

No. 7716

**UNITED STATES OF AMERICA
and
ITALY**

**Agreement on the use of Italian ports by the N. S. Savannah
(with annexes). Signed at Rome, on 23 November 1964**

Official texts of Agreement: English and Italian.

Official text of annexes: English.

Registered by the United States of America on 26 April 1965.

**ÉTATS-UNIS D'AMÉRIQUE
et
ITALIE**

**Accord concernant l'utilisation des ports italiens par le
N.S. Savannah (avec annexes). Signé à Rome, le
23 novembre 1964**

Textes officiels de l'Accord: anglais et italien.

Texte officiel des annexes: anglais.

Enregistré par les États-Unis d'Amérique le 26 avril 1965.

No. 7716. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF ITALY ON THE USE OF ITALIAN PORTS BY THE N.S. *SAVANNAH*. SIGNED AT ROME, ON 23 NOVEMBER 1964

The Government of the United States of America and the Government of Italy, having a mutual interest in the peaceful uses of nuclear energy, including its application to the merchant marine, have agreed on the following principles governing the entry of the N.S. *Savannah* into Italian waters in connection with any visit of the vessel to an Italian port.

Article I

ENTRY OF THE N.S. "SAVANNAH" INTO PORTS

(a) The entry into and stay of the N.S. *Savannah* (hereinafter referred to as "the Ship") in Italian waters and ports and the use thereof shall be subject to the prior approval of the Italian Government.

(b) The visits of the Ship to Italian ports shall be governed by the principles and procedures set forth in Chapter VIII of the Convention on the Safety of Life at Sea as proposed by the 1960 London Conference² and in the Recommendations applicable to nuclear ships contained in Annex C² to the Final Act of that Conference. Those principles and procedures are embodied in the present Agreement by reference and have the same force as if they had been included herein.

Article II

SAFETY REPORT

(a) To enable the Italian Government to give its approval for the entry of the Ship into Italian ports and the use thereof, the Government of the United States shall submit a Safety Report prepared in accordance with Regulation 7 of Chapter VIII of the 1960 Convention on the Safety of Life at Sea and in accordance with Recommendation 9 of Annex C mentioned above.

¹ Came into force on 23 November 1964, upon signature, in accordance with article X.

² 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.

(b) As soon as possible after receipt of the Safety Report, the Italian Government shall notify the Government of the United States that the Ship may be operated in the port or ports designated in accordance with this Agreement, the Safety Report, and the Manual of Operations.

Article III

PORT ARRANGEMENTS

(a) The Italian Government shall give the competent authorities the instructions necessary for the entry of the Ship into Italian ports and for the use thereof.

(b) The competent Italian authorities shall take all necessary measures for fire safety and police protection, crowd control, and the general preparation of facilities relating to the entry of the Ship.

(c) Control of public access to the Ship shall be the responsibility of the Master of the Ship. Special arrangements for such control shall be agreed upon by the Master and the authorities designated by the Italian Government.

(d) The Master shall comply with local regulations. If the Operator or the Master himself considers that the application of those regulations does not fulfil the safety requirements of operation of the nuclear plant, the necessary measures shall be agreed upon in this connection.

(e) The Italian Government shall see to the surveillance of the areas in the vicinity of the Ship, with the assistance of the Government of the United States, as mutually agreed.

Article IV

INSPECTION

While the Ship is in Italian territorial waters, the designated authorities shall have reasonable access to it for purposes of inspecting the Ship and its operating records and program data, to determine whether it has been operated in accordance with the Manual of Operations.

Article V

RADIOACTIVE MATERIALS

(a) The Government of the United States shall insure that no disposal of radioactive liquid or solid wastes shall take place from the Ship except as stated in STS-9 (N.S. *Savannah* Technical Specifications) of May 1964.

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

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

Article VI

REGULAR MAINTENANCE AND SPECIAL MAINTENANCE

The awarding of contracts for assistance in the repair, regular maintenance and special maintenance of the nuclear equipment of the Ship while it is in Italian waters shall be limited to the organizations which the designated Italian authorities have authorized to provide such services.

Article VII

ACCIDENTS

A report such as that required in Chapter VIII, Regulation 12, of the 1960 Convention on the Safety of Life at Sea shall be made to the designated Italian authorities by the Master of the Ship in the event of any incident that can constitute an environmental hazard while the Ship is in or is approaching the territorial waters of Italy.

Article VIII

LIABILITY FOR DAMAGE

Within the limitations of liability set by United States Public Law 85-256 (annex "A"),¹ as amended by 85-602 (annex "B"),² in any legal action or proceeding brought *in personam* against the United States in an Italian court, the United States Government will pay compensation for any responsibility which an Italian court may find, according to Italian law, for any damage to people or goods deriving from a nuclear incident in connection with, arising out of or resulting from the operation, repair, maintenance or use of the Ship, in which the N.S. *Savannah* may be involved within Italian territorial waters, or outside of them on a voyage to or from Italian ports if damage is caused in Italy or on ships of Italian registry.

¹ See p. 144 of this volume.

² See p. 154 of this volume.

Subject to the \$500 million limitation in such public laws, the United States Government agrees not to interpose the defense of sovereign immunity and to submit to the jurisdiction of the Italian court and not to invoke the provisions of Italian laws or any other law relating to the limitation of ship-owners' liability.

Article IX

TERM OF THE AGREEMENT

In the event of the entry into force of any multilateral convention relating to the safety and operating procedures or the third-party liability of nuclear-powered merchant ships which is binding on both the Italian Government and the Government of the United States of America, the present Agreement shall be amended with the mutual consent of the parties so as to bring it into conformity with the provisions of the new convention.

Article X

ENTRY INTO FORCE OF THE AGREEMENT

The present Agreement shall enter into force upon signature by the contracting parties.

Article XI

TERMINATION

Either Government may terminate this Agreement by giving the other at least 180 days' notice.

DONE at Rome, in duplicate, in the English and Italian languages, both texts being equally authentic, this 23rd day of November 1964.

For the Government
of the United States of America :

G. Frederick REINHARDT

For the Government
of the Italian Republic :

Attilio CATTANI

A N N E X A

Public Law 85-256. 85th Congress, H. R. 7383. September 2, 1957

AN ACT TO AMEND THE ATOMIC ENERGY ACT OF 1954, AS AMENDED, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Atomic Energy Act of 1954, as amended, is amended by adding a new subsection to read as follows :

"i. In order to protect the public and to encourage the development of the atomic energy industry, in the interest of the general welfare and of the common defense and security, the United States may make funds available for a portion of the damages suffered by the public from nuclear incidents, and may limit the liability of those persons liable for such losses."

Section 2

Subsection 53 *e.* (8) of the Atomic Energy Act of 1954, as amended, is amended to read as follows :

"(8) except to the extent that the indemnification and limitation of liability provisions of section 170 apply, the licensee will hold the United States and the Commission harmless from any damages resulting from the use or possession of special nuclear material by the licensee."

Section 3

Section 11 of the Atomic Energy Act of 1954, as amended, is amended by adding thereto the following new subsections, and redesignating the other subsections accordingly :

"j. The term 'financial protection' means the ability to respond in damages for public liability and to meet the costs of investigating and defending claims and settling suits for such damages."

"n. The term 'licensed activity' means an activity licensed pursuant to this Act and covered by the provisions of section 170*a.*"

"o. The term 'nuclear incident' means any occurrence within the United States 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 by-product material."

"r. The term 'person indemnified' means the person with whom an indemnity agreement is executed and any other person who may be liable for public liability."

"u. The term 'public liability' means any legal liability arising out of or resulting from a nuclear incident, except claims under State or Federal Workmen's Compensation Acts of employees of persons indemnified who are employed at the site of and in connection with the activity where the nuclear incident occurs, and except for claims arising out of an act of war. 'Public liability' also includes damage to property of persons indemnified : *Provided*, That such property is covered under the terms of the financial protection required, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs."

Section 4

The Atomic Energy Act of 1954, as amended, is amended by adding thereto a new section, with the appropriate amendment to the table of contents :

Section 170. Indemnification and Limitation of Liability

“a. Each license issued under section 103 or 104 and each construction permit issued under section 185 shall, and each license issued under section 53, 63, or 81 may, have as a condition of the license a requirement that the licensee have and maintain financial protection of such type and in such amounts as the Commission shall require in accordance with subsection 170*b*. to cover public liability claims. Whenever such financial protection is required, it shall be a further condition of the license that the licensee execute and maintain an indemnification agreement in accordance with subsection 170*c*. The Commission may require, as a further condition of issuing a license, that an applicant waive any immunity from public liability conferred by Federal or State law.

“b. The amount of financial protection required shall be the amount of liability insurance available from private sources, except that the Commission may establish a lesser amount on the basis of criteria set forth in writing, which it may revise from time to time, taking into consideration such factors as the following: (1) the cost and terms of private insurance, (2) the type, size, and location of the licensed activity and other factors pertaining to the hazard, and (3) the nature and purpose of the licensed activity: *Provided*, That for facilities designed for producing substantial amounts of electricity and having a rated capacity of 100,000 electrical kilowatts or more, the amount of financial protection required shall be the maximum amount available from private sources. Such financial protection may include private insurance, private contractual indemnities, self insurance, other proof of financial responsibility, or a combination of such measures.

“c. The Commission shall, with respect to licenses issued between August 30, 1954, and August 1, 1967, for which it requires financial protection, agree to indemnify and hold harmless the licensee and other persons indemnified, as their interest may appear, from public liability arising from nuclear incidents which is in excess of the level of financial protection required of the licensee. The aggregate indemnity for all persons indemnified in connection with each nuclear incident shall not exceed \$500,000,000 including the reasonable costs of investigating and settling claims and defending suits for damage. Such a contract of indemnification shall cover public liability arising out of or in connection with the licensed activity.

“d. In addition to any other authority the Commission may have, the Commission is authorized until August 1, 1967, to enter into agreements of indemnification with its contractors for the construction or operation of production or utilization facilities or other activities under contracts for the benefit of the United States involving activities under the risk of public liability for a substantial nuclear incident.

In such agreements of indemnification the Commission may require its contractor to provide and maintain financial protection of such a type and in such amounts as the Commission shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity, and shall indemnify the persons indemnified against such claims above the amount of the financial protection required in the amount of \$500,000,000 including the reasonable costs of investigating and settling claims and defending suits for damage in the aggregate for all persons indemnified in connection with such contract and for each nuclear incident. The provisions of this subsection may be applicable to lump sum as well as cost type contracts and to contracts and projects financed in whole or in part by the Commission.

“e. The aggregate liability for a single nuclear incident of persons indemnified, including the reasonable costs of investigating and settling claims and defending suits for damage, shall not exceed the sum of \$500,000,000 together with the amount of financial protection required of the licensee or contractor. The Commission or any person indemnified may apply to the appropriate district court of the United States having venue in bankruptcy matters over the location of the nuclear incident, and upon a showing that the public liability from a single nuclear incident will probably exceed the limit of liability imposed by this section, shall be entitled to such orders as may be appropriate for enforcement of the provisions of this section, including an order limiting the liability for the persons indemnified, orders staying the payment of claims and the execution of court judgments, orders apportioning the payments to be made to claimants, orders permitting partial payments to be made before final determination of the total claims, and an order setting aside a part of the funds available for possible latent injuries not discovered until a later time.

“f. The Commission is authorized to collect a fee from all persons with whom an indemnification agreement is executed under this section. This fee shall be \$30 per year per thousand kilowatts of thermal energy capacity for facilities licensed under section 103. For facilities licensed under section 104, and for construction permits under section 185, the Commission is authorized to reduce the fee set forth above. The Commission shall establish criteria in writing for determination of the fee for facilities licensed under section 104, taking into consideration such factors as (1) the type, size, and location of facility involved, and other factors pertaining to the hazard, and (2) the nature and purpose of the facility. For other licenses, the Commission shall collect such nominal fees as it deems appropriate. No fee under this subsection shall be less than \$100 per year.

“g. In administering the provisions of this section, the Commission shall use, to the maximum extent practicable, the facilities and services of private insurance organizations, and the Commission may contract to pay a reasonable compensation for such services. Any contract made under the provisions of this subsection may

be made without regard to the provisions of section 3709 of the Revised Statutes, as amended, upon a showing by the Commission that advertising is not reasonably practicable and advance payments may be made.

“h. The agreement of indemnification may contain such terms as the Commission deems appropriate to carry out the purposes of this section. Such agreement shall provide that, when the Commission makes a determination that the United States will probably be required to make indemnity payments under this section, the Commission shall collaborate with any person indemnified and may approve the payment of any claim under the agreement of indemnification, appear through the Attorney General on behalf of the person indemnified, take charge of such action, and settle or defend any such action. The Commission shall have final authority on behalf of the United States to settle or approve the settlement of any such claim on a fair and reasonable basis with due regard for the purposes of this Act. Such settlement may include reasonable expenses in connection with the claim incurred by the person indemnified.

“i. After any nuclear incident which will probably require payments by the United States under this section, the Commission shall make a survey of the causes and extent of damage which shall forthwith be reported to the Joint Committee, and, except as forbidden by the provisions of chapter 12 of this Act or any other law or Executive order, all final findings shall be made available to the public, to the parties involved and to the courts. The Commission shall report to the Joint Committee by April 1, 1958, and every year thereafter on the operations under this section.

“j. In administering the provisions of this section, the Commission may make contracts in advance of appropriations and incur obligations without regard to section 3679 of the Revised statutes, as amended.

Section 5

The Atomic Energy Act of 1954, as amended, is amended by adding thereto a new section, making the appropriate amendment to the table of contents, as follows :

Section 29. Advisory Committee on Reactor Safeguards

“There is hereby established an Advisory Committee on Reactor Safeguards consisting of a maximum of fifteen members appointed by the Commission for terms of four years each. The Committee shall review safety studies and facility license applications referred to it and shall make reports thereon, shall advise the Commission with regard to the hazards of proposed or existing reactor facilities and the adequacy of proposed reactor safety standards, and shall perform such other duties as the Commission may request. One member shall be designated by the Committee as its Chairman. The members of the Committee shall receive a per diem compensation for each day spent in meetings or conferences, or other work of the

Committee, and all members shall receive their necessary traveling or other expenses while engaged in the work of the Committee. The provisions of section 163 shall be applicable to the Committee."

Section 6

Section 182 of the Atomic Energy Act of 1954, as amended, is amended by redesignating subsection *b.* as subsection *c.* and subsection *c.* as subsection *d.*, and by inserting the following subsection as a new subsection *b.* immediately after subsection *a.* :

"*b.* The Advisory Committee on Reactor Safeguards shall review each application under section 103 or 104*b.* for a license for a facility, any application under section 104*c.* for a testing facility, and any application under section 104 *a.* or *c.* specifically referred to it by the Commission, and shall submit a report thereon, which shall be made part of the record of the application and available to the public, except to the extent that security classification prevents disclosure."

Section 7

Section 189*a.* of the Atomic Energy Act of 1954, as amended, is amended by adding the following sentence at the end thereof : "The Commission shall hold a hearing after thirty days notice and publication once in the Federal Register on each application under section 103 or 104*b.* for a license for a facility, and on any application under section 104*c.* for a license for a testing facility."

Approved September 2, 1957.

A N N E X B

Public Law 85-602. 85th Congress, S. 4165. August 8, 1958

AN ACT TO AMEND THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 11 *o.* of the Atomic Energy Act of 1954, as amended, is amended by substituting a colon for the period at the end thereof and adding the following : *Provided, however,* That as the term is used in subsection 170 *l.*, it shall mean any such occurrence outside of the United States rather than within the United States."

Section 2

Section 170 of the Atomic Energy Act of 1954, as amended, is amended by adding at the end thereof the following new subsections :

"7. The Commission is authorized until August 1, 1967, to enter into an agreement of indemnification with any person engaged in the design, development, construction, operation, repair, and maintenance or use of the nuclear-powered ship authorized by section 716 of the Merchant Marine Act, 1936, and designated the 'nuclear ship *Savannah*'. In any such agreement of indemnification the Commission may require such person to provide and maintain financial protection of such a type and in such amounts as the Commission shall determine to be appropriate to cover public liability arising from a nuclear incident in connection with such design, development, construction, operation, repair, maintenance or use and shall indemnify the person indemnified against such claims above the amount of the financial protection required, in the maximum amount provided by subsection *e*, including the reasonable costs of investigating and settling claims and defending suits for damage."

Section 170*e*. of the Atomic Energy act of 1954, as amended, is amended by deleting the second sentence thereof and inserting in lieu thereof the following : "The Commission or any person indemnified may apply to the appropriate district court of the United States having venue in bankruptcy matters over the location of the nuclear incident, except that in the case of nuclear incidents caused by ships of the United States outside of the United States, the Commission or any person indemnified may apply to the appropriate district court of the United States having venue in bankruptcy matters over the location of the principal place of business of the shipping company owning or operating the ship, and upon a showing that the public liability from a single nuclear incident will probably exceed the limit of liability imposed by this section, shall be entitled to such orders as may be appropriate for enforcement of the provisions of this section, including an order limiting the liability of the persons indemnified, orders staying the payment of claims and the execution of court judgments, orders apportioning the payments to be made to claimants, orders permitting partial payments to be made before final determination of the total claims, and an order setting aside a part of the funds available for possible latent injuries not discovered until a later time."

Approved August 8, 1958.