

No. 7666

**UNITED STATES OF AMERICA
and
SWEDEN**

Exchange of notes (with enclosure) constituting an agreement relating to the use of Swedish ports and waters by the N.S. *Savannah*. Stockholm, 6 July 1964

Official text: English.

Registered by the United States of America on 6 April 1965.

**ÉTATS-UNIS D'AMÉRIQUE
et
SUÈDE**

Échange de notes (avec pièce jointe) constituant un accord relatif à l'utilisation des eaux territoriales et des ports suédois par le N.S. *Savannah*. Stockholm, 6 juillet 1964

Texte officiel anglais.

Enregistré par les États-Unis d'Amérique le 6 avril 1965.

No. 7666. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND SWEDEN RELATING TO THE USE OF SWEDISH PORTS AND WATERS BY THE N.S. SAVANNAH. STOCKHOLM, 6 JULY 1964

I

The American Ambassador to the Swedish Minister of Foreign Affairs

Stockholm, July 6, 1964

No. 3

Excellency :

I have the honor to refer to conversations which have taken place between representatives of our two Governments concerning the visit to Sweden of the N.S. *Savannah* and to confirm the understandings reached as set forth in the enclosed agreement.

I further have the honor to propose that the present note and your note in reply concurring in the enclosed agreement shall constitute an agreement between our two Governments.

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

J. Graham PARSONS

His Excellency Torsten Nilsson
Minister of Foreign Affairs
The Royal Ministry for Foreign Affairs
Stockholm

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES
AND THE GOVERNMENT OF SWEDEN

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

¹ Came into force on 6 July 1964 by the exchange of the said notes.

Article I

For the purposes of this Agreement :

A. The term "operator" shall have the same meaning as defined in Section 1 (a) of the Swedish Act on compensation for damage caused by the operation of nuclear ships of 1963 (hereinafter referred to as the "Swedish Nuclear Ships Liability Act").

B. The term "nuclear incident" shall have the same meaning as defined in Section 11 (o) of the United States Atomic Energy Act and in Section 1 (a) (iii) of the Swedish Nuclear Ships Liability Act ; it being understood that the definition in the latter Act is no broader in scope than in the former.

C. "A nuclear incident involving the N.S. *Savannah*" means any nuclear incident in connection with, arising out of, or resulting from the operation, repair, maintenance or use of that ship.

D. The terms "persons indemnified" and "public liability" shall have the same meaning as defined in Section 11 (r) and (u) respectively, of the United States Atomic Energy Act. The term "public liability" shall be understood to include any legal liability of an operator of a nuclear ship and of the Swedish State which may arise under the Swedish Nuclear Ships Liability Act.

E. The term "reasonable costs of investigating and settling claims and defending suits for damage" includes any such costs as may be awarded by a competent Swedish court in an action for compensation for damage arising from a nuclear incident involving the N.S. *Savannah*.

F. References to the United States Government include the United States Maritime Administration.

Article II

A. Visits of the N.S. *Savannah* to Sweden shall be subject to the issuance by the Swedish Government of a license in accordance with the Swedish Atomic Energy Act of 1956.

B. The operation, repair, maintenance or use of the N.S. *Savannah* while in Swedish waters shall be subject to the conditions prescribed or measures required in the license referred to in paragraph A of this Article.

Article III

A. Considering the possibility that the N.S. *Savannah* on its visit or visits to Sweden may be operated for such purposes and under such circumstances, that in application of the provisions of the Swedish Act of 17th June, 1938, concerning foreign State-owned ships, the N.S. *Savannah* would be considered to be operated exclusively on governmental and non-commercial service, the United States Government undertakes that, in any legal action brought *in personam* against the United States Government as operator of the N.S. *Savannah* in a competent Swedish Court exercising jurisdiction on account of a

nuclear incident involving the N.S. *Savannah*, occurring in a Swedish port or in Swedish territorial waters, regardless of whether or not a visit to Sweden is involved, or occurring outside Sweden during a voyage of the ship to or from Sweden and causing damage in Sweden, including Swedish territorial waters,

- (1) It will not interpose the defense of sovereign immunity and will consequently in respect of such actions submit to the jurisdiction of such court, it being understood that the waiver of immunity is applicable in a proceeding to determine whether or not a particular incident is a nuclear incident ; and
- (2) It will not seek to invoke any provisions of the Swedish law, or of any other law, relating to the limitation of shipowner's liability.

B. Nothing in this Agreement is intended to preclude the application of the ordinary principles of law in the event claims for compensation for damage resulting from a non-nuclear incident involving the N.S. *Savannah* are instituted in a Swedish court of competent jurisdiction against the United States Government as owner of the ship.

Article IV

A. The United States Government represents that there is an agreement in effect between the U.S. Atomic Energy Commission and the U.S. Maritime Administration whereunder the Atomic Energy Commission, acting upon the authority of Section 170 of the United States Atomic Energy Act, has agreed to indemnify the United States Maritime Administration and other persons indemnified against claims for public liability arising from a nuclear incident involving the N.S. *Savannah* in the amount of \$500 million including the reasonable costs of investigating and settling claims and defending suits for damage ; and that under the above-mentioned indemnification agreement the U.S. Maritime Administration is not required to provide and maintain such financial protection as is referred to in Section 170 of the U.S. Atomic Energy Act and that in consequence thereof any public liability arising out of a nuclear incident involving the N.S. *Savannah* will be covered by the aforementioned indemnification agreement up to an aggregate amount of \$500 million.

B. The Swedish Government represents that the maximum amount of public liability—including any interest and costs awarded by a court—to be established by the Swedish Government in accordance with the provisions of Section 5 (a) of the Swedish Nuclear Ships Liability Act in respect of the N.S. *Savannah* shall not exceed the amount of \$500 million and that in consequence thereof the liability of the United States Government as operator of the N.S. *Savannah* in respect of a single nuclear incident involving that ship shall not, either as regards the victims or—by way of recourse or contribution—towards other persons indemnified, exceed such amount, regardless of where the damage is suffered.

Article V

The United States Government shall, within the limited amount of liability referred to in Article IV of this Agreement pay promptly any amount payable under a judgment against or a settlement entered into by the United States, at the option of the claimant,

in Sweden in Swedish currency or in any other State, in the currency of that State, where the damage was sustained or where the claimant is habitually resident.

Article VI

If the indemnification agreement referred to in Article IV A of this Agreement should for any reason terminate or be revised, the United States Government agrees that it will not cause or permit the N.S. *Savannah* to visit Sweden unless there shall be in effect either :

- (1) a new or revised agreement of indemnification under Section 170 of the U. S. Atomic Energy Act, affording a no less favorable measure of State indemnification than that described in Article IV A ; or
- (2) such other arrangement covering compensation for damage as is acceptable to the Swedish Government.

Article VII

In the event of entry into force of any multilateral convention relating to third party liability of nuclear-powered ships, by which both Sweden and the United States become bound, the present Agreement shall be reviewed in the light of such convention.

Article VIII

Either Government may terminate this Agreement by giving no less than 180 days' notice to the other. The termination of this Agreement shall not, however, in any way affect the validity or applicability of the provisions of this Agreement as to any questions arising out of any incident which may have occurred before the termination takes effect.

II

The Swedish Minister of Foreign Affairs to the American Ambassador

ROYAL MINISTRY FOR FOREIGN AFFAIRS

Stockholm, July 6, 1964

Excellency,

I have the honor to acknowledge the receipt of your note of July 6, 1964 reading as follows :

[See note I]

I have the honor to state that the Government of Sweden confirms the understandings reached as set forth in the enclosed agreement¹ and considers that your note and this reply constitute an agreement between the two Governments on this subject.

Accept, Excellency, the assurances of my highest consideration.

Torsten NILSSON

His Excellency J. Graham Parsons
Ambassador of the United States of America
etc., etc., etc.

¹ See p. 288 of this volume.