

No. 11764

**FRANCE
and
FEDERAL REPUBLIC OF GERMANY**

Convention on the construction and operation of an ultra-high-flux reactor (with exchanges of letters). Signed at Grenoble on 19 January 1967

Additional Agreement to the above-mentioned Convention. Signed at Bonn on 6 July 1971

Authentic texts: French and German.

Registered by France on 19 April 1972.

**FRANCE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

Convention sur la construction et l'exploitation d'un réacteur à très haut flux (avec échanges de lettres). Signée à Grenoble le 19 janvier 1967

Avenant à la Convention susmentionnée. Signé à Bonn le 6 juillet 1971

Textes authentiques : français et allemand.

Enregistrés par la France le 19 avril 1972.

EXCHANGES OF LETTERS — ÉCHANGES DE LETTRES

I a

DER BUNDESMINISTER FÜR WISSENSCHAFTLICHE FORSCHUNG

Grenoble, den 19. Januar 1967

Herr Minister,

Ich beehre mich, Ihnen im Namen der Regierung der Bundesrepublik Deutschland unter Bezugnahme auf das am 19. Januar 1967 unterzeichnete Abkommen zwischen unseren Regierungen über den Bau und den Betrieb eine Höchstflußreaktors folgendes vorzuschlagen:

1. Gemäß Artikel 2 Absatz 2 des Abkommens sind die in Artikel 2 Absatz 1 genannten Beträge unter Berücksichtigung der im Zusammenhang mit der Errichtung und dem Betrieb der Gesellschaft erhobenen Steuern, Zölle und sonstigen Abgaben zu zahlen.

Es werden berücksichtigt:

- die Steuern, Zölle und sonstigen Abgaben, welche die Gesellschaft aufgrund ihrer satzungsmäßigen Tätigkeiten und Arbeiten schuldet, mit Ausnahme der Steuern und sonstigen Abgaben, welche zugunsten von Gebietskörperschaften, soweit es sich nicht um die Französische Republik oder die Bundesrepublik Deutschland und ihre Länder handelt, erhoben werden, sowie der Steuern und sonstigen Abgaben, welche die Gesellschaft als Arbeitgeber zu entrichten hat;
- die Steuern, Zölle und sonstigen Abgaben, welche auf Lieferungen und Leistungen an die Gesellschaft im Rahmen ihrer satzungsmäßigen Tätigkeiten und Arbeiten zu entrichten sind, mit Ausnahme von Lieferungen und Leistungen, welche dem persönlichen Verbrauch des Gesellschaftspersonals dienen.

Die Anrechnung dieser Steuern, Zölle und sonstigen Abgaben erfolgt in der Weise, daß sich die für die Errichtung und die Tätigkeit der Gesellschaft in Artikel 2 Absatz 1 des Abkommens vorgesehenen Beträge nicht vermindern. Die diesen Steuern, Zöllen und sonstigen Abgaben entsprechenden Beträge werden folglich dem deutschen Beitrag hinzugefügt, wenn sie von den deutschen Behörden erhoben wurden, und dem französischen Beitrag, wenn sie von den französischen Behörden erhoben wurden.

2. Die Gesellschaft legt den beiden Regierungen vor dem 1. April jeden Jahres genaue Angaben über die oben erwähnten Steuern, Zölle und sonstigen

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE
FRENCH REPUBLIC AND THE GOVERNMENT OF THE
FEDERAL REPUBLIC OF GERMANY ON THE CON-
STRUCTION AND OPERATION OF AN ULTRA-HIGH-
FLUX REACTOR

The Government of the French Republic and

The Government of the Federal Republic of Germany,

Being anxious to proceed with the application of the provisions of the Franco-German Treaty of 22 January 1963,² and particularly of those relating to the development of scientific co-operation between the two countries,

Considering the value of the research already carried out both in France and in the Federal Republic of Germany in the field of nuclear physics and solid-state physics,

Noting that new installations are necessary for the development of such research in Europe,

Desiring that other European States should have the opportunity to participate in the activities which they propose to undertake jointly,

Have decided to promote the construction and operation for peaceful purposes of an ultra-high-flux reactor and have accordingly agreed as follow:

Article I

1. The Construction and operation of the reactor which is the subject of this Convention shall be entrusted to a non-commercial corporation, the associates in which shall be the Gesellschaft für Kernforschung mbH, of the one part, and the Commissariat à l'énergie atomique and the Centre National de la Recherche Scientifique, of the other part.

¹ Came into force on 26 May 1967, the date by which the two Governments had notified each other of the completion of the necessary constitutional procedures, in accordance with article VII (1).

² See p. 323 of this volume.

2. The Corporation, whose statutes shall be deposited with the two Governments:

- Shall undertake activities only for peaceful purposes,
- Shall be named the Max von Laue-Paul Langevin Institute,
- Shall have its headquarters at Grenoble,
- Shall be directed by an eminent German scientist,
- Shall use French and German as its working languages.

In addition:

- The French and German members of the Managing Board of the Corporation may be appointed and removed only with the consent of their respective Governments;
- Disputes arising between the associates shall be referred to the Governments if they cannot be settled by mutual agreement;
- The associates shall request the joint approval of the Governments for any change in the statutes;
- Additional associates may be admitted once the construction of the reactor, its ancillary installations and its experimental facilities have been completed.

Article II

1. The two Governments undertake to make available to the associates:

- Firstly, a sum of 163 million French francs (DM 132 million) to cover the construction costs of the reactor;
- Secondly, an annual grant of up to 43 million French francs (DM 35 million) to cover operating costs.

2. Each Government shall bear one half of the costs referred to in paragraph 1 above. However, during the operational phase of the reactor, which shall begin at a time fixed by the Managing Board of the Corporation, operating costs shall be shared in the proportion of 49 % for the Government of the Federal Republic of Germany and 51 % for the Government of the French Republic. In determining the amount of each Government's share, certain tax revenues collected by each of the two States in connexion with the establishment and the operations of the Corporation shall be taken into account.

3. If the amount of the costs exceeds the sums specified in paragraph 1 above, the two Governments shall, after hearing the views of the competent organs of the Corporation, consult together in order to determine ways of jointly continuing the construction and operation of the reactors. The two Governments shall also consult together in the event of any change in the rates of exchange prevailing at the time of the conclusion of this Convention.

4. The two Governments shall satisfy themselves that the sums made available to the Corporation for the construction and operation of the reactor are used to the best advantage and shall take the necessary measures to that end.

Article III

Subject to the requirements of public policy and public safety, each Government undertakes to facilitate the travel and sojourn of nationals of the other Contracting Party employed by the Corporation or commissioned by it to carry out research work.

Article IV

1. This Convention shall be open for accession by third States. Any accession shall require the approval of the signatory Governments. The conditions of accession shall be the subject of an agreement between the signatory Governments and the Government of the acceding State.

2. If the other States members of the European Atomic Energy Community should desire to accede to the Convention, the two Governments shall endeavour to bring the activities of the Corporation within the framework of the said Community's research programme.

Article V

1. Disputes relating to the interpretation or application of the provisions of this Convention shall be settled by negotiation between the two Governments.

2. If the two Governments fail to agree on the settlement of a dispute, either one of them may refer it for decision to an Arbitral Tribunal composed of three members.

3. Each Contracting Party shall appoint an arbitrator within one month; the two arbitrators so appointed shall, within two months after their appoint-

ment, choose a national of a third State as an umpire, who shall serve as Chairman of the Arbitral Tribunal.

4. If the time-limits specified in paragraph 3 are not observed, either Party may, in the absence of some other arrangement, request the President of the Court of Justice of the European Communities to make the requisite appointments.

5. The Arbitral Tribunal shall take its decisions by majority vote.

6. The Arbitral Tribunal shall take its decisions on the basis of the provisions of article 38, paragraph 1, of the Rules of Court of the International Court of Justice. Its decisions shall be binding.

7. The Tribunal shall establish its rules of procedure in accordance with the arrangements provided for in chapter III of the Convention of The Hague of 18 October 1907.

8. Each Party shall bear its own costs and one half of the costs of the Arbitral Tribunal.

9. The provisions of this article, with the exception of paragraph 6 above, shall apply in the case of disputes between the associates concerning the operations of the Corporation which, in accordance with article 24 of the statutes, must be referred to their Governments. The Tribunal shall take its decision on the basis of the rules of law applicable to the issue in dispute.

Article VI

This Convention shall also apply to *Land Berlin*, provided that the Government of the Federal Republic of Germany has not delivered a contrary declaration to the Government of the French Republic within three months from the date of entry into force of the Convention.

Article VII

1. This Convention shall enter into force as soon as the two Governments have notified each other of the completion of the necessary constitutional procedures.

2. This Convention is concluded for a term of 13 years. Upon the expiry of that period, it shall be automatically extended for successive periods of one year and may be terminated only on one year's notice.

IN WITNESS WHEREOF the representatives of the two Governments have signed this Convention and have thereto affixed their seals.

DONE at Grenoble, on 19 January 1967, in two copies in the French and German languages, both texts being equally authentic.

For the Government
of the French Republic:

[Signed]

ALAIN PEYREFITTE

Minister Delegate for Scientific
Research and for Atomic Energy
and Outer Space Affairs

[SEAL]

For the Government
of the Federal Republic of Germany:

[Signed]

G. STOLTENBERG

Federal Minister for Scientific
Research

[SEAL]

EXCHANGES OF LETTERS

I a

THE FEDERAL MINISTER FOR SCIENTIFIC RESEARCH

Grenoble, 19 January 1967

Sir,

With reference to the Convention between our Governments on the construction and operation of an ultra-high-flux reactor, signed on 19 January 1967, I have the honour, on behalf of the Government of the Federal Republic of Germany, to propose to you the following:

1. In accordance with article II, paragraph 2, of the Convention, the sums referred to in article II, paragraph 1, are to be paid taking into account taxes, duties and other charges collected in connexion with the establishment and the operations of the Corporation.

The following shall be taken into account:

- Taxes, duties and other charges payable by the Corporation in respect of its activities and operations under its statutes, with the exception of taxes and other charges collected on behalf of public authorities other than the French Republic or the Federal Republic of Germany and its *Länder* and taxes and other charges payable by the Corporation as an employer;

— Taxes, duties and other charges collected in respect of supplies and services to the Corporation within the framework of its activities and operations under its statutes, with the exception of personal supplies and services to employees of the Corporation.

The said taxes, duties and other charges shall be accounted for in such a way that the sums specified in article II, paragraph 1, of the Convention for the purposes of the establishment and the operations of the Corporation are not reduced. The amount of such taxes, duties and other charges shall consequently be added to the German contribution, where they have been collected by the German authorities, and to the French contribution, where they have been collected by the French authorities.

2. The Corporation shall provide the two Governments before the first day of April of each year with full particulars of the taxes, duties and other charges as referred to above which it has definitively paid during the last completed financial year. The said particulars shall be accompanied by all such documents and vouchers as may serve to establish the fact and the amount of the charges. The amount of the revenues collected by the financial authorities of each of the two States shall be indicated separately.

The aforementioned particulars shall be examined, within three months, by a Board composed of experts of the two Governments. The Board shall carry out or cause to be carried out any audits that may be deemed necessary. It shall consider, *inter alia*, questions relating to the refund, in case of export, of charges collected in either State. The Board shall inform the two Governments of the adjustments which in its view should be made in their shares of the costs for the financial year in question under the terms of article II of the Convention and paragraph 1 of this letter.

3. The Governments shall pay their financial shares to the associates in their own national currencies.

4. The two Governments shall, within the framework of their external trade and foreign exchange regulations, take the necessary measures for the most liberal possible issue of permits for the execution of the Corporation's commercial and financial transactions and the implementation of the relevant regulations.

If the Government of the French Republic signifies its agreement to the proposals contained in paragraphs 1 to 4, I propose that this letter and the reply thereto should constitute an agreement between our two Governments, which shall enter into force at the same time as the Convention.

Accept, Sir, etc.

[GERHARD STOLTENBERG]

H.E. Mr. Alain Peyrefitte
Minister Delegate for Scientific Research
and for Atomic Energy and Outer Space Affairs
Paris

II a

FRENCH REPUBLIC
THE MINISTER DELEGATE FOR SCIENTIFIC RESEARCH
AND FOR ATOMIC ENERGY AND OUTER SPACE AFFAIRS

19 January 1967

Sir,

By letter of today's date, you addressed to me the following proposals relating to the Convention between the Government of the French Republic and the Government of the Federal Republic of Germany on the construction and operation of an ultra-high-flux reactor:

[See letter I a]

I have the honour to confirm the agreement of the Government of the French Republic to the foregoing provisions. I also confirm that your letter and this reply shall constitute an agreement between our two Governments, which shall enter into force at the same time as the Convention.

Accept, Sir, etc.

[Signed]
ALAIN PEYREFITTE

H.E. Gerhard Stoltenberg
Federal Minister for Scientific Research

I b

FRENCH REPUBLIC
THE MINISTER DELEGATE FOR SCIENTIFIC RESEARCH
AND FOR ATOMIC ENERGY AND OUTER SPACE AFFAIRS

19 January 1967

Sir,

With reference to the Convention concluded between the Government of the French Republic and the Government of the Federal Republic of Germany on the construction and operation of an ultra-high-flux reactor and the exchange of letters relating to the taking into account of certain tax revenues which we have signed this day, I have the honour to propose to you the following:

In the event of the establishment of other joint agencies within the framework of Franco-German scientific co-operation, such agencies shall be accorded a fiscal and financial status similar to, or having the same effect as, that established by the aforementioned texts.

I have the honour to request you to confirm the agreement of the Government of the Federal Republic of Germany to this proposal.

Accept, Sir, etc.

[Signed]

ALAIN PEYREFITTE

H.E. Gerhard Stoltenberg
Federal Minister for Scientific Research

II b

THE FEDERAL MINISTER FOR SCIENTIFIC RESEARCH

Grenoble, 19 January 1967

Sir,

With reference to the Convention between our Governments on the construction and operation of an ultra-high-flux reactor, signed on 19 Janu-

ary 1967, and the exchange of letters relating to the taking into account of certain tax revenues, I have the honour to acknowledge receipt of your letter of 19 January 1967 containing the following proposal:

In the event of the establishment of other joint agencies within the framework of German-French scientific co-operation, such agencies shall be accorded a fiscal and financial status similar to, or having the same effect as, that established by the aforementioned texts.

I have the honour to inform you that the Government of the Federal Republic of Germany agrees to this proposal. I also confirm that your letter and this reply shall constitute an agreement between our two Governments, which shall enter into force at the same time as the Convention.

Accept, Sir, etc.

[GERHARD STOLTENBERG]

H.E. Mr. Alain Peyrefitte
Minister Delegate for Scientific Research
and for Atomic Energy and Outer Space Affairs
Paris

ADDITIONAL AGREEMENT¹ TO THE CONVENTION OF
19 JANUARY 1967² BETWEEN THE GOVERNMENT OF
THE FRENCH REPUBLIC AND THE GOVERNMENT OF
THE FEDERAL REPUBLIC OF GERMANY ON THE CON-
STRUCTION AND OPERATION OF AN ULTRA-HIGH-
FLUX REACTOR

The Government of the French Republic and the Government of the Federal Republic of Germany,

Considering that the amounts specified in article II, paragraph 1, of the Convention of 19 January 1967² to cover the construction costs of the reactor and operating costs must be adjusted to actual requirements,

Considering the changes in the rates of exchange of the French franc and the Deutsche Mark in 1969,

Considering that the apportionment of contracts for the construction of the reactor among suppliers of the two countries had resulted in an equal distribution before the said changes in the rates of exchange,

Have consulted together, in accordance with article II, paragraph 3, of the Convention, and have agreed as follows:

Article I

Article II, paragraphs 1 and 2, of the Convention shall be abrogated and replaced by the following provisions:

“1. The two Governments undertake to make available to the associates:

- Firstly, 335 million French francs to cover the costs of setting up the installation, including the reactor, the experimental facilities and the operating costs of the Institute during the planning and construction phase;
- Secondly, an annual grant in the amount appropriated for the purpose in the budgets of the French Republic and the Federal Republic

¹ Came into force on 6 July 1971 by signature, in accordance with article III.

² See p. 370 of this volume.

of Germany. The purpose of the said annual grant shall be to cover operating costs, subject to a limit of 53 million French francs for the first year of the phase of normal operation, which will be 1972 at the earliest. The limit shall thereafter be increased by 5 % each year in relation to the limit for the preceding year.

“2. The construction costs of the reactor, estimated at a maximum of 240 million French francs, shall be apportioned in such a way that each Government finances the orders placed with suppliers in its country. The same shall apply to any subsequent increases in the amount of orders as a result of escalator clauses or unavoidable technical contingencies. If at any time, however, such technical contingencies cause the total amount of the orders placed in one of the two countries to be exceeded by 5 %, the excess costs shall be borne in equal shares and shall be taken into account, along with subsequent orders for equipment, with a view to an equal apportionment of the total of such orders.

“The costs of setting up the experimental facilities and the operating costs of the Institute during the planning and construction phase shall be apportioned equally between the two Governments.

“During the operational phase of the reactor, which shall begin at a time fixed by the Managing Board of the Corporation, operating costs shall be shared in the proportion of 51 % for the Government of the French Republic and 49 % for the Government of the Federal Republic of Germany.

“In determining the amount of each Government’s share, certain tax revenues collected by each of the two States in connexion with the establishment and the operations of the Corporation shall be taken into account.”

Article II

This Additional Agreement shall also apply to *Land* Berlin, provided that the Government of the Federal Republic of Germany has not delivered a contrary declaration to the Government of the French Republic within three months from the date of entry into force of the Additional Agreement.

Article III

This Additional Agreement shall enter into force on the date of its signature.

It may be terminated only in conjunction with the Convention of 19 January 1967.

DONE at Bonn, on 6 July 1971, in two copies in the French and German languages, both texts being equally authentic.

For the Government
of the Federal Republic of Germany:

[Signed]
LEUSSINK

For the Government
of the French Republic:

[Signed]
F. ORTOLI