

No. 7661

**UNITED STATES OF AMERICA
and
SPAIN**

**Exchange of notes (with annex) constituting an agreement
relating to the use of Spanish ports and territorial waters
by the N.S. Savannah. Madrid, 16 July 1964**

Official texts: English and Spanish.

Registered by the United States of America on 31 March 1965.

**ÉTATS-UNIS D'AMÉRIQUE
et
ESPAGNE**

**Échange de notes (avec annexe) constituant un accord relatif
à l'utilisation des eaux territoriales et des ports espa-
gnols par le N.S. Savannah. Madrid, 16 juillet 1964**

Textes officiels anglais et espagnol.

Enregistré par les États-Unis d'Amérique le 31 mars 1965.

No. 7661. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND SPAIN RELATING TO THE USE OF SPANISH PORTS AND TERRITORIAL WATERS BY THE N.S. SAVANNAH. MADRID, 16 JULY 1964

I

The American Ambassador to the Spanish Minister of Foreign Affairs

Madrid, July 16, 1964

No. 81

Excellency :

I have the honor to attach as an Annex² to this Note the text which has resulted from communications and discussions between representatives of our two Governments regarding the use of Spanish ports and territorial waters by the N.S. *Savannah*.

I have the honor to propose that if the provisions of the attached Annex are acceptable to your Government, this Note and its attached Annex and Your Excellency's reply concurring therein shall constitute an agreement between our two Governments, which shall enter into force on the date of Your Excellency's reply.

Accept, Excellency, the renewed assurances of my highest consideration.

Robert F. WOODWARD

Enclosure :

Text of Agreement.²

His Excellency Fernando María Castiella y Maíz
Minister of Foreign Affairs
Madrid

¹ Came into force on 16 July 1964 by the exchange of the said notes.

² See p. 189 of this volume.

AGREEMENT BETWEEN THE GOVERNMENT OF SPAIN AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA ON THE USE OF SPANISH PORTS AND TERRITORIAL WATERS BY THE N.S. *SAVANNAH*

The Government of Spain and the Government of the United States of America (referred to herein as the United States), having a mutual interest in the peaceful use of atomic energy, including its application to the merchant marine, have agreed as follows :

Article I

ENTRY OF THE N.S. *Savannah* INTO PORTS OF SPAIN AND TERRITORIAL WATERS OF SPAIN

(a) Entry of the N.S. *Savannah* (referred to herein as the ship) into Spanish ports and territorial waters and the use thereof in connection with any visit of the vessel to a Spanish port, shall be subject to the prior approval of the Government of Spain.

(b) The visits of the ship to Spanish ports and territorial waters shall be guided by the principles and procedures set forth in Chapter VIII of the Safety of Life at Sea Convention as proposed by the 1960 London Conference¹ and in the recommendations applicable to nuclear ships contained in Annex C¹ to the final act of that Conference.

Article II

SAFETY ASSESSMENT

(a) To enable the Spanish Government to consider the grant of approval for entry and use of Spanish ports and territorial waters 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 and in accordance with Recommendation 9 of Annex C mentioned above.

(b) The conduct of environmental surveys in Spanish ports and Spanish territorial waters will be the responsibility of the Spanish Government with assistance from the United States as mutually agreed.

(c) As soon as possible after receipt of the Safety Assessment, the Spanish Government shall notify the Government of the United States that the ship can be operated in the ports and territorial waters of Spain in accordance with this Agreement and the mutually-accepted Safety Assessment.

Article III

PORTS AND SPECIAL CONTROL

The Spanish Government shall determine the port or ports to be visited and will designate the authorities responsible for acceptance arrangements and for special control under Regulation 11 of Chapter VIII of the proposed Safety of Life at Sea Convention.

¹ The following information is provided by the Government of the United States of America : "Done at London June 17, 1960. Will enter into force May 26, 1965. For text see S. Ex. Doc. K, 87th Cong., 1st sess., pp. 370, 444."

Article IV

PORT ARRANGEMENTS

(a) Appropriate authorities of the Spanish Government shall make arrangements with local authorities of each port for entrance of the ship into Spanish ports and the use thereof.

(b) Local authorities shall take all necessary measures for offship fire and police protection, crowd control and the general preparation of berthing facilities in the harbor with respect to acceptance of the ship.

(c) Control of public access to the ship shall be the responsibility of the Master of the ship. Special arrangements relating to such control shall be developed by the Master with the concurrence of appropriate authorities of the Spanish Government.

(d) The Master shall comply with local regulations existing at the time the ship enters port so long as these regulations are not inconsistent with the Safety Assessment of the nuclear plant.

Article V

INSPECTION

While the ship is within Spanish ports and territorial waters, the designated authorities shall have reasonable inspection access to the ship and its operating records and program data for purposes of determining whether the ship has been operating in accordance with the operating manual of the ship. The designated Spanish authorities, when they may so expressly request, will be granted access to the ship to carry out inspections on the degree of radioactivity.

Article VI

RADIOACTIVE MATERIALS

The Government of the United States shall ensure that no disposal of radioactive liquid or solid wastes shall take place from the ship while she is within the ports and territorial waters of Spain without the specific prior approval of the appropriate authorities of the Spanish Government.

Article VII

MAINTENANCE AND SERVICING

The use of contractors for maintenance, repair and servicing of the nuclear equipment on the ship in Spanish territorial waters shall be restricted to those contractors having the approval of appropriate Spanish authorities for the rendering of such services.

Nothing in the present Article will be construed to mean that the Spanish Government renounces its sovereign right of forbidding the servicing and maintenance of the ship in Spanish waters if this is incompatible with public safety.

Article VIII

CASUALTIES

A 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 appropriate 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 the territorial waters of Spain.

Article IX

LEGAL ACTIONS

In any legal action or proceeding brought in personam against the United States in a Spanish court of competent jurisdiction, on account of any nuclear incident caused by the ship in Spanish ports and Spanish territorial waters or where damage arising out of or resulting from a nuclear incident caused by the ship is sustained in Spain, the United States agrees not to interpose the defense of sovereign immunity and to submit to the jurisdiction of such court and in such case the United States will not seek to invoke the provisions of the Spanish law or any other law relating to the limitation of shipowner's liability.

Nothing in this Article will prevent Spanish citizens or other persons domiciled in Spain, who are victims of a nuclear incident as referred to in this Agreement, or their heirs, from claiming damage or compensation in accordance with applicable law by suit in a court of the United States. However, no suit by those concerned, as defined in this Agreement, can be filed with a United States court if a similar suit is already pending before a Spanish court, unless and until the procedure having thus been initiated has come finally to an end for any reason or cause whatsoever, in conformity with rules of procedure being applied by Spanish courts.

Article X

INDEMNIFICATION

(a) The United States represents that there is an agreement in effect 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 Atomic Energy Act of 1954 (Public Law 83-703), as amended by the Public Law 85-256 and Public Law 85-602, 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 five hundred million dollars (\$500,000,000) including the reasonable costs of investigating and settling claims and defending suits for damage. This sum represents the maximum amount for which the United States will be liable for a single nuclear incident involving the ship in conformity with Article IX. The terms "person indemnified", "public liability" and "nuclear incident" have the same meaning herein as in the definitions of those terms as found in Section 11 of the Atomic Energy Act of 1954, as amended, (United States Code, Title 42, Section 2014).

(b) In the event of a nuclear incident, as defined in this Agreement, the Government of Spain reserves the sovereign right to negotiate, as an alternative to the procedure provided for in Article IX, with the United States on behalf of Spanish citizens or other persons who are residents in Spain at the time of the incident and who claim damages as a result thereof, or on behalf of their heirs, with a view to receiving an amount up to the total sum of \$500,000,000 specified in paragraph (a) of this article for allotment to such persons or their heirs by the Spanish Government. In such negotiations, the question of liability and amount of damage shall be subject to the mutual agreement of the two Governments in accordance with general principles of international law.

Article XI

CONTINUANCE OF INDEMNIFICATION

If the above indemnification of the United State Maritime Administration should for any reason terminate, the United States agrees that it will not cause or permit the entry of the ship into any Spanish port 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 Atomic Energy Act of 1954, as amended, and affording a no less favorable measure of indemnification to that described above ; or (2) an agreement of indemnification in some form acceptable to the Spanish Government.

Article XII

TERMINATION

Either Government may terminate this Agreement by giving no less than 180 days notice to the other.

Article XIII

TERM OF AGREEMENT

In the event of entry into force of any general multilateral Convention relating to the safety and operating procedures or third party liability of nuclear powered merchant ships by which both Governments become bound, the present Agreement shall be amended.

Robert F. WOODWARD

[TRANSLATION¹ — TRADUCTION²]

MINISTRY OF FOREIGN AFFAIRS

July 16, 1964

Excellency :

I have the honor to acknowledge the receipt of your note of this date, reading as follows :

[*See note I*]

I have the honor to inform Your Excellency that the provisions of the foregoing note and attached Annex, the Spanish text of which I enclose, are acceptable to the Spanish Government.

I avail myself of this opportunity, Mr. Ambassador, to renew the assurances of my highest consideration.

Fernando CASTIELLA

Enclosure : ³
Spanish text of Agreement. ⁴

His Excellency Robert F. Woodward
Ambassador of the United States of America
Madrid

¹ Translation by the Government of the United States of America.

² Traduction du Gouvernement des États-Unis d'Amérique.

³ See p. 189 of this volume.

⁴ The Spanish text of the Agreement was initialled as follows : F. M. C.