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FRANCO-GERMAN TREATY ON THE SAAR

Memorandum submitted by the Governments of France  
and the German Federal Republic

By letter dated 24 May 1957 the Governments of France and the Federal Republic of Germany have transmitted the memorandum appended hereto with a request that this question be included in the Agenda for the Twelfth Session of the CONTRACTING PARTIES.

The letter states:

"A Treaty concerning the settlement of the Saar question was concluded between our two Governments in Luxemburg on 27 October 1956. This Treaty entered into force on 1 January 1957. Certain provisions of the Treaty regarding trade between the Saar, on the one hand, and France and the Federal Republic of Germany, on the other hand, are not in conformity with Article I of the General Agreement. The French and Federal German Governments therefore intend to submit these provisions to the CONTRACTING PARTIES, under Article XXV:5(a) of the General Agreement. I should be glad if you would place this question on the agenda for the next session of the CONTRACTING PARTIES. The attached memorandum contains requests for waivers submitted by the French and Federal German Governments, as well as a statement of the reasons for the adoption of solutions that necessitate the granting of such waivers."

Note: The texts of the provisions of the Treaty referred to in the memorandum which are of particular interest to contracting parties, are appended.

Memorandum

Under the Franco-German Treaty on the Saar dated 27 October 1956, the present monetary and customs union between France and the Saar will remain in force during a transitional period; in all political matters, the basic law of the Federal Republic has been effective in the Saar since 1 January 1957. The "definitive economic system", under which the Federal German economic and customs legislation will be applicable to the Saar, takes into account France's special interests in that territory. The provisions of the Treaty which are of particular interest to contracting parties are Article 1, paragraph 2, Chapter II (and, more specifically, Articles 4, 6, 12, 13, 48 and 50), Chapter IV (in particular, Articles 62, 63, 64 and 68).

I. TRANSITIONAL PERIOD

(a) Description of the system

The transitional period will end on 31 December 1959 at the latest. The exact date on which it will end will be determined and announced jointly by the French and Federal German Governments.

The French franc shall be legal tender in the Saar. French currency laws and regulations will continue in force (Article 4).

Similarly, French laws and regulations governing exchange matters (Article 6), exchange controls, customs and foreign trade controls which were applicable in the Saar on the date of entry into force of the Treaty shall continue to be effective (Article 12).

New laws and regulations enacted in France after the entry into force of the Treaty shall be made applicable to the Saar under similar orders (Articles 6 and 12).

France shall represent the Saar at international conferences and in international organizations in respect of all matters directly affecting monetary and customs questions. All international agreements and arrangements relating to currency, customs, and foreign trade matters, which France has concluded or may conclude in the future with third countries shall be applicable to the Saar (Article 13).

The monetary and customs union established under the Treaty between France and the Saar as of 1 January 1957 is substantially the same as that which obtained before that date. It conforms to the provisions of Article XXIV of the General Agreement, and no particular difficulty would seem to arise therefrom.

(b) Transitional measures towards the definitive system

In view of the fact that the Federal Republic already has political responsibility for the Saar territory and, at the end of the transitional period, will become fully responsible for all economic matters under its sovereignty, it is necessary to introduce special measures in order to ensure steady progress towards the definitive system and, at the same time, to take into account the close relationship existing between the Federal Republic and the Saar.

These measures are in partial deviation from the provisions of the General Agreement. It should be noted that they do not seem likely to affect the interests of third countries. They concern mainly trade between France, the Federal Republic and the Saar. The Treaty also provides that a joint committee shall see to it that these measures are not used in a harmful way (Article 50).

1. Since the entry into force of the Treaty, the Federal German Government may, at its discretion, authorize the duty-free importation into its territory of products originating in and imported from the Saar (Article 48, paragraph 1).

By applying this provision, the Federal German Government grants special treatment to products originating in a part of the customs territory of another contracting party. A waiver from the provisions of Article I of the General Agreement is therefore necessary.

2. Germany also enjoys certain special privileges for exports to the Saar.

Capital equipment originating in and imported from the Federal Republic may be imported into the Saar duty-free and without quota restrictions, subject to the conditions set out in Article 48, paragraph 3 of the Treaty. After 1 January 1959, all capital equipment listed in Annex 1<sup>1</sup> may be imported without restriction and duty-free in accordance with the conditions set out in Article 48, paragraph 4 of the Treaty.

The Treaty thus makes provision for the Franco-Saar monetary and customs union to grant special privileges to a contracting party, and a waiver from Article I of the General Agreement is therefore required.

II. DEFINITIVE ECONOMIC SYSTEM

Under the definitive economic system, which will come into force on 1 January 1960 at the latest, Federal German legislation and regulations will apply to all matters of currency, exchange, exchange control, customs and foreign trade. There is therefore no need to describe this system, which will complete the integration, in the economic field, of a territory over which the Federal Republic has political authority since 1 January 1957.

<sup>1</sup> A copy of this Annex may be consulted at the office of the secretariat.

It would nevertheless be regrettable if the establishment of the final system were to result in the economic link between France and the Saar being severed. The Treaty therefore makes special provision for trade between France and the Saar after the end of the transitional period. Here too, a joint committee will ensure that the above-mentioned special provisions are not misused (Article 68).

1. Within quota limits based on deliveries to the Saar from countries in the franc area during 1955, the Federal Republic will authorize the duty-free importation of products originating in and imported from the franc area, provided those products remain in the Saar (Article 63, paragraphs 1 and 2). Article 64 of the Treaty provides that the quotas may be revised.

These provisions permit the duty-free admission into a part of the territory of a contracting party of products originating in and imported from another contracting party; this special privilege requires a waiver from the provisions of Article I of the General Agreement.

2. The French Government, for its part, will authorize the importation into France of products originating in and imported from the Saar, within quota limits based on deliveries during 1955 (Article 63, paragraphs 1 and 3). Article 64 of the Treaty provides that the quotas may be revised.

Furthermore, these products may be imported into overseas countries and territories in the same way as products originating in and imported from French metropolitan territory, in the conditions set out in Article 62, paragraph 3.

These provisions also constitute the granting of special treatment by a contracting party to certain products originating in and imported from a part of the territory of another contracting party. A waiver from the provisions of Article I of the General Agreement is therefore required.

### III. GENERAL

In making the above requests for waivers to the CONTRACTING PARTIES, the French Government and the Federal German Government wish to point out that:

(a) The special measures provided for the transitional period will bring partially into effect the system which will be legally and fully established on 1 January 1960 at the latest. It was necessary to ensure the gradual strengthening of economic unity between the Saar and the Federal Republic which will reach full achievement at the end of the transitional period.

(b) The special measures provided for the definitive system are aimed at maintaining the mutual advantages gained by France and the Saar from the monetary and customs union existing up to the end of the transitional period. In the common interest, these measures maintain an existing situation.

(c) Because of its frontier position and the economic links existing between the Saar, on the one hand, and France and the Federal Republic of Germany, on the other hand, the Saar can enjoy a prosperous economy only if it maintains close relationships with both France and Germany. The Treaty recognises this fact in a spirit of mutual understanding. The Treaty resulted from detailed negotiations and represents a settlement which is considered satisfactory in Germany and in France and which does not seem to threaten the economic and trading interests of other contracting parties.

ANNEXSELECTED EXTRACTS FROM THE FRANCO-GERMAN TREATY ON THE SAARChapter I - Political ProvisionsArticle 1

1. France accepts the extension to the Saar of the field of application of the basic law of the Federal Republic of Germany, with effect from 1 January 1957.
2. From that date, the basic law and the legislation of the Federal Republic of Germany shall be applied in the Saar, in the conditions prescribed in the present Treaty and subject, in particular, to the institution of a transitional period during which France and the Saar shall continue to be united for matters of currency and customs, in accordance with the provisions of Chapter II hereunder.

Article 2

1. No person shall suffer prejudice by reason of his past attitude towards the Saar question.
2. The rules for the application of this principle are contained in Annex 1 (Agreement on the protection of persons).

Chapter II - Economic Regime for the Transitional Period (Articles 3-54 incl.)Article 4

1. The French franc is legal tender in the Saar.
2. French laws and regulations governing currency matters which are applicable in the Saar on the date of entry into force of the present Treaty shall continue to be effective there.
3. Any new laws and regulations governing such matters which may become effective in France after the date of entry into force of the present Treaty shall be made applicable to the Saar in accordance with the provisions of Article 41. (not reproduced).

Article 6

1. French laws and regulations governing exchange matters which are applicable in the Saar on the date of entry into force of the present Treaty shall continue to be effective there.
2. Any new laws and regulations governing such matters which may become effective in France after the date of entry into force of the present Treaty shall be made applicable to the Saar in accordance with the provisions of Article 41 (not reproduced).
3. The French Minister of Finance shall take decisions in close consultation with the competent Saar authorities with regard to proposed investment in the Saar by persons not resident in the franc area and proposed investment outside the franc area by persons resident in the Saar, which require prior authorization by him.

4. France shall ensure the participation of the Saar economy in opportunities for international financing which derive from its monetary, sovereignty.

Article 12

1. French laws and regulations governing matters of customs, foreign trade control and exchange control which are applicable in the Saar on the date of entry into force of the present Treaty shall continue to be effective there. Similarly, all French laws and regulations governing import and export shall, in general, continue to be effective, including those which make imports or exports subject to the payment of duties or taxes other than customs duties.

2. Any new laws and regulations governing such matters which may become effective in France after the entry into force of the present Treaty shall be made applicable to the Saar in accordance with the provisions of Article 41 of the present Treaty (not reproduced).

3. The French customs administration and Exchange Office shall be responsible for ensuring the application in the Saar of the French laws and statutory regulations referred to in the preceding paragraphs. To this end, the French customs administration may, in accordance with procedures to be determined by administrative agreements, call on the Saar authorities for assistance. Without prejudice to the exercise of normal customs control, the inspection of printed matter in the Saar shall not be within the competence of the French customs administration.

4. French laws and regulations concerning:

(a) marks of origin, or factory markings;

(b) sanitary import and export controls with regard to animal and plant diseases,

shall only be applicable in the Saar, by the French customs administration, at the external frontier of the customs union.

5. The French customs administration shall, furthermore, be responsible for the enforcement at the external frontier of the customs union, with regard to goods imported for delivery to the Saar, of import prohibitions or import restrictions decreed in the Saar in accordance with paragraph 4 above, on condition that such import prohibitions or import restrictions are notified to the French General Customs Directorate.

Article 13

1. In accordance with paragraph 2 of Article 1 of the present Treaty, France shall represent the Saar at international conferences and in international organizations in respect of all matters directly affecting monetary and customs questions.

2. All international agreements and arrangements relating to currency and customs matters, which France has concluded or may conclude in the future with third countries, shall be applicable to the Saar during the transitional period; whenever possible, a clause to this effect shall be included therein. The same provision shall also apply to international agreements and arrangements relating to foreign trade, which France has concluded or may conclude in the future with third countries; where appropriate, such agreements or arrangements shall contain a clause specifying the provisions not applicable to the Saar.

3. The Government of the French Republic shall give prior notification to the Government of the Saar, through the good offices of the Government of the Federal Republic of Germany, of the commencement of negotiations with a view to the conclusion of such agreements and arrangements as are referred to in paragraph 2 above. The Government of the French Republic undertakes to take into account in such negotiations the special interests of the Saar. Should the Government of the Federal Republic of Germany so desire, close and permanent liaison shall be established with the representatives of the Saar.

4. If the international arrangements concerning foreign trade are of particular interest to the economy of the Saar, the share of the Saar in the import quotas to be negotiated shall be fixed by mutual agreement, at the request of the Government of the Saar, before the commencement of the negotiations. Immediately before the end of the negotiations, a definitive arrangement shall be made with regard to the share of the Saar in the import quotas. Should the Saar representative so desire, the amount of the share of the Saar shall be specified in the arrangement. Immediately after signature, the amount of the share shall be published in France and in the Saar.

5. If an agreement or an arrangement contains provisions of a legislative or statutory nature, the provisions of Article 41 of the present Treaty shall be applied by analogy thereto.

#### Article 48

1. After the date of entry into force of the present Treaty, the Government of the Federal Republic of Germany shall determine the extent to which it may grant duty-free admission to products originating in and imported from the Saar, when such products are purchased directly in the Saar and are accompanied by a certificate of origin issued, in the case of industrial products, by the Chamber of Industry and Commerce of the Saar, and, in the case of agricultural products, by the Chamber of Agriculture of the Saar. Such products when imported duty-free shall not be charged to the quotas for which provision is made in List A of the Franco-German trade agreement.

2. The Government of the French Republic shall authorize the import into the Saar, during the years 1957, 1958 and 1959 respectively, of the products enumerated in List S of Annex 13, originating in and imported from the Federal Republic of Germany, when such products are purchased directly within the quota limits specified in that list. The quotas specified in List S shall be reduced

in order to take into account the trade liberalization measures which may be taken by the Government of the French Republic, in accordance with the provisions of Article 5 of the Additional Protocol to the Franco-German Trade Agreement of 5 August 1955. In the case of any variation in the official rate of exchange of the currency of the two contracting States, the amount of the value quotas specified in List S shall be modified by applying a variation percentage identical to that applied to the official rate of exchange. The value of quotas already allocated shall, however, remain unchanged.

3. The Government of the French Republic shall authorize the import into the Saar, in addition to the quotas specified in List S of Annex 13 and free of duty, of capital equipment originating in and imported from the Federal Republic of Germany when purchased directly in that country, provided it is established that the financial settlement of such imports will not be a burden, either directly or indirectly, for the franc area account, and provided that such equipment is destined:

(a) for the implementation of the large-scale public projects listed in Annex 14. This Annex may be modified by the Government of the French Republic with the agreement of the joint committee to be established under Article 50 of the present Treaty; such capital equipment must be listed in Annex 15 or must be expressly intended for the proposed installations.

(b) for private industry, on condition that their utilization shall only affect the market after the end of the transitional period, or that their import shall have no harmful effects on French industry. Such equipment shall be listed in Annex 15; in certain specific cases, however, the Government of the French Republic may, after study by the special committee established under paragraph 5 below, agree to grant such treatment to products not included in that Annex.

4. After 1 January 1959, the Government of the French Republic shall, furthermore, authorize the import free of duty and without quota restriction of all capital equipment listed in Annex 15, provided it is established that the financial settlement of such imports will not be a burden, either directly or indirectly, for the franc area account.

5. A special committee, appointed by the Government of the French Republic and in meetings of which a representative of the Government of the Saar shall take part, shall examine requests to import capital equipment as provided in paragraphs 3 and 4 above. In each case, the Committee shall evaluate the justifications or guarantees presented by the Saar importer, with a view to establishing that the import will not be a burden, either direct or indirect, for the franc area account; if the conditions specified in the preceding paragraphs are fulfilled, the Committee shall give a favourable opinion. A decision shall be taken, with regard to requests under paragraph 3 above, within two months and, with regard to requests under paragraph 4 above, within six weeks from the date of receipt of the request by the special committee.

6. As an exceptional measure, the Government of the French Republic renounces the right to levy the tax on added value on imports of capital equipment, originating in and imported from the Federal Republic of Germany, and destined for the implementation of large-scale public projects, as referred to in paragraph 3(a) above and which have received the agreement of the joint committee established under Article 50 of the present Treaty to the appropriate participation of French industry in supplying the capital equipment necessary for carrying out such projects, provided that the said imports have been authorized according to the procedure described in paragraph 5 above.

7. The Government of the French Republic reserves the right to take appropriate measures to ensure that products entering the Saar under the provisions of the present Article remain there. In particular, capital equipment referred to in paragraphs 3 and 4 above may be neither loaned nor transferred, with or without payment, without prior authorization by the French customs authorities and payment of the appropriate duties and taxes.

#### Article 50

1. A joint committee appointed by the Governments of the two contracting States shall meet at the request of either State, and at least once a year, in order to see that the provisions of Articles 48 and 49 and paragraph 3 of Article 63 of the present Treaty are applied and to ensure that the rules for the implementation of these provisions are adapted to circumstances and are not infringed. This committee shall furthermore have the responsibilities which are delegated to it by Article 70 of the present Treaty.

2. The Governments of the two contracting States shall reach agreement on any measures to be taken by each of them for the purposes mentioned above.

#### Chapter IV - Definitive Economic Regime (Articles 62-68 incl.)

##### Article 62

Taking into consideration the manifold economic links and the volume of trade flows which exist between the Saar and the franc area, their importance for the economic life of the areas concerned, as well as the frontier position of the territory of the Saar, the two contracting States are resolved to maintain trade between France and the Saar, even after the end of the transitional period, at the highest level possible, and taking into account the results recorded during 1955, which is considered as a base year. To this end, the contracting States have decided to establish a special system for trade between the Saar and the franc area, in accordance with the provisions of the present Chapter. This system shall become applicable from the end of the transitional period.

##### Article 63

1. The joint committee for which provision is made in Article 50 of the present Treaty shall establish as soon as possible, and in any case before 31 December 1957, the composition and value of trade between the Saar and the other countries and

territories of the franc area during 1955, on the basis, in particular, of the statistical data collected by the Statistical Office of the Saar. Only trade in products originating in and imported from the Saar or the other countries and territories of the franc area, respectively, shall be taken into consideration, with the exception of products covered by the Treaty establishing the European Coal and Steel Community and to which the common market applies. In accordance with the values thus established for the products considered, the committee shall fix tariff quotas for imports into the Saar (List A) and imports into France (List B), according to the provisions of paragraphs 2 and 3 hereunder.

2. Subject to the conditions specified below, the Federal Republic of Germany shall authorize the duty-free import into the Saar of products originating in and imported from the franc area which are purchased directly therefrom, within the limits of the quotas provided in List A which shall be established in accordance with paragraph 1 above:

- (a) duty-free entry shall be granted only when the products are destined to remain in the Saar;
- (b) for customs clearance, a quota certificate (Kontingentschein, Zuteilungspapier) and a document attesting that the goods originated in the franc area may be required;
- (c) the products may only be imported and granted customs clearance to remain in the Saar by customs offices specially designated for this purpose;
- (d) the Government of the Federal Republic of Germany reserves the right to take appropriate measures to ensure that such products remain in the Saar, i.e. are consumed or used there in a permanent way or are worked in a manner which is justified from the economic point of view and implies an essential modification of those products.

3. Subject to the conditions stated below, the Government of the Federal Republic of Germany shall authorize the duty-free import into France of products originating in and imported from the Saar which are purchased there directly, within the limits of the quotas specified in List B, as established in accordance with the provisions of paragraph 1 above:

- (a) such products must be imported and granted customs clearance by the customs offices of the Saar sector of the Franco-German frontier specially designated for this purpose;
- (b) an import certificate and a document certifying that the products originated in the Saar may be required for customs clearance.

The products included in List B, upon admission into the metropolitan territory in accordance with the provisions of the present paragraph, shall receive the same treatment, when imported into the overseas countries and territories of the franc area, as products originating in and imported from metropolitan territory, provided that the volume and composition of such imports shall correspond to the volume and composition of such imports in 1955.

4. The joint committee for which provision is made in Article 68 of the present Treaty may, if necessary, amend Lists A and B in order:

- (a) to adapt them to the customs tariff nomenclature in the event that the nomenclature is modified;
- (b) to fix another unit of measure for quotas (for example, quantity instead of value);
- (c) to allocate quotas among tariff headings or sub-headings.

5. Imports of products included in the quotas under Lists A and B shall be effected in accordance with the procedure established in Annex 20. This procedure may be amended by the joint committee for which provision is made in Article 68 of the present Treaty.

#### Article 64

1. The joint committee for which provision is made in Article 68 of the present Treaty shall examine each year, as soon as they are available, the statistics of trade between the franc area and the Saar. If it appears from this study that the proportion between deliveries by each party in 1955, with the exception of products covered by the Treaty establishing the European Coal and Steel Community and to which the common market applies, has been modified during the year under consideration, the committee shall adjust the quotas in accordance with the following conditions:

- (a) if, for either List A or B, the unfilled quotas do not represent more than 25 per cent of the initial total, the joint committee shall take appropriate measures to re-establish the proportion referred to above, either by increasing quotas or by opening new quotas;
- (b) if less than 75 per cent of the initial total of a quota list has been filled, and unless the committee agrees to another solution, the other list shall be reduced according to the following formula:

$$X = b \frac{a^1}{a \times 0,75}$$

X being the new total of the list to be reduced;  
a, the initial total of the list which has not been fully used;  
 $a^1$ , the used amount of this list;  
b, the initial total of the list which is to be reduced.

The reduction shall be applied first to quotas which have not been completely filled, and the balance shall be divided proportionately between the other quotas;

(c) in the event that, after reduction of the best-used list in accordance with the provisions of sub-paragraph (b) above, the results of the following year show an increased utilization of the other list, the reduced list shall be increased by applying the formula given in that sub-paragraph. It is understood that the initial total of the latter list may only be exceeded if, after the other list has been completely utilized, the possibility of additional trade becomes apparent on both sides.

2. The Federal Republic of Germany shall grant duty-free admission to products listed in Annex 21 during the three years following the end of the transitional period. At the end of the third year, and taking into account the results noted during that time, the Government of the Federal Republic of Germany reserves the right to apply, after consultation with the joint committee for which provision is made in Article 68 of the present Treaty, one of the solutions hereunder, with regard to any or all of the products concerned:

(a) the maintenance of duty-free admission throughout the duration of the system established by Chapter IV of the present Treaty;

(b) for those products to which the solution in sub-paragraph (a) above shall not have been applied, a purchase contract entered into by the Federal Republic of Germany or by a purchaser designated by the Federal Republic, to the extent that the trade flows existing between France and the Federal Republic of Germany shall not be affected thereby;

(c) an increase of the rate of 75 per cent provided in paragraph 1(b) of the present Article by the addition of the percentage of the amount of the quotas fixed in List A for those products to which neither the solution provided in sub-paragraph (a) nor that in sub-paragraph (b) above shall have been applied, in proportion to the total quotas in List A. The figure 0.75 in the formula provided in paragraph 1(b) above shall be increased accordingly.

3. In the case of any variation of the official rate of exchange between the currency of the two contracting States, the amount of the value quotas established by Lists A and B shall be modified by applying a variation percentage identical to that applied to the official rate of exchange. The value of quotas already allocated shall, however, remain unchanged.

4. Upon importation, taxes other than customs duties, and upon exportation, customs duties and general assistance measures may be applied to products traded under the special system described in the present Chapter, provided that such taxes, duties or measures are applied to all imports or exports of the two contracting States.

5. In applying laws and regulations, the competent authorities in France and the Federal Republic of Germany shall respect, to the fullest extent compatible with such laws and regulations, the previously existing regional practices, in order that the traditional trade between France and the Saar may continue.

Article 68

1. A joint committee appointed by the Governments of the two contracting States shall meet at the request of either State, and at least once a year, in order to see that the provisions of Articles 62 to 65 of the present Treaty are applied and to ensure that the rules for the implementation of these provisions are adapted to circumstances and are not infringed. This committee shall furthermore have the responsibilities which are delegated to it by Article 70 of the present Treaty.
2. Any measures to be taken by the Governments of the two contracting States for the purposes mentioned above must be with the agreement of both Governments.