

Title: State treaty concerning the construction of a hydro-electric power-plant on the Sauer at Rosport/Ralingen  
Parties: Germany (FRG), Luxembourg  
Basin: Rhine  
Date: 4/25/1950

Germany (Federal Republic of)-Luxembourg

201. STATE TREATY<sup>1</sup> BETWEEN THE GRAND DUCHY OF LUXEMBOURG AND THE *LAND* RHINELAND-PALATINATE IN THE FEDERAL REPUBLIC OF GERMANY CONCERNING THE CONSTRUCTION OF A HYDRO-ELECTRIC POWERPLANT ON THE SAUER (SURE) AT ROSPORT/RALINGEN, SIGNED AT TRIER, 25 APRIL 1950<sup>2</sup>

The following Treaty is hereby concluded between the Government of the Grand Duchy of Luxembourg and the Government of the Land Rhineland-Palatinate in the Federal Republic of Germany:

*Article 1*

The Government of the Grand Duchy of Luxembourg shall have the right to construct and operate on the Sauer (Sûre) at Rosport/Ralingen, in accordance with the general plans attached hereto, a hydroelectric power-plant having a maximum water-level equal to mean sea level t 151.50 metres, the cost of such construction and operation to be borne by the said Government or by the power-plant undertaking, and it shall have the further right to utilize for this purpose all the water resources of the Sauer (Sûre).

*Article 2*

This Treaty shall remain in force for a period of ninety-nine years from the date on which the power-plant is put into operation. A new contractual agreement between the two Contracting States shall be required for the purpose of extending the Treaty.

*Article 3*

Legal relationships and supervisory rights with respect to the power-plant shall be governed by the provisions of this Treaty.

*Article 4*

The Government of the Land Rhineland-Palatinate undertakes to transfer to the Government of the Grand Duchy of Luxembourg as private property, within three months after the signature of this Treaty, such land situated on the German side of the Sauer (Sûre) as may be required for the construction and operation of the power-plant. The said land shall be bounded by the contour line corresponding to the maximum water-level (151.50 metres) and shall include, in addition, a protective strip three metres wide. The Government of the Grand Duchy of Luxembourg undertakes to refund to the Government of the Land Rhineland-Palatinate the purchase price together with costs.

*Article 5*

The power-plant undertaking shall be entitled to construct, for the purpose of utilizing water-power, the installations provided for in the attached plans and computations and in particular:

1. A dam with movable locking-mechanisms on the Sauer (Sûre), approximately 975 metres below the ruined Rosport bridge;
2. A lock for the passage of shipping at the dam;
3. A fish ladder at the dam.

The aforementioned installations, as well as any supplementary works, shall be constructed in accordance with accepted engineering practice and shall be kept in good condition at all times.

#### *Article 6*

1. When high water is expected, the power-plant undertaking shall open the dam locking-mechanisms in good time to an extent sufficient to ensure that the maximum water-level is not exceeded.
2. The bend in the Sauer (Sûre) below the dam, up to the point where the tail-water conduit of the power-plant empties into the river, shall be continuously supplied from the dam with a minimum quantity of water which shall be determined by agreement between the river-works authorities of the two Contracting Parties. In the event that unsanitary or other undesirable conditions arise in the tail-water of the dam, the Government of the Grand Duchy of Luxembourg shall supply such larger quantities of water as are required for purposes of scouring.
3. In the event that the subsoil in the river-bed below the dam or that the left bank of the river proves to be of insufficient strength, the power-plant undertaking shall construct a suitable apron or bank lining.

#### *Article 7*

The removal of water on the German side of the river above the dam shall be permitted only if an equivalent quantity of water is introduced above the said dam.

#### *Article 8*

The Government of the Grand Duchy of Luxembourg shall permit the Government of the Land Rhineland-Palatinate to participate in the acceptance test of the dam and all subsidiary installations (riverlocks, bank linings, dikes and so forth). The dam shall not be put into operation until the said test has been carried out. Adequate advance notice of the date and schedule for the initial storage of water shall be given to the Government of the Land Rhineland-Palatinate.

#### *Article 9*

1. In the backwater area and for a distance extending downstream from the dam to a point 200 metres below the discharge-water return, the entire length of the left bank of the Sauer (Sûre) shall, subject to agreement between the river-works administrations of the two Contracting Parties, be kept in good repair by the power-plant undertaking and be secured by it, through special measures, against the action of the

water if there is reason to anticipate damage to the said bank or if damage is found to have occurred after the plant has been put into operation. The same shall apply to tributary streams in the backwater area.

2. In the event that damage is unlawfully done to the left bank of the Sauer (Sûre), the power-plant undertaking may on its own initiative take civil action against the person causing the damage.

#### *Article 10*

1. In the event of damage caused by a rise or fall in the ground-water level on the left side of the Sauer (Sûre) in consequence of the construction of the dam, the Government of the Grand Duchy of Luxembourg undertakes to rectify such damage or pay appropriate compensation.

2. Before and during construction of the dam and after it has been put into operation, the power-plant undertaking shall, with the aid of suitable experts, ascertain the nature of groundwater conditions in the German areas affected by the dam.

#### *Article 11*

The power-plant undertaking shall bear the cost of installing, at a suitable new location, a water-gauge to replace the German gauge at Ralingen which will be removed as a result of the construction of the dam.

#### *Article 12*

The power-plant undertaking shall bear all costs occasioned by such changes in property lines, roads - including access roads to individual properties - drainage ditches and sewer installations in the German communities affected by the plant as, in the opinion of the Government of the Land Rhineland-Palatinate, are necessary for the purposes of the plant. It shall also assume all costs relating to the necessary surveying and boundary-marking operations, to property transfers and to adjustments in the property register.

#### *Article 13*

Where the authorities of both Contracting Parties believe that alterations in or additions to the power-plant are required, the measures subsequently ordered by those authorities shall be carried out by the power-plant undertaking at its own expense.

#### *Article 14*

1. The two Contracting Parties agree that construction of the lock for the passage of shipping as provided for in article 5, paragraph 2, shall for the time being be deferred. The Government of the Grand Duchy of Luxembourg undertakes to carry out the said construction if, at some future time, regular shipping is initiated on the Sauer (Sûre).

Barge-loading platforms, one above and one below the dam, shall be constructed by the power-plant undertaking on the left bank of the Sauer (Sûre), the approaches to the said platforms to be clearly marked and made readily accessible. The said platforms shall be mechanically operated.

2. In the event that the aforementioned shipping-lock is constructed at some future time, the two Governments shall conclude a special agreement concerning its operation, maintenance and lighting.

#### *Article 15*

1. In order to permit the free passage of fish, a fish-ladder shall be installed at the dam and shall be kept constantly supplied with sufficient quantities of water. The operation of the fish-ladder may be temporarily suspended only when the water-level is exceptionally low and prior approval has been obtained from the supervisory authorities of the two Contracting Parties.

2. The power-plant undertaking shall keep the fish-ladder and its entrance and exit free of drifting objects at all times.

3. Access to the fish-ladder shall be denied to unauthorized persons. Fishery-supervision officials of the two Governments may carry out a joint inspection of the fish-ladder at any time.

4. The power-plant undertaking shall also ensure that the passage of fish is possible at all times in the tail-water section of the Sauer (Sûre).

5. Additional fishery-protection measures, to be carried out at the expense of the power-plant undertaking, may be ordered at any time by agreement between the two Contracting Parties.

#### *Article 16*

The Contracting Parties agree that all hydroelectric power produced by the power-plant undertaking shall be the property of the Government of the Grand Duchy of Luxembourg.

If, however, additional power-plants are constructed - irrespective of the extent of either country's participation in such construction - the electric power produced by those plants shall be apportioned without reference to the aforementioned arrangement.

#### *Article 17*

The power-plant undertaking shall comply with any arrangements which are agreed upon by the competent authorities for purposes of tariff protection and shall provide at its own expense the facilities required in that connexion.

#### *Article 18*

Contracts for the construction of the plant shall be let by the power-plant undertaking on the basis of public tenders in accordance with the provisions of the Luxembourg "*Allgemeines Lastenheft* (Conditions of contract or sale) of 1 March 1948 concerning the procedure for letting contracts for services and deliveries requiring the use of public moneys and credits", it being understood that nationals of the two countries shall have equal rights in so far as invitations for tenders and the award of contracts are concerned and that labour shall, so far as possible, be required from both countries.

#### *Article 19*

1. The power-plant undertaking shall be liable for any damage or loss affecting the rights or property of third parties which can be proved to have resulted from the construction and operation of the power-plant installations.
2. The power-plant undertaking shall indemnify the Land Rhineland-Palatinate for any claims made against the latter by third parties and shall, at its own expense and risk, assume the conduct of any judicial proceedings connected therewith.

#### *Article 20*

After the power-plant installations have been completed, the Government of the Grand Duchy of Luxembourg shall transmit copies of the complete final blue prints of the installations to the Government of the Land Rhineland-Palatinate. The number and scale of the blue prints shall be determined by agreement between the two Governments

#### *Article 21*

Responsibility for the engineering and supervisory functions this Treaty, including supervision of the left bank of the Sauer (Sûre), shall vest:

(a) In the case of the Grand Duchy of Luxembourg:  
In the Minister for Public Works and Communications;

(b) In the case of the Government of the Land Rhineland-Palatinate:  
In the Ministry of Internal and Economic Affairs (Secretary of State for Economic Affairs and Communications) and the Ministry of Agriculture, Viniculture and Forestry.

#### *Article 22*

Any disputes arising out of this Treaty shall be settled by an arbitral tribunal, and no recourse shall be had to the ordinary courts. The said tribunal shall consist of two arbitrators, of whom each of the Contracting Parties shall appoint one.

Where the arbitrators are unable to agree, they shall be entitled to choose an umpire, whose decision shall be final. If they fail to agree on such a choice, the umpire shall, if one of the Parties so requests, be appointed by the President of the International Court of justice at The Hague.

The costs occasioned by the proceedings of the arbitral tribunal shall be shared equally by the Contracting Parties.

<sup>1</sup> Came into force on the date of its signature.

<sup>2</sup> *Mémorial du Grand Duchy de Luxembourg*, No. 46, 24 July 1953. (Translated from German by the Secretariat of the United Nations.)