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CIRCULATION OF INFORMATION CONCERNING EXISTING
BILATERAL AND MULTILATERAL AGREEMENTS FOR
INTERNATIONAL INLAND WATER TRANSPORT

Addendum 3

Note by the secretariat

The secretariat reproduces below the text of the Convention between Federal Republic of Germany, the French Republic and the Grand Duchy of Luxembourg concerning the canalization of the Moselle, signed at Luxembourg on 27 October 1956. The text of the Convention was received from the Government of Luxembourg.

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CONVENTION BETWEEN THE FEDERAL REPUBLIC OF GERMANY,
THE FRENCH REPUBLIC AND THE GRAND DUCHY OF LUXEMBOURG
CONCERNING THE CANALIZATION OF THE MOSELLE,

signed at Luxembourg on 27 October 1956

The President of the Federal Republic of Germany,

The President of the French Republic,

Her Royal Highness the Grand Duchess of Luxembourg,

Have decided to conclude a Convention concerning the improvement of the Moselle for deep-draught shipping between Thionville and Coblentz and to this end have designated as their plenipotentiaries:

The President of the Federal Republic of Germany:

Mr. Heinrich von Brentano, Minister for Foreign Affairs;

The President of the French Republic:

Mr. Christian Pineau, Minister for Foreign Affairs;

Her Royal Highness the Grand Duchess of Luxembourg:

Mr. Joseph Bech, President of the Government, Minister for Foreign Affairs,

Who, after exchanging their credentials, recognized to be in proper form, have agreed as follows:

Chapter I. Improvement of the Moselle and maintenance of the
canalized section of the Moselle

Use of hydroelectric power

Article 1

(1) The Contracting States, in accordance with the provisions set out below, shall act jointly to render the course of the Moselle between Thionville and Coblentz accessible to vessels of 1,500 tonnes.

(2) The description of the work to be done in implementation of the present Convention, and its separation from the work concerning the electricity generating stations are dealt with in annex 1 to this Convention.

(3) The work shall take account of electricity, agricultural, fisheries, hydrological and tourism requirements and shall be carried out in such a way that the harmony of the sites is respected as far as possible.

Article 2

(1) In carrying out the improvement described in article 1, close cooperation shall be established between the National Navigation Services in their respective sectors, and the Company referred to in Chapter II. The terms of this cooperation, which shall be established at minimum cost to both the Company and the National Navigation Services, shall be as follows:

(2) The Navigation Services shall draw up plans, acquire the necessary land, conduct public inquiries and complete expropriation procedures, invite tenders for work and supplies and examine the bids received, conclude contracts and supervise their implementation allowing for any changes which may prove necessary, take delivery of the completed works, follow arbitration and dispute procedures and, in general, take any measures which may prove necessary for the completion of the undertaking. They shall take account of the competence of the Company as defined below:

(3) The Company shall:

(a) On the proposal of the Navigation Services and within the limits of its financial resources, draw up programmes of work and determine the funding necessary each year to carry them out; it shall procure funding and provide the Navigation Services with the necessary resources;

(b) Approve contracts and undertakings in respect of other obligations for which it has not issued general or special authorizations to the Navigation services;

(c) Examine all statements of expenditures submitted by the Navigation Services and make payments in cases where it has not authorized Navigation Services to make payments directly, for the performance of work, supervised work, and recurring or minor work or materials. In such cases, the Company shall make available to them all the necessary resources. It may ask for their assistance in performing its accounting duties.

(4) The Company shall be authorized to require the competent officials of Navigation Services to provide it with all documentary and first-hand information on the status of projects and the progress of work.

(5) In addition, the Navigation Services shall obtain the agreement of the Company on:

(a) The project as a whole;

(b) The specific projects for each of the structures;

(c) The purchase or temporary occupation of land;

(d) Standard tender-invitation documents and, to the extent deemed necessary by the Company, derogations, tender invitation procedures and, where applicable, the list of entrepreneurs or suppliers to be consulted;

(e) Major changes to the project which may become necessary in the course of the work.

(6) The representatives of the Company, in conjunction with those of the Navigation Services, shall take delivery of the completed works.

(7) The Company shall be kept informed of any arbitration or dispute proceedings and shall participate in them in cases relating to matters of fundamental importance or having major financial implications.

(8) The details of cooperation between the Navigation Services and the Company shall be established in specific agreements between the Company and each of the Administration's concern. The Contracting States shall use their influence to ensure that such agreements are concluded as soon as possible after the establishment of the Company.

Article 3

(1) The Navigation Services of Contracting States, as part of the work entrusted to them, shall, at the expense of the Company and for the benefit of the State concerned, purchase land necessary for the construction project outside the bed of the Moselle, together with the rights pertaining to such land. Where expropriation is necessary, it shall be performed by the Contracting States, each within its own territory.

(2) The Navigation Services shall authorize the execution of the works on land managed by them bordering the Moselle and the submersion of such land, without special compensation.

(3) The Contracting States shall declare the work of canalizing the Moselle to be in the public interest and urgent.

(4) The materials necessary for the work shall be extracted without royalty from the public lands of the Moselle under the authority of the Navigation Services referred to in article 2, subject to the authorization of such Services.

Article 4

The projects shall be prepared and the work completed in the shortest possible time.

Article 5

For the conclusion of contracts, invitations to tender shall normally be issued, in accordance with the procedures followed by each of the Administrations concerned. Invitations shall be issued to the enterprises of Contracting States, with due regard to the rights accorded to third countries under existing international conventions. Action shall be taken on those bids which appear to be the most acceptable from the technical and financial standpoints. Bearing in mind these conditions, the work and orders shall, as far as possible, be distributed among enterprises of Contracting States to keep expenditures of foreign exchange to a minimum.

Article 6

Upon completion of the waterway and subject to the financial conditions set out in article 19 below, each of the Contracting States shall operate, maintain and renew the section situated in its territory, to ensure that it conforms to the provisions of article 1 above at all times.

Article 7

The construction of electricity generating stations and the use of hydroelectric power from the Moselle shall be the exclusive prerogative of each of the Contracting States within its own territory.

Chapter II. The International Company of the Moselle

Article 8

The Contracting States have agreed to entrust the financing of the work provided for in article 1 and the tasks described in article 2 to a company, to be known as the International Company of the Moselle, hereinafter referred to as "the Company".

Article 9

(1) The Company shall be a limited liability company incorporated in Germany (G.m.b.H.). The regulations of the Company shall be established by the provisions of this Convention, by its statutes and, in addition, by the provisions of German law relating to limited liability companies.

(2) If, after the entry into force of this Convention, amendments are made to German company law which affect the rights of the partners, the Government of the Federal Republic of Germany shall take all steps to safeguard those rights.

(3) The statutes of the Company are annexed to this Convention (annex II). The statutes may be modified by a unanimous decision of the General Assembly.

Article 10

(1) The partners shall be the Federal Republic of Germany, the French Republic and the Grand Duchy of Luxembourg. Regional and local communities may also be partners.

(2) The Company's share capital shall be DM 102 million, of which 50 million shall be contributed by the German partners, 50 million by the French partners and 2 million by the Luxembourg partners. The application for registration with the German Trade Register may be made as soon as each partner has deposited one twentieth of its contribution. The Company shall be legally constituted after such registration.

Article 11

The Company shall be constituted as soon as possible and not later than one month following the entry into force of the Convention.

Article 12

The management of the Company shall consist of one German and one French manager.

Article 13

The Supervisory Council of the Company shall elect annually from among its members a Chairman and two Vice-Chairmen.

The Chairman and the first Vice-Chairman shall be of different nationalities and each year shall be alternately French and German. The second Vice-Chairman shall be a Luxembourg national.

Article 14

The Contracting States shall consult not later than the opening of the Moselle to deep-draught shipping between Thionville and Coblenz, to determine any changes to be made to the Company after the completion of the work.

Chapter III. Financing

Article 15

(1) The Contracting States undertake to make available to the Company in good time, by the means provided for in article 17, the sums enabling it to achieve its objective.

(2) The investment required at August 1955 price levels is estimated at DM 370 million. Included in this amount are the overheads of the Company during the construction period, the cost of drawing up plans, preparing projects and supervising and regulating work, and the actual costs of operating, maintaining and renewing structures during the period between their acceptance and the first commercial voyage between Coblenz and Thionville, even if those tasks were performed by the Navigation Services of Contracting States. The total investment does not include the overheads of the Navigation Services, including those arising out of the use of permanent staff of the Navigation Services for the execution of the project. Toll revenues received prior to the first commercial voyage between Coblenz and Thionville shall be credited to the investment account.

(3) On the basis of the assessment referred to in paragraph (2), the German, French and Luxembourg contributions shall be respectively DM 120 million, DM 248 million and DM 2 million. Expenditures in excess of DM 370 million shall be covered by additional German and French payments in the ratio of 120 to 250.

Article 16

The contributions of the Federal Republic of Germany and the French Republic for non-navigational purposes shall consist of the following non-reimbursable amounts:

Federal Republic of Germany: DM 70 million

French Republic: DM 10 million

Article 17

(1) The Contracting States shall discharge the financial obligations described in article 15:

(a) By subscribing to the share capital as provided in article 10 (remunerated and redeemable in accordance with the provisions of articles 20 and 50),

(b) By the contributions provided for in article 16,

(c) By loans to the Company (interest bearing and redeemable in accordance with the provisions of articles 20 and 50),

(d) By guaranteeing any loan issues of the Company. The sums necessary for servicing the interest and repayment of such loans shall be made available to the Company by the guarantor State in good time and in an appropriate currency. The Company and its partners, with the exception of the guarantor State, may not, as a result of such loans, be held liable for financial obligations exceeding those arising out of this Convention.

(2) Until the entry into effect of the machinery provided for in article 50, each Contracting State shall remain liable for remuneration of capital invested and of any loans guaranteed by it, in accordance with paragraph (1).

Article 18

(1) The Contracting States shall make available to the Company on request, as and when needed, the necessary funding in the following order:

(a) Firstly, the Company shall call for the share capital in amounts proportional to each partner's participation;

(b) When the share capital has been fully used, up to a total investment of DM 370 million, the Company shall call for French non-repayable contributions and loans up to a value of DM 198 million and non-reimbursable German contributions up to a value of DM 70 million in the ratio of 198 to 70. It is understood that French payments up to a value of DM 10 million shall correspond to the non-reimbursable contribution of the French Republic as defined in article 16 and that any additional payments shall be in the form of loans;

(c) If the total invested exceeds DM 370 million, each additional German and French payment shall be in the ratio of 120 to 250.

(2) Any amounts arising out of loans described in article 17 (d) shall be accepted in place of payments from the guarantor State.

(3) Any costs to the Company arising out of payments in arrears shall be borne by the State responsible, notwithstanding the obligations of that State under the foregoing paragraphs.

Article 19

(1) From the total tolls paid to the Company in accordance with the provisions of article 26, the Company shall deduct the amounts necessary to cover the following expenditures in the order below:

(a) Actual toll collection costs;

(b) Company operating costs;

(c) Costs of lock personnel and personnel at dams not in the vicinity of locks;

(d) Annual maintenance and renewal charge set at the flat rate of DM 1,900,000 (1 August 1955 value). Contributions to this annual charge shall be assessed on the basis of the number of kilometres of river bank affected by canalization in each State, namely:

Federal Republic of Germany:	<u>448</u>
	540
French Republic:	<u>55</u>
	540
Grand Duchy of Luxembourg:	<u>37</u>
	540

The sums arrived at by this assessment shall vary each year on the basis of the average index of the cost of construction in each of the States concerned for the year in question.

(2) Where the total tolls levied in any one year are inadequate to cover the deductions stipulated in paragraph (1), the sums necessary to meet that year's expenditures shall be deducted, as a matter of priority, from the total tolls levied in subsequent years.

(3) The provisions of paragraph (2) shall apply to the expenditures described in paragraph (1) for the period between the first commercial voyage (art. 50, para. 1) and 31 December of the same year.

Article 20

(1) Toll revenues in excess of the sums needed for the purposes described in article 19 shall be allocated by the Company to the following uses in the order given below:

- (a) Payment of interest on outstanding loans at an annual rate of 5%;
- (b) Repayment of loans at a constant annual rate of 5.5% of their total value, including interest;
- (c) Return on share capital at an annual rate of 3%;
- (d) Repayment of loans up to full redemption;
- (e) Repayment of share capital.

(2) If the payments provided for in paragraph (1) cannot be made or can only partially be made, the payment of the interest provided for in paragraph (1) (a), of the annual instalments provided for in paragraph (1) (b) and the return on capital provided for in paragraph (1) (c) shall be deferred until such time as the Company has the necessary toll revenues.

Article 21

After the opening of the waterway, the Company shall establish a reserve in an amount up to the equivalent of its annual overheads. The amounts necessary for the establishment of this reserve shall also be deducted from the total tolls.

Chapter IV. Tolls

Article 22

The principles concerning tolls shall be the following:

(a) On the Moselle, between Thionville and Coblenz, the toll rates per tonne/kilometre for each type of cargo and the percentages of revenues from special tariffs in relation to total revenues shall be of the same order of magnitude as on the Main and Neckar, bearing in mind the economic characteristics of the traffic; the structure of tariffs and the conditions for their application shall also be the same;

(b) In accordance with the declarations of the Federal Government, any variations in tolls on the Main and Neckar:

Shall, on the one hand, maintain the tolls applicable to Class VI and to Class I in a ratio of between 1:2 and 1:4;

Secondly, shall ensure that the differences between tolls for successive classes are as uniform as possible. Any exceptions shall not exceed 10% of the rates normally resulting from the application of this rule;

Finally, in the case of special tariffs, shall involve reductions of not more than 50% of the normal rates for the class in question;

(c) On the Moselle, passenger fares shall be of the same order of magnitude as on the Main and Neckar.

Article 23

The basic tariffs per tonne/kilometre as at 1 July 1956 for the Moselle between Thionville and Coblenz (confluence with the Rhine) shall be as follows:

1. Regular tariffs

Class I	0.90	Dpf
Class II	0.80	Dpf
Class III	0.65	Dpf
Class IV	0.50	Dpf
Class V	0.40	Dpf
Class VI	0.275	Dpf

2. Special tariffs

(a) Class V

Gypsum, plaster (326)	0.325	Dpf
Stone (750-754)	0.20	Dpf
Cement (830)	0.285	Dpf

(b) Class VI

Bimskies (sand or gravel) (224, 227)	0.225	Dpf
Soil, gravel, sand (223-227)	0.20	Dpf
Ore sand residues (233-243)	0.20	Dpf
Mine timbers (380)	0.175	Dpf
Fertilizers (112)	0.20	Dpf
Solid mineral fuels (82, 83, 464-466, 758, 759)	0.25	Dpf
Clay (781)	0.25	Dpf
Salt (684)	0.225	Dpf
Slag and dross (704-708)	0.25	Dpf
Scrap (717)	0.20	Dpf
Grit and paving materials (755)	0.20	Dpf

The distribution of goods among the six classes shall be in accordance with the:

"Six-class table of goods for toll rates for navigation and rafting on the waterways of the Federal Republic"; (Sechsklassiges Güterverzeichnis zu den Tarifen für die Schifffahrt und Flössereiabgaben auf den Bundeswasserstrassen) in effect on 1 July 1956.

Article 24

(1) The introduction of goods tariffs shall coincide with the opening of the canalized Moselle to deep-draught shipping upstream of the Coblenz reach, which shall entail the elimination of special tolls at the Coblenz lock.

Tariffs shall be calculated on the basis of the following data for the year preceding the date of introduction and for each of the classes from I to VI (goods subject to the regular tariff or to a special tariff):

- (a) The total tolls levied on the Main below Aschaffenburg P
- (b) The total tolls levied on the Neckar p
- (c) The number of tonne/kilometres for goods traffic on the Main, below Aschaffenburg TK
- (d) The number of tonne/kilometres for goods traffic on the Neckar Tk

and, for each class, the following ratio shall be calculated:

$$\frac{P + p}{TK + tk} = R$$

The ratios R I, R II, R III, etc. thus obtained shall be compared with the same ratios r I, r II, r III, etc. for 1955, the respective values of which are as follows:

- r I = 0.896 Pf/Tkm
- r II = 0.756 Pf/Tkm
- r III = 0.634 Pf/Tkm
- r IV = 0.500 Pf/Tkm
- r V = 0.377 Pf/Tkm
- r VI = 0.237 Pf/Tkm

If for any category the ratio R:r is less than 0.90 or more than 1.10, the toll rates on the Moselle for goods of that category (regular and special tariffs) shall be equal to the basic rates listed in article 23 above, multiplied respectively by the coefficients:

$$\frac{R I}{r I}, \quad \frac{R II}{r II}, \quad \frac{R III}{r III}, \quad \text{etc.}$$

(2) The rates may be changed on 1 July of each year (N) by making the calculation for year N - 1 in relation to year N - 2 for coefficients $\frac{R}{r}$ and proceeding in the same way as at the time of introduction.

(3) The toll rates may in all cases and at any time be amended by agreement between the Governments of the three contracting States. Such agreement must be reached when article 38 below is to be applied.

Article 25

(1) Tolls shall be levied by the Contracting States in the manner most convenient for shipping.

(2) Payment shall be made in one instalment in the currency of the country of the first lock encountered. If the first lock encountered is part of a structure standing on the territory of two States, the user may choose the currency of either State.

Article 26

The total tolls levied in the course of a year shall be handed over to the Company which shall distribute them not later than 1 March of the following year, in accordance with the provisions of articles 19 and 20.

Article 27

The following shall be exempted from tolls:

- (a) Transport between two successive locks;
- (b) Transport in small vessels of less than 15 tonnes;
- (c) Transport connected with the construction or maintenance of the channel or navigational installations.

Chapter V. Navigation regime and Moselle Commission

A. Navigation regime

Article 28

The following provisions shall apply to transboundary transport on the Moselle from its confluence with the Rhine as far as Metz.

Article 29

(1) In international traffic as defined in article 28 above, navigation on the Moselle, whether upstream or downstream, shall be open to vessels of all nations for the towing and transport of goods and passengers, subject to compliance with the provisions of this Convention and with the measures prescribed for the maintenance of general safety, and with such conditions as the Contracting States may see fit to introduce by mutual agreement.

(2) The harbours and handling facilities which are public or are open to public use on the reach of the Moselle referred to in article 28 shall be made available to navigators on identical terms, regardless of their nationality.

Article 30

In the event of a change to the existing regime for the Rhine, the Contracting States shall consult with a view to extending to the Moselle the new regime applicable on the Rhine, amended as necessary.

Article 31

The Customs regime applicable to navigation on the Moselle shall be governed by the following rules:

(1) The following shall be applicable mutatis mutandis:

(a) The Customs provisions of the revised Convention relating to the Navigation of the Rhine, signed at Mannheim on 17 October 1868, including the subsequent changes and amendments;

(b) The provisions of the regulations relating to the Customs sealing of vessels on the Rhine;

(c) The provisions of the agreement between the Rhine river States and Belgium of 15 May 1952, concerning the Customs and fiscal regime for fuel oil consumed as ships' provisions in navigation on the Rhine; the application, mutatis mutandis of the provisions of this agreement with regard to the Moselle may be denounced by any of the Contracting States under the conditions set forth in article 6 of the agreement.

(2) In the event of any amendment of the above-mentioned provisions after 1 January 1956, the application of the amended provisions on the Moselle shall be subject to the approval of the Moselle Commission described in Chapter V, B.

(3) The Contracting States shall authorize the widest possible use on the Moselle of Customs documents identical to those used for navigation of the Rhine.

Article 32

(1) The regulations applicable on the Rhine on 1 January 1956 concerning passports, the police, health, social security, vessel inspections and minimum manning shall be applicable on the Moselle, subject to any modifications or amendments decided on by the Moselle Commission.

(2) Amendments made after 1 January 1956 to the Rhine regulations referred to in paragraph (1) may be extended to the Moselle only after a decision by the Moselle Commission determining any extension arrangements which may be necessary to take account of the special characteristics of the Moselle.

(3) Such arrangements shall also facilitate local transport performed by vessels of less than 400 tonnes.

Article 33

- (1) There shall be no mandatory pilot service on the Moselle.
- (2) The conditions for the issuing of masters' certificates shall be determined by the Moselle Commission. Unless the Commission decides otherwise, Rhine masters' certificates shall be valid on the Moselle.

Article 34

- (1) Tribunals to deal with the cases referred to in article 35 below shall be set up at suitable locations on or close to the Moselle and to the extent that each Government deems necessary.
- (2) The three Governments shall communicate to each other information concerning the establishment of tribunals for navigation of the Moselle in their territory, and of any changes in the number, seat and competence of such tribunals.
- (3) The tribunals shall have the same procedures as the tribunals for navigation of the Rhine, as laid down in articles 32 to 40 of the revised Convention for the Navigation of the Rhine.
- (4) The parties may appeal to the Supreme Court of the country in which a judgement has been rendered, or to the Appeals Committee of the Moselle Commission. The Appeals Committee shall consist of three members. The Governments of the Contracting States shall appoint a judge or professor of law from among their nationals as member and alternate member, each for a term of four years. The appointees shall perform their duties with complete independence and shall not be bound by any instructions. They may not be dismissed against their will during their term of office. They may not deal with a case with which they have been seized elsewhere or in which they have a personal interest. The Appeals Committee shall sit at the place of the seat of the Moselle Commission. It shall set out its procedures in regulations which must be approved by the Governments of the Contracting States.

Article 35

The tribunals for the navigation of the Moselle shall be competent:

- (1) In criminal cases, to investigate and judge all offences relating to navigation and the river police.
- (2) In civil cases, to make summary rulings on disputes concerning:
 - (a) The payment and amount of tolls, crantage, port dues and berthage;
 - (b) Damage caused by the manoeuvring of vessels when under way or berthing.

Article 36

(1) The Contracting States shall maintain in good condition that part of the Moselle waterway situated within their borders and shall take all necessary measures to enable navigation to take place in the best possible conditions. In particular, the river States shall be responsible for marking the channel and for maintaining warning signals.

(2) The Moselle Commission shall take all decisions and make all recommendations necessary to ensure the proper implementation of the provisions of this article.

Article 37

(1) Each Contracting State shall submit in good time to the Moselle Commission a general description of the structures and works which it intends to undertake or to have undertaken in the bed of the Moselle, on its banks or above the channel.

(2) The Commission shall determine whether the execution of the intended works safeguards the interests of navigation arising out of this Convention. If such is not the case, it shall invite the Government concerned to have the plans amended and to submit new proposals.

Article 38

The provisions of article 3 of the revised Convention for the Navigation of the Rhine and of the final protocol annexed to that Convention shall be valid for those reaches of the Moselle to which the present Convention applies.

B. Moselle Commission

Article 39

(1) Not later than one year prior to the date fixed for the opening of the Moselle to deep-draught navigation, a commission consisting of delegates of each of the three riparian States shall be set up and shall be known as the Moselle Commission.

(2) The seat of the Commission shall be at Trèves.

Article 40

(1) The functions of the Commission shall be as follows:

(a) The Commission shall determine for the Thionville-Coblentz section the arrangements for tolls (nomenclature, rates, etc.) and the procedure for levying them in accordance with the provisions of this Convention;

(b) The Commission shall perform the functions provided for in the chapter concerning the regime for navigation of the Moselle;

(c) In general, the Commission shall see to it that the prosperity of navigation on the Moselle is maintained to the highest degree.

(2) Governments shall provide the Commission with all the resources necessary for the proper performance of its functions.

Article 41

(1) Each riparian State shall designate two delegates.

(2) The Chairman of the Commission shall be elected from among the delegates for one year by a majority vote. The Chairmanship shall be held by each of the three States in succession.

(3) The Commission shall establish its own rules of procedure.

Article 42

(1) Each of the riparian Governments shall defray the expenses of its delegates.

(2) The Commission shall fix the budget for its overheads in advance for the following year and the riparian States shall contribute the necessary resources in equal proportions.

Article 43

The Moselle Commission shall hold two sessions yearly. Special sessions may be held on the proposal of one of the three riparian States. The Commission shall report annually on its activities and on navigation on the Moselle.

Article 44

Decisions of the Commission shall be taken unanimously by the delegates present or represented.

Chapter VI. General provisions

Article 45

The administrative authorities shall apply national laws and regulations in such a way as to facilitate the work of canalizing the Moselle as far as possible.

Article 46

(1) The undertaking shall not be treated more severely from the fiscal point of view than if the work was being performed directly by the authorities of the Contracting States.

(2) Accordingly, to the extent that the Company complies with its mandate, it shall be exempted in particular from:

(a) Taxes attaching, or which may attach, to the formation, increase in capital, extension, dissolution and division of companies, as well as those which might arise out of loans granted by the Contracting States or the investment of capital in its permanent establishments;

(b) Charges applicable to purchases of premises necessary for its operations, excluding those intended for the personal use of its officials and employees; however, the German fiscal authorities reserve the right to levy tax on acquisitions of buildings (Grunderwerbsteuer);

(c) Taxes applicable to company profits and those applicable specifically to industrial and commercial enterprises;

(d) Taxes, other than those constituting payment for services rendered, on income from buildings and the occupation of buildings belonging to it or of which it has the use, with the exception of those intended for the personal use of its officials and employees;

(e) Turnover taxes where such taxes apply to transactions between the Company and the administrations of the Contracting States under this Convention;

(f) Wealth taxes, with the exception of those applicable to buildings intended for the personal use of its officials and employees;

(g) Taxes on the issue and distribution of share certificates representing its capital or on bonds issued by it, where such taxes would be borne by the Company or the Contracting States.

Article 47

(1) Plant and equipment, including spare parts, to be used in carrying out the canalization work shall, on importation into the using State, be temporarily exempted from all duties and taxes levied by the Customs authorities, with the exception of taxes on services rendered. However, the Government of each contracting State shall reserve the right to apply its national legislation to temporary franchises held by contractors domiciled in its own territory.

(2) No economic obstacles shall be placed in the way of the importation, exportation or re-exportation of items referred to in paragraph (1), provided that such operations are performed in connection with the work provided for in this Convention.

(3) The Contracting States shall take all inspection measures which they deem necessary on the importation or exportation of items referred to in paragraph (1).

(4) If the items referred to in paragraph (1) are used for purposes other than the execution of the work in question or are transferred to third parties free of charge or against payment, the duties and taxes from which such plant, equipment and spare parts have been exempted may be recovered by the exempting State, notwithstanding any penalties which may be imposed in cases of fraud.

Article 48

In accordance with the Convention on Belgium-Luxembourg Economic Union, of 25 June 1921, the Luxembourg Government shall take the necessary steps to obtain, where applicable, the agreement of the competent authorities of the Kingdom of Belgium with regard to the provisions of this Convention concerning the Customs regime.

Article 49

With regard to social security, the officials of the Company may, on the basis of the arrangements approved by the competent authorities of the Contracting States, choose between the legislation of their place of work and that of their country of origin, or be covered by a scheme proposed by the Company.

Article 50

(1) 1 January of the year following the date of the first commercial voyage between Coblenz and Thionville shall be the starting date for the toll distribution mechanism provided for in articles 19, 20 and 26.

(2) That same date shall be the starting point for calculation of the interest on share capital and of interest on, and repayment of, the loans granted before that date, as provided for in article 20.

(3) In the case of loans granted after that date, the calculation of interest on, and the repayment of, such loans, as defined in article 20, shall begin on the date on which they were actually granted.

(4) The first distribution of tolls shall take place not later than 1 March of the year following the year referred to in paragraph (1). It shall include all tolls levied from the opening of the Moselle to deep-draught navigation on the Coblenz-Thionville sector up to 31 December of the year referred to in paragraph (1), and shall be allocated to the charges for that year.

Article 51

The Contracting States shall take the necessary measures to ensure that authorizations are given for conversion of the Company's resources into one of the currencies of the said States, in so far as such conversions are necessary for the performance of its functions, together with authorizations for the conversion of toll revenues into one of such currencies, to the extent that such conversions may be necessary for the distribution of tolls in accordance with the provisions of this Convention.

Article 52

The French Republic shall, at its own expense and as expediently as possible, carry out the works to render the Moselle accessible to vessels of 1,500 tonnes between Thionville and Metz.

Article 53

Each of the Contracting States shall take the necessary measures within its own jurisdiction to provide the official authorizations required for the execution of the project. Such authorizations shall be given in accordance with the law applicable in each State.

Article 54

The Contracting States undertake to ensure that no measure is taken which may seriously impair the production of hydroelectric power and in particular that the waters of the Moselle and its tributaries are not diverted to any other river basin.

Article 55

The Contracting States shall take the necessary measures to protect the waters of the Moselle and its tributaries against pollution and the competent services of the said States shall cooperate with each other for that purpose.

Article 56

The Governments of the Contracting States shall settle by mutual agreement and on a bilateral or multilateral basis questions arising out of the legal status of sections of the Moselle forming the frontier between the Grand Duchy of Luxembourg and the Federal Republic of Germany and/or the French Republic respectively, as that status is defined by existing international conventions, particularly with regard to questions concerning the building of structures, the operation, maintenance and repair of such structures and of the navigable waterway, the use of water resources and the competence of the tribunals referred to in articles 34 et seq.

Chapter VII. Settlement of disputes

Article 57

Disputes between Contracting States regarding the interpretation or application of this Convention shall as far as possible be settled by mutual agreement.

Article 58

Any dispute which cannot be settled in this way within three months shall be submitted to an arbitration tribunal at the request of one of the Contracting States.

Article 59

(1) The arbitration tribunal shall be constituted in each case as follows: each of the parties to the dispute shall appoint one arbitrator and the arbitrators shall, by mutual agreement, designate a referee from a third State. If the arbitrators and referee have not been appointed within three

months after one of the Contracting States has made known its intention to submit the matter to the arbitration tribunal, each party may, in the absence of any other agreement, request the President of the International Court of Justice to make the necessary appointments. If the President is a national of one of the Contracting States or is prevented from acting for any other reason, the Vice-President shall make the necessary appointments.

(2) The arbitration tribunal shall take decisions by a majority vote. Where the vote is equally divided, the Chairman shall have the deciding vote. Decisions of the tribunal shall be binding on the parties. The parties to the dispute shall each bear the cost of the arbitrator appointed by them and shall share the other costs equally. In other respects, the arbitration tribunal shall determine its own procedure.

Article 60

If, during the construction of the canal, a dispute cannot be settled within one month, and if the parties to the dispute agree to have recourse to an emergency procedure, the dispute shall be submitted to the arbitration of a single expert from a third country, chosen by mutual agreement between the parties. If no expert has been appointed within one month after one of the parties has made known its intention of invoking the emergency procedure, each party may request the President of the International Court of Justice to appoint an expert.

Article 61

(1) Any of the Contracting States may intercede in a dispute between the two other parties if it can show that it has an interest in the settlement of the dispute. Such intercession may have no purpose other than to support the claims of one of the parties.

(2) In the cases referred to in article 58, such intercession shall not alter the original composition of the tribunal as laid down in article 59.

Article 62

This Convention and its two annexes shall enter into force on the date of the exchange of the instruments of ratification.

In witness whereof the undersigned Plenipotentiaries have appended their signatures to the present Convention and have affixed their seals thereto.

Done at Luxembourg, on 27 October 1956, in three copies, each drafted in French and German, both texts being equally authentic.

For the Grand Duchy of Luxembourg:

For the Federal Republic of Germany:

(signed) BECH

(signed) VON BRENTANO

For the French Republic:

(signed) PINEAU

ANNEX I

Description of works falling within the scope of this Convention

Demarcation between such works and those concerning electric power stations

Article 1

The work of improving the Moselle includes the works necessary to ensure the virtual year-round movement of vessels of 1,500 tonnes between Thionville (km 270.781) and Coblenz (confluence with the Rhine), namely:

(A) Thirteen dams situated at Lehmen, Müden, Fankel, St. Aldegund, Enkirch, Zeltingen, Wintrich, Detzem, Trèves, Grevenmacher, Palzem, Apach and Königsmacher;

(B) Locks situated directly below the above-mentioned dams, and at Coblenz. In the case of Detzem and Königsmacher, the locks will be situated on lateral canals. All the locks will have working dimensions of 165 m long and 12 m wide. Provisions shall be made for the installation of a second lock beside each of the locks for the dams mentioned in A;

(C) Upstream and downstream of the locks, sufficient basins to handle a traffic flow of approximately 10 million tonnes annually. These basins shall be constructed from the outset with the final dimensions necessitated by the second lock;

(D) The creation by dredging and clearing of a channel having a depth of 2 m 50 below the hydrostatic water-level and a length of at least 40 m;

(E) Lateral canals of about 1 km in length at Detzem and at Königsmacher;

(F) Five ports of refuge, four in Germany and one in France. These ports shall be designed to accommodate vessels navigating on the Moselle in the event of ice or high water levels;

(G) All works to improve existing structures recognized as necessary to allow the normal passage of vessels;

(H) Cradle locks where they are considered necessary;

(I) A fish ladder at each dam;

(K) All ancillary installations such as channel markers, lighting for locks and basins and light signals and the installation of loudspeakers at locks, as well as telephone facilities wherever necessary for safety and the proper operation of shipping;

(L) The buildings necessary for operation and for the housing of operational staff;

(M) The measures necessary to avoid damage resulting from the works, or to compensate for it.

Article 2

The works shall also include the preparatory works, namely:

Setting up the works service;

Drawing up plans and charts;

Sounding;

Drawing up general and structural plans;

Completion of all necessary administrative formalities;

Purchase of land, if necessary by expropriation.

Article 3

If a hydroelectric power station is situated next to the dam that is to be built, the plans shall indicate the boundary between the two structures, so that the dam can be constructed independently of the power station.

Article 4

The choice of types of installation, of construction methods and of the specifications of dam closures and lock gates shall be such as to ensure safety of operation and ease of maintenance, preserve the harmony of sites on the Moselle and keep costs to a minimum.

Article 5

If an electric power station is to be constructed by an enterprise which is simultaneously building the dam or associated lock, the general site overheads shall be equitably distributed between the two main contractors.

Done at Luxembourg on 17 October 1956 in three copies, each drafted in French and German, both texts being equally authentic.

For the Grand Duchy of Luxembourg:

For the Federal Republic of Germany:

(Initialled) B.

(Initialled) v. Br.

For the French Republic:

(Initialled) P.

ANNEX II

Statutes of the International Company of the Moselle (G.m.b.H)

I. General Provisions

Article 1

Name

The Company shall be called the "International Company of the Moselle" (G.m.b.H.).

Article 2

Headquarters

The headquarters of the Company shall be at Trèves.

Article 3

Purpose of the Company

The purpose of the Company shall be the financing and execution, in cooperation with the National Navigation Services, of the improvement of the Moselle between Thionville and Coblenz to allow passage of vessels of 1,500 tonnes in accordance with the Convention dated 27 October 1956 between the French Republic, the Federal Republic of Germany and the Grand Duchy of Luxembourg.

Article 4

Notices

The notices of the Company shall be published:

For the French Republic, in the Journal Officiel

For the Federal Republic of Germany, in Bundesanzeiger

For the Grand Duchy of Luxembourg, in Mémorial

II. Share Capital - Holdings and shares

Article 5

Capital and holdings of partners

1. The Company's share capital shall be DM 102 million.

2. The holdings of partners in the share capital shall be as follows:
1. French Republic DM 50 million
 2. Federal Republic of Germany DM 50 million
 3. Grand Duchy of Luxembourg DM 2 million

Article 6

Value of shares

The holdings referred to in article 5 shall consist of independent and transferable shares with a nominal value of DM 10,000.

Article 7

Transfer of shares

The transfer of shares shall be subject to the unanimous agreement of the General Assembly.

III. Organization of the Company

Article 8

Organs of the Company

The organs of the Company shall be:

- (a) The Management
- (b) The Supervisory Board
- (c) The General Assembly

MANAGEMENT

Article 9

Number of Managers

Two managers shall be appointed, one by the French partners and the other by the German partners.

Article 10

Administration

- (1) The Supervisory Board may provide the managers with rules of procedure.
- (2) The managers shall jointly manage the Company. Their decisions shall be unanimous. In the event of a delegation of authority, any decision shall

require the agreement of one French and one German representative. Decisions directly affecting Luxembourg territory shall, in addition, require the agreement of a Luxembourg representative.

(3) Minor routine matters shall generally be entrusted to "prokurist" or signing clerks.

(4) The managers shall, at the request of one of them, take rapid decisions on matters within their competence. If no agreement is possible the matter shall, at the request of one of them, be referred to the Supervisory Board.

(5) The managers shall submit the following matters to the Supervisory Board for prior approval:

(a) Preparation, with all necessary justifications, the programme of annual expenditures and the requisite funding;

(b) Granting of the agreement of the Company in the cases referred to in article 2 (3) (a) and (5) (a), (b) and (e) of the Convention of 27 October 1956;

(c) Granting of the Company's approval in the cases referred to in article 2, (3) (b) of the Convention of 27 October 1956, where each of the commitments arising exceeds DM 700,000;

(d) Granting of the Company's approval in the cases referred to in article 2, (5) (c) of the Convention of 27 October 1956, where each of the commitments arising exceeds DM 200,000;

(e) Loans for terms of more than two years, and other loans exceeding DM 300,000, with the exception of loans contracted under the general funding plan approved by the Supervisory Board;

(f) Recruitment and dismissal of officials having gross monthly salaries of more than DM 1,500 or having guarantees of employment for more than three years;

(g) Payment of deposits, or undertaking of guarantees or commitments on bills;

(h) Payment of pensions and gratuities;

(i) Assumption of associated functions or of an ancillary professional activity by managers, prokurist or signing clerks;

(j) Acquisition or transfer of shares in other enterprises or associations of interest;

(k) Matters and measures which must be approved by the Supervisory Board.

(6) The Supervisory Board may give a general agreement for certain types of matter.

(7) The Supervisory Board shall, on the proposal of the managers, decide on calls for contributions to share capital and the appointment of prokurist and signing clerks.

(8) The provisions of article 95, paragraph 5, of the German Act on Limited Liability Companies shall not apply to the Supervisory Board.

Article 11

Representation of the Company

(1) The Company shall be represented by the managers acting together or by one manager assisted by a prokurist. No manager, prokurist or signing clerk acting alone may represent the Company.

(2) When the Company is represented by a manager and a prokurist or signing clerk, one must be German and the other French. For decisions directly affecting Luxembourg territory, the agreement of a prokurist of Luxembourg nationality shall also be required.

(3) Where the Company is represented by two prokurist or signing clerks, or by one prokurist and one signing clerk, the rules set forth in (2) above shall also apply.

THE SUPERVISORY BOARD

Article 12

Membership

(1) The Supervisory Board shall comprise 14 members.

(2) The members of the Supervisory Board may at any time resign from their duties. They must give the Chairman of the Supervisory Board at least one month's notice of their intention to resign.

Article 13

Appointments and dismissals

(1) The members of the Supervisory Board shall be appointed by the partners in the ratio of six members by the German partners, six members by the French partners and two members by the Luxembourg partners. The designation of members of the Council by the partners as provided above shall render their appointment valid in the eyes of the Company.

(2) The appointment shall be valid for a period extending up to the end of the General Assembly discharging the management of the Company for the fourth financial year following the appointment, not including the financial year in which the appointment was made. The provisions of article 87, paragraph 3, of the German Act on Limited Liability Companies shall not apply.

(3) In the event of the departure of a member of the Supervisory Board, a new member shall be promptly appointed by the appropriate partners.

(4) If a new member is appointed during the term of the other members of the Supervisory Board, such appointment shall be valid for the remainder of the term of the other members of the Supervisory Board.

(5) Members of the Supervisory Board may be dismissed at any time by the appropriate partners and replaced.

Article 14

Chairman

(1) The Supervisory Board shall elect a Chairman and two Vice-Chairmen each year following the regular General Assembly and under the Chairmanship of the oldest member of the Board.

(2) In the event of the departure of the Chairman or a Vice-Chairman during their term of office, the Supervisory Board shall promptly appoint a replacement.

Article 15

Deliberations and decisions

(1) The Chairman of the Supervisory Board or, in his absence, the Vice-Chairman replacing him shall convene the Board when a manager or member of the Board so requests, stating the reasons and the purpose of the convocation.

(2) The Supervisory Board may take decisions when more than two thirds of its members are present or represented.

(3) Decisions of the Supervisory Board shall be taken by a majority of the two thirds of the members present or represented. Decisions directly affecting the territory of Luxembourg may be taken only with the agreement of the Luxembourg members of the Board.

(4) Decisions of the Supervisory Board may also be taken in writing or by telegram, provided that no member of the Board is opposed to such a procedure.

Article 16

Participation of managers in meetings

Managers may attend meetings of the Supervisory Board in an advisory capacity. They may have items included in the agenda.

Article 17

Representation of members of the Supervisory Board

Members of the Supervisory Board unable to attend a meeting may be represented by a person bearing written authorization, in accordance with the conditions laid down at the time of their appointment. This provision shall not apply to the Chairman of the Board or to the Vice-Chairman replacing him.

Article 18

Adoption of positions and rules of procedure

- (1) The adoption of legal positions by the Supervisory Board shall be announced by the Chairman of the Board or, in his absence, by the Vice-Chairman replacing him.
- (2) The Supervisory Board may adopt rules of procedure.

THE GENERAL ASSEMBLY

Article 19

Convocation

The General Assembly shall be convened by the managers or by the Supervisory Board.

Article 20

Chairman

- (1) The Chairmanship of the General Assembly shall be assumed by the Chairman of the Supervisory Board or in his absence by the first Vice-Chairman or, in his absence, by the second Vice-Chairman. If the second Vice-Chairman is himself unable to assume the Chair, the Chairman of the General Assembly shall be elected from among the members of the Supervisory Board, if any are present.
- (2) The Chairman shall prepare the agenda to be considered and determine the voting procedure.

Article 21

Decisions

- (1) Decisions of the General Assembly shall require a majority of at least two thirds of the share capital, except in cases where the Convention of 27 October 1956 or the German Act on Limited Liability Companies (G.m.b.H.) stipulate a larger majority. Decisions directly affecting Luxembourg territory may be taken only with the agreement of the Luxembourg partners.

(2) Decisions concerning the discharge of managers and members of the Supervisory Board shall require a majority of at least three quarters of the share capital.

IV. Annual accounts

Article 22

Financial year

- (1) The financial year shall begin on 1 January and end on 31 December.
- (2) The first financial year shall end on 31 December 1957.

Article 23

Time limits

During the first five months of the financial year, the accounts for the preceding year shall be prepared and submitted to the Supervisory Board. The General Assembly pronouncing on the accounts for the financial year, the distribution of profits and the discharge of managers and the Supervisory Board, shall be held during the first seven months of the financial year.

V. Final provisions

Article 24

Audit and inspection

- (1) The management of the Company shall be audited by a German auditing firm in accordance with the guidelines given to it by mutual agreement between the Governments or the competent authorities of the Federal Republic of Germany, the French Republic and the Grand Duchy of Luxembourg.
- (2) The auditor's report shall be submitted simultaneously to the Company, the Governments and the competent authorities of the Federal Republic of Germany, the French Republic and the Grand Duchy of Luxembourg.
- (3) The Governments and competent authorities of the Federal Republic of Germany, the French Republic and the Grand Duchy of Luxembourg may, after duly notifying one another, have their officials conduct an inspection of the operation, books and records of the Company.

Article 25

Cost of constituting the Company

The costs of constituting the Company shall be borne by the Company.

Article 26

Winding up of the Company

The winding up of the Company by court order (article 61 of the Act concerning G.m.b.H) or by the authorities (article 62 of the Act concerning G.m.b.H.) shall be precluded.

Article 27

Departure of partners

Partners may not be excluded or withdraw even for grave reasons.

Article 28

Use of the French language

The Statutes, decisions of the General Assemblies, the Supervisory Board and managers, and the notices referred to in article 4 shall if necessary be published in French and in German.

Done at Luxembourg on 27 October 1956, in three copies each prepared in German and French, both texts being equally authentic.

For the Grand Duchy of Luxembourg:

For the Federal Republic of Germany:

(initialled) B.

(initialled) v.B.

For the French Republic

(initialled) P.

PROTOCOL

BETWEEN THE GOVERNMENT OF THE GRAND DUCHY OF LUXEMBOURG AND THE
GOVERNMENT OF THE FRENCH REPUBLIC CONCERNING THE SETTLEMENT OF
CERTAIN QUESTIONS CONNECTED WITH THE FRANCO-GERMAN-LUXEMBOURG
CONVENTION CONCERNING THE CANALIZATION OF THE MOSELLE

Signed at Luxembourg on 27 October 1956

Her Royal Highness the Grand Duchess of Luxembourg, on the one part, and
the President of the French Republic, on the other part

Have designated as their Plenipotentiaries:

Her Royal Highness the Grand Duchess of Luxembourg:

Mr. Joseph Bech, President of the Government, Minister for Foreign
Affairs;

and the President of the French Republic:

Mr. Christian Pineau, Minister for Foreign Affairs,

who, after exchanging their credentials, recognized to be in proper form,
have agreed on the following provisions:

Article 1

The French Government shall supply to the State of Luxembourg, free of
charge and with full ownership, 20 electric locomotives built according to the
most recent technical specifications of the Société nationale des Chemins de
Fer français, Type BB ignitron, Series 12.001 et seq., in new condition.
The locomotives shall be handed over ready for use and free at the
Franco-Luxembourg border.

The first three locomotives shall be delivered not later than 1 July 1957
and the remaining 17 not later than 1 January 1960.

Article 2

The French Government, while retaining all its other rights arising out
of the Belgium-France-Luxembourg Convention of 17 April 1946, concerning the
Constitution of the Société nationale des Chemins de Fer luxembourgeois, and
the statutes annexed thereto, transfers to the State of Luxembourg the annual
interest and amortization payments determined in accordance with the
provisions of article 33 B, paragraphs (d) and (e) of the said statutes. This
transfer shall take effect on 1 January 1957.

Article 3

The present Protocol shall enter into effect on the date of the exchange of instruments of ratification.

In witness whereof, the undersigned Plenipotentiaries have appended their signatures to this Protocol and have affixed their seals thereto.

Done at Luxembourg, in two copies, on 27 October 1956.

For the Government of the Grand Duchy of Luxembourg:

(Signed): Joseph Bech

For the Government of the French Republic:

(Signed): Christian Pineau
