

No. 21152

BELGIUM
and
FEDERAL REPUBLIC OF GERMANY

Treaty on the construction and operation of a motorway bridge over the Our near Steinebrück (with map and exchange of letters). Signed at Brussels on 5 February 1979

Authentic text of the Treaty: French, Dutch and German.

Authentic text of the exchange of letters: French.

Registered by Belgium on 21 July 1982.

BELGIQUE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

Traité concernant la construction et l'entretien d'un viaduc d'autoroute sur l'Our près de Steinebrück (avec plan et échange de lettres). Signé à Bruxelles le 5 février 1979

Textes authentiques du Traité : français, néerlandais et allemand.

Texte authentique de l'échange de lettres : français.

Enregistré par la Belgique le 21 juillet 1982.

Article 4. CONSTRUCTION COSTS

1. The Contracting States shall bear the construction costs of the bridge piers, deck and lighting in proportion to the length of the bridge in each country. The cost of the abutments, retaining walls and elevated approaches and of moving existing roads and watercourses shall be borne by the Contracting State in whose territory this work is carried out.

2. In the apportionment of construction costs, Belgian value added tax, which shall be included in those costs, shall not be taken into account but shall be borne by the Kingdom of Belgium alone.

Article 5. ACQUISITION OF LAND

Each Contracting State shall see to it that the land in its territory needed permanently or provisionally for the construction of the bridge is available in good time, and shall bear the costs entailed.

Article 6. FRONTIER BETWEEN THE STATES

On the bridge, the frontier between the two States shall be taken to be the transverse section through the vertical projection onto the bridge deck of the intersection of the bridge axis with the mid-line of the watercourse. This mid-line and the line of the frontier on the bridge are signalled on the excerpt from the plan¹ annexed to this Treaty. The frontier on the bridge shall be indicated by clearly visible markings.

Article 7. HAND-OVER AND MAINTENANCE OF THE STRUCTURE

1. Upon completion of construction, the competent authorities of the two Contracting States shall take delivery of the bridge in the presence of the builders.

2. After delivery, the Kingdom of Belgium shall for five years assume responsibility at its own expense for the maintenance of the bridge, including lighting, winter maintenance and routine cleaning; during that period it shall settle warranty claims with the builders.

3. After that period the part of the structure situated in German territory shall revert to the Federal Republic of Germany. Each Contracting State shall then be responsible for the maintenance of the bridge in its territory, including lighting, winter maintenance and routine cleaning and renovation. The competent authorities may, however, agree that the Belgian authorities shall for consideration assume responsibility for some or all of those operations for the entire bridge. Article 4, paragraph 2, shall apply to such consideration.

Article 8. PAYMENT

1. The Kingdom of Belgium shall be responsible for pre-delivery. As construction proceeds, it shall present the Federal Republic of Germany with statements of expenditure; the Federal Republic of Germany shall immediately reimburse the Kingdom of Belgium *pro rata* for its share. All payments shall be made in Belgian currency.

2. After joint acceptance of delivery, the Kingdom of Belgium shall submit the final bill to the Federal Republic of Germany. In the event of a difference of opinion, uncontested amounts may not be withheld.

Article 9. TOLLS

No toll may be levied for the use of the bridge.

¹ See p. 101 of this volume.

Article 10. RIGHT OF ACCESS

1. The employees of each Contracting State engaged in the construction or maintenance of the bridge, including lighting, winter maintenance and routine cleaning, and all other persons associated with construction or maintenance may, in the performance of their duties, cross the frontier and remain in the part of the work site or bridge that lies in the territory of the other Contracting State without being required to carry such residence permit as may be stipulated by the law of that State.

2. The employees referred to in paragraph 1 and the other persons stipulated in the same paragraph must carry a national passport or other official identity document bearing a photograph. If they are not nationals of a State member of the European Economic Community they must in addition carry a residence permit for the Contracting State in which they are resident.

3. In addition to the documents referred to in paragraph 2, the employees indicated in paragraph 1 must carry an employee identification card, and the other persons referred to in the same paragraph, an affidavit from the firm employing them to show that they are associated with the construction.

4. Each of the Contracting States shall at any time and without formality, in accordance with the agreements between them, take back persons who have entered the territory of the other State in contravention of this Treaty.

Article 11. FISCAL ARRANGEMENTS

1. During construction and until the hand-over of the bridge in accordance with article 7, paragraph 3, the work site and structure shall, as an exception to article 6, be deemed to lie within Belgian territory for the purposes of indirect taxation, including import duties and taxes, and regulations on import and export insofar as goods deliveries, various services and imports intended for the construction or maintenance of the bridge in accordance with article 7, paragraph 2, are concerned.

2. Goods obtained on the free market in the Federal Republic of Germany shall be exempt from import duties and taxes upon entry into Belgium insofar as they are used for the construction or maintenance of the bridge. This exemption shall apply as of the start of work. Sureties shall not be required. Goods subject to excise duty upon entry into Belgium shall not be exempt from that duty. When goods are imported by the public works authorities or the Intercommunale for the E 5 motorway, no exemption shall be granted from Belgian value added tax.

3. Goods needed for the construction or maintenance of the bridge shall not upon either entry or exit be subject to any prohibition or restriction.

4. Paragraphs 1 to 3 above shall also apply after expiry of the period stipulated in article 7, paragraph 2, to deliveries of goods, various services and imports for the operations specified in article 7, paragraph 3, insofar as, by arrangement, the Belgian authorities have assumed responsibility for some or all of those operations for the entire bridge.

5. The competent fiscal and customs authorities shall communicate with each other and provide each other with all necessary assistance in order to enforce their laws and regulations within the framework of the provisions of paragraphs 1 to 4. Belgian employees of those authorities shall be entitled to move anywhere within the work site and structure and enforce the measures provided for by Belgian law and regulations. The Belgian fiscal and customs authorities shall not, however, be authorized to arrest German nationals in the territory of the Federal Republic of Germany.

6. This Treaty shall not prejudice the Agreement of 11 April 1967 between the Federal Republic of Germany and the Kingdom of Belgium for the avoidance of double

taxation and the regulation of certain other matters with respect to taxes on income and fortune, including the business tax and land taxes.¹

Article 12. TECHNICAL COMMISSION

1. There shall be established a Belgian-German Technical Commission, whose chair shall be held alternately for periods of six months by the heads of the delegations. Decisions of the Commission shall be taken by common accord.

2. The Commission shall have the following tasks:

- (a) To determine the position, principal dimensions and structure of the bridge;
- (b) To decide on the scope of the joint construction work;
- (c) To examine the plans and the contracts proposed for issue; the project and the proposed issuance of contracts;
- (d) To agree on payments;
- (e) To take delivery of the structure;
- (f) To apportion costs;
- (g) To transfer and resume responsibility for the bridge.

3. Each delegation to the Commission may obtain from the competent authorities of the other Contracting State any documents it deems necessary for preparing the decisions to be taken by the Commission.

Article 13. ARBITRATION

1. Disputes as to the interpretation or application of this Treaty shall, as far as possible, be settled amicably by the Contracting States; either Contracting State may to that end ask the Technical Commission to take a position.

2. When a dispute cannot be amicably settled, it shall be submitted to arbitration at the request of either Contracting State.

3. The Arbitral Tribunal shall in each individual case be so constituted that each Contracting State appoints one arbitrator. The two arbitrators thus appointed shall select a third who shall be of neither German nor Belgian nationality.

4. If the three arbitrators are not appointed within two months of the request referred to in paragraph 2, either Contracting State may invite the President of the Court of Justice of the European Communities to make the necessary appointments. If the President of the Court of Justice of the European Communities is unable so to do or is of German or Belgian nationality, the most senior judge of the Court shall be invited to make the necessary appointments.

5. The Arbitral Tribunal shall rule by majority vote. Its rulings shall be binding on the Contracting States.

6. Each Contracting State shall meet the expenses of the arbitrator it appoints. The expenses of the third arbitrator and other expenses shall be shared equally by the Contracting States. In all other matters the Arbitral Tribunal shall be master of its own procedure.

Article 14. BERLIN CLAUSE

This Treaty shall apply equally to *Land Berlin* in the absence of a declaration to the contrary by the Government of the Federal Republic of Germany to the Government of the Kingdom of Belgium within three months of the entry into force of this Treaty.

¹ United Nations, *Treaty Series*, vol. 704, p. 361.

Article 15. RATIFICATION, ENTRY INTO FORCE

1. This Treaty shall be subject to ratification; instruments of ratification shall be exchanged as soon as possible in Bonn.

2. This Treaty shall enter into force on the first day of the second month following the exchange of instruments of ratification.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Treaty.

DONE at Brussels, on 5 February 1979, in duplicate, in the Dutch, French and German languages, all three texts being equally authentic.

For the Kingdom of Belgium:

H. SIMONET

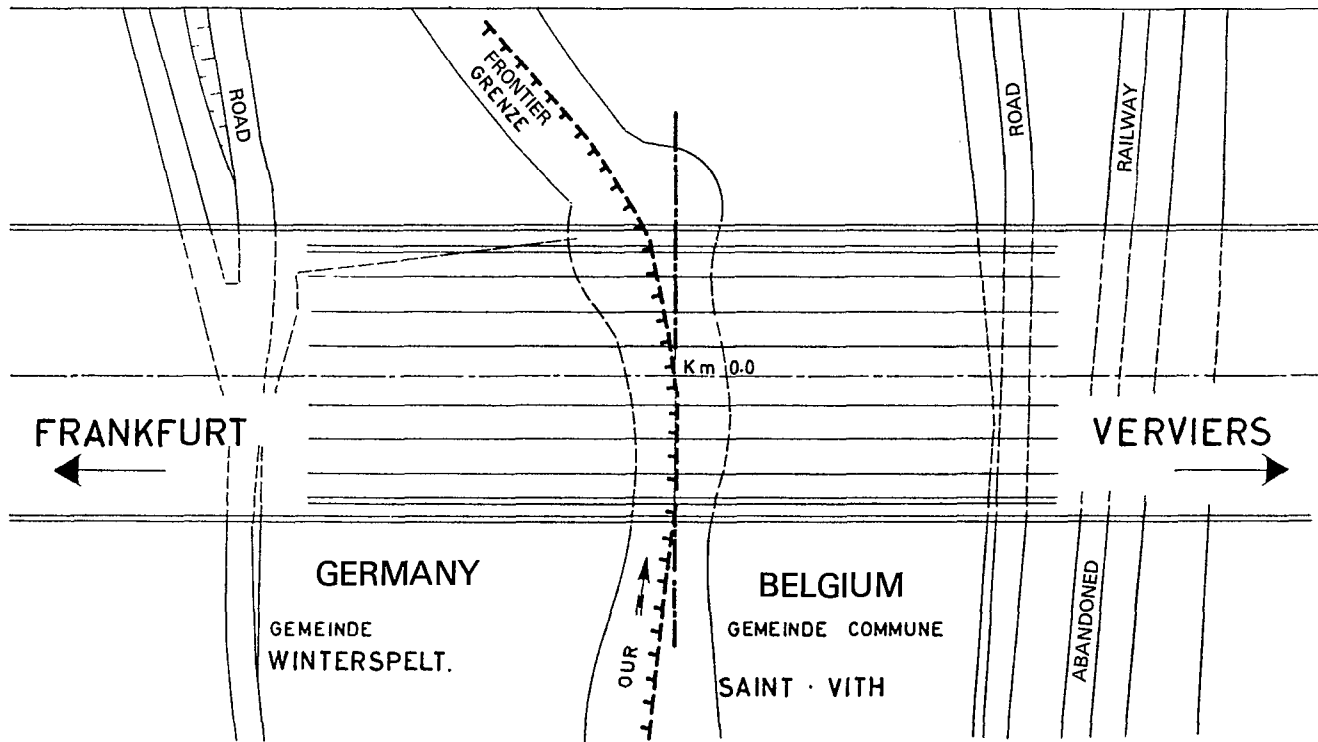
For the Federal Republic of Germany:

P. LIMBOURG

VERVIERS - FRANKFURT MOTORWAY

Viaduct on the our at Steinebrück

State border situation



SCALE 1 / 500
3556x (E)

PORTION OF MAP
Treaty No. I-21152 (Vol. 1284)

EXCHANGE OF LETTERS

I

Brussels, 5 February 1979

Sir,

On the occasion of today's signing of the Treaty between the Kingdom of Belgium and the Federal Republic of Germany on the construction and operation of a motorway bridge over the Our near Steinebrück, I have the honour to put to you the following proposal:

Provisions similar to those made by article 7, paragraph 3, and article 11 of this Treaty to the advantage of the Kingdom of Belgium are to be made, in a spirit of reciprocity, to the advantage of the Federal Republic of Germany if a comparable structure is built on the frontier and the building and operation of that structure might be facilitated thereby. In that event, the Governments of the Contracting States would collaborate in due course over the steps to be taken; that collaboration would take place in a spirit of good-neighbourliness and the context of joint programmes on transport links.

If the Government of the Federal Republic of Germany can indicate its consent to the foregoing, this letter, which has the approval of the Government of the Kingdom of Belgium, and your reply will be regarded as an integral part of the Treaty.

Accept, Sir, the assurances of my highest consideration.

H. SIMONET

Mr. P. Limbourg
Ambassador of the Federal Republic of Germany
to Brussels

II

Brussels, 5 February 1979

Sir,

I have the honour to acknowledge receipt of your note dated 5 February 1979 which reads as follows:

[See letter I]

I have the honour to inform you that the Government of the Federal Republic of Germany agrees to the above proposal.

Accept, Sir, etc.

P. LIMBOURG

Mr. H. Simonet
Minister for Foreign Affairs
Brussels