indemnify the United States Maritime Administration and other persons indemnified against claims for public liability arising from a nuclear incident in connection with the design, development, construction, operation, repair, maintenance or use of the Ship in the amount of \$500 million including the reasonable costs of investigating and settling claims and defending suits for damage. The terms "person indemnified" "public liability" and "nuclear incident" in the sentence above have the same meaning as in the definitions of those terms as found in Section 11 of the United States Atomic Energy Act of 1954, as amended (United States Code, Title 42, Section 2014). The Federal Government insures that the competent authorities will accept such indemnification as constituting the financial security required under section 7, sub-section (2), number 3 and section 13, sub-section 2 of the Atomic Energy Act.

(2) If the above indemnification of the United States Maritime Administration should become ineffective during the term of this Agreement, the United States agrees that it will not cause or permit the entry of the Ship into any port of the Federal Republic of Germany or in territorial waters during the term of this Agreement unless there shall be in effect either (1) an agreement of indemnification entered into by the United States Atomic Energy Commission under the authority of Section 170 of the United States Atomic Energy Act of 1954, as amended, and affording an equivalent measure of indemnification to that described above ; or (2) an agreement of indemnification in some other form acceptable to the Federal Republic of Germany.

C. The United States will not demand to be indemnified by the Federal Republic in accordance with the provisions of the Atomic Energy Act with regard to any liability arising from any damage as described in subparagraph A (1) of this Article.

D. (1) The United States will not interpose the defense of sovereign immunity but will submit to the jurisdiction of such court as is competent in accordance with the provisions of the German Code of Civil Procedure in connection with any legal action or proceeding arising out of any damage as described in subparagraph A (1) of this Article, provided that the aggregate liability of the United States in all courts, including those of the Federal Republic of Germany, arising out of a single nuclear incident, regardless of where damage may be suffered, shall not exceed \$500,000,000.

(2) If the Code of Civil Procedure does not establish the territorial competency of a German court under subparagraph A (1) (b) of this Article, the United States will not raise a question as to the territorial competency of such court in any legal action

or proceeding brought before the German court in whose district the damage was suffered.

*Article VIII*

TERM OF AGREEMENT

In the event of entry into force of any general multilateral convention relating to the safety and operating procedures of or third party liability for nuclear ships by which one or both Contracting Parties become bound, the present Agreement shall be amended by agreement between the two Contracting Parties so as to conform with the provisions of such convention or failing agreement to amend, a Contracting Party may terminate the Agreement by giving not less than 3 months' notice of termination to the other Contracting Party.

*Article IX*

TERMINATION

A Contracting Party may terminate the agreement by giving not less than 6 months' notice to the other Contracting Party.

*Article X*

EFFECTIVE DATE

The present Agreement shall enter into force upon signature by the Contracting Parties.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed the present Agreement.

DONE at Washington in duplicate, in the English and German languages, both texts being equally authentic, this 29th day of November 1962.

For the Government of the United States of America :

Richard H. DAVIS

For the Government of the Federal Republic of Germany :

K. H. KNAPPSTEIN