

No. 14905

**IRAN
and
IRAQ**

**Agreement concerning the rules governing navigation on the
Shatt al'Arab (with exchanges of letters). Signed at
Baghdad on 26 December 1975**

Authentic text: French.

Registered by Iran on 22 July 1976.

**IRAN
et
IRAK**

**Accord concernant les règles relatives à la navigation dans le
Chatt-El-Arab (avec échanges de lettres). Signé à
Bagdad le 26 décembre 1975**

Texte authentique : français.

Enregistré par l'Iran le 22 juillet 1976.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN IRAN AND IRAQ CONCERNING THE RULES GOVERNING NAVIGATION ON THE SHATT AL'ARAB

In accordance with the spirit of the Algiers Agreement, dated 6 March 1975,² and the Protocol concerning the delimitation of the river frontier between Iran and Iraq signed at Baghdad on 13 June 1975,²

Pursuant to article 8 of the said Protocol, which provides for the establishment of rules governing navigation on the Shatt al'Arab on the basis of equality of rights of the two Parties,

Desiring to protect their common interests regarding navigation on the stretch of the Shatt al'Arab beginning at the point at which the land frontier line between the two countries joins the said river and continues to the sea,

Motivated by sentiments of good neighbourliness and sincere co-operation,

The two Contracting Parties have agreed as follows:

Part One. JOINT PLAN

Article 1. The two Contracting Parties shall draw up a joint plan to guarantee the safety and continuity of navigation on the Shatt al'Arab.

Part Two. JOINT CO-ORDINATING BUREAU

Article 2. (1) The two Contracting Parties shall set up a permanent bureau, to be called the "Joint Co-ordinating Bureau", consisting of an equal number of Iranian and Iraqi representatives in order to safeguard navigation on the Shatt al'Arab.

(2) The Government of each Contracting Party shall appoint three experts, two of whom shall be thoroughly familiar with local conditions as representatives on the Joint Co-ordinating Bureau. The above-mentioned representatives shall be appointed within the month following the entry into force of this Agreement. Each of the two Governments may also appoint alternates.

(3) The Joint Co-ordinating Bureau shall hold two sessions annually. It shall also meet, when necessary, either on its own initiative or at the request of either Government. The first meeting of the Joint Co-ordinating Bureau shall take place during the month following the appointment of the above-mentioned representatives.

(4) Unless the two Parties agree otherwise, the site of the Joint Co-ordinating Bureau shall alternate every two years between ports of the Contracting Parties on the above-mentioned stretch of the Shatt al'Arab. The Chairman of the Bureau shall be a representative of the State in whose territory the port is situated.

(5) The Joint Co-ordinating Bureau shall determine its rules of procedure at its first meeting. The Bureau shall also draw up the statute of its secretariat and may entrust it with such functions as it deems appropriate.

¹ Came into force on 22 June 1976 by the exchange of the instruments of ratification, which took place at Tehran, in accordance with article 22.

² See p. 54 of this volume.

Article 3. The Joint Co-ordinating Bureau shall be empowered:

1. to draw up the draft joint plan referred to in article 1 of this Agreement and to implement it once it has been approved by the Governments of the two Contracting Parties;
2. to maintain the shipping channel and carry out such works in connexion with river navigation as dredging, channel marking, general surveying, sounding and water engineering and hydrographic studies;
3. to lay down common tariffs for the provision of services;
4. to make recommendations to the appropriate authority of each Contracting Party for the improvement of navigation on the Shatt al'Arab;
5. to consider any other matter relating to navigation on the Shatt al'Arab that may be brought up by the Governments of the two Contracting Parties;
6. to observe all the rules relating to the prevention of pollution from shipping on the Shatt al'Arab;
7. to consider objections formulated under article 12 and make the necessary recommendations to the Contracting Parties;
8. to draw up, in the month following the establishment of the Bureau, regulations governing navigation on the Shatt al'Arab on the basis of the principle of the equality of rights of the two Parties and in accordance with the provisions of this Agreement.

Article 4. (1) The Contracting Parties shall each have a single vote in the Joint Co-ordinating Bureau.

(2) Should the Joint Co-ordinating Bureau fail to reach agreement on matters relating to the cases mentioned in article 3, the Governments of the two Parties shall strive to come to an understanding as soon as possible on those matters.

Article 5. The Governments of the two Contracting Parties shall, at the request of the Bureau, appoint such Iraqi and Iranian officials and technicians as may be needed by the Secretariat of the Joint Co-ordinating Bureau.

Part Three. OPERATIONS RELATING TO THE SAFETY OF NAVIGATION

Article 6. All dredging, maintenance of beacons and surveys of shipping channels in the stretch of the Shatt al'Arab referred to in the Protocol concerning the delimitation of the river frontier between Iran and Iraq signed at Baghdad on 13 June 1975 shall be carried out jointly by the two Contracting Parties through the Joint Co-ordinating Bureau, in accordance with article 3, paragraph 2, of this Agreement.

Article 7. (1) The shipping channel of the Shatt al'Arab shall be equipped with beacons placed both on land and floating on the Shatt al'Arab. These beacons shall conform to prevailing international standards for the safety of navigation.

(2) For the purposes of this Agreement the term "beacons" in paragraph 1 shall mean all warning lights, buoys, fog signals and radio beacons that give pilots guidance with a view to the safety of navigation.

Article 8. (1) The authorities of each Contracting Party undertake to carry out, in accordance with their laws and regulations, the operations hereunder enumerated in that part of the Shatt al'Arab subject to its sovereignty. They shall inform the Joint Co-ordinating Bureau and the competent authorities of the other Contracting Party thereof:

- (a) reporting any beacons which are out of order;
- (b) determining the position of vessels which have sunk or run aground or are disabled;

- (c) removing wrecks, mines, munitions and dangerous materials;
- (d) removing all other obstacles to navigation.

(2) The competent authorities of each Contracting Party undertake to co-operate with the Joint Co-ordinating Bureau in removing obstacles to navigation in the Shatt al'Arab.

(3) When a vessel runs aground, is disabled or is exposed to danger in the Shatt al'Arab, the appropriate authorities of the two Contracting Parties shall be bound to provide it immediately with the necessary assistance to rescue it and to inform the Joint Co-ordinating Bureau thereof.

Part Four. FINANCIAL REGULATIONS

Article 9. (1) The Joint Co-ordinating Bureau shall prepare budget estimates for the performance of its functions relating, *inter alia*, to:

- (a) drawing up of plans;
- (b) dredging;
- (c) marking;
- (d) administration and personnel;
- (e) preparation and execution of the draft joint plan.

The Joint Co-ordinating Bureau shall submit the completed budget estimates to the competent authorities of both Contracting Parties for their approval and shall make recommendations for proposals in connexion with them.

The Bureau shall examine its accounts each year in accordance with such accounting rules as the two Parties have agreed to. An accountant appointed by the two Parties shall audit the annual balance sheet of the Joint Co-ordinating Bureau.

(2) The tariffs applied by the Joint Co-ordinating Bureau shall, as far as possible, be so computed as to be sufficient to cover its costs. Should costs exceed revenue, the two Contracting Parties shall make good the deficit in equal proportions.

(3) Any surplus revenue derived from the operations referred to in paragraph 1 of this article shall be used, on the recommendation of the Joint Co-ordinating Bureau and subject to the approval of both Governments, to improve navigation on the Shatt al'Arab.

Article 10. Fees shall be charged only in respect of services provided to ships.

The revenue from pilotage or any other service and from services provided by either Contracting Party in the port zones shall accrue to the Contracting Party which provided the pilotage or the said services.

Part Five. NOTIFICATIONS AND OBLIGATIONS

Article 11. The two Contracting Parties pledge to refrain from any action likely to disturb, restrict or hinder navigation on the Shatt al'Arab.

Article 12. (1) Each of the two Contracting Parties shall be entitled to object to any work constituting an impediment to navigation which the other Party intends to carry out or is carrying out in the Shatt al'Arab, provided that its objection is based on the violation of obligations arising from this Agreement. The Joint Co-ordinating Bureau shall consider the objection in accordance with the provisions of article 3, paragraph 7, of this Agreement.

(2) The objections referred to in the foregoing paragraph shall be receivable, only within a period of five years following the execution of works that produced the harmful consequences.

Part Six. RULES RELATING TO JURISDICTION

Article 13. The following rules shall be applied in determining the legal jurisdiction of each Contracting Party in the Shatt al'Arab.

(1) Iraqi vessels shall be subject to Iraqi law and Iranian vessels shall be subject to Iranian law.

(2) Vessels belonging to third countries shall be subject to:

- (a) the laws and regulations of the State of the first port of destination when arriving from the high seas;
- (b) the laws and regulations of the State of the last port when heading for the high seas;
- (c) the laws and regulations of the State of the port of destination when *en route* between two ports on the Shatt al'Arab.

Article 14. (1) The provisions of article 13 shall apply to both administrative and judicial jurisdiction.

(2) Police officers of both Contracting Parties may take measures under their national law, instead of police officers of the competent Contracting Party, either to remove an obvious and imminent danger or in response to a request from the latter in the following circumstances:

- (a) the measures to be taken cannot be postponed;
- (b) investigation of identity or other documents;
- (c) investigation of vessels' identification marks;
- (d) preservation of evidence.

They shall then be required immediately to inform the police authorities of the competent Contracting Party of the outcome and to provide them with any reports and other documents that they have prepared. Reports prepared by virtue of this paragraph shall have the same legal status as reports prepared by officers of the other Contracting Party.

Part Seven. BOARDING

Article 15. International rules relating to boarding at sea shall apply to navigation on the Shatt al'Arab, bearing in mind the specific provisions laid down by the Joint Co-ordinating Bureau in pursuance of article 3, paragraph 8.

Part Eight. HEALTH INSPECTION

Article 16. Health inspection of vessels shall be carried out by the authorities of the Contracting Party of the port of destination.

Part Nine. RESCUE

Article 17. International rules relating to the safety of life at sea shall apply to navigation on the Shatt al'Arab bearing in mind the specific provisions on that subject laid down by the Joint Co-ordinating Bureau in pursuance of article 3, paragraph 8.

Part Ten. PILOTAGE

Article 18. (1) Pilotage is mandatory for all vessels on the Shatt al'Arab. Warships of the two Contracting Parties shall, however, be exempt from this obligation.

Certain Government vessels and certain vessels of small displacement on the basis of criteria laid down by the Joint Co-ordinating Bureau may also be exempted from this obligation.

(2) Pilotage services for vessels coming from or headed for the high seas shall be provided by the Iranian authorities when the vessels are approaching or leaving an Iranian port. They shall be provided by the Iraqi authorities when the vessels are approaching or leaving an Iraqi port.

(3) Pilotage of vessels *en route* between Iranian and Iraqi ports shall be provided by pilots of the nationality of the State of the port of destination.

(4) The two Contracting Parties undertake to have pilotage of vessels approaching or leaving the ports of the other Party performed, if possible, by pilots licensed by their competent authorities, when requested to do so by that Party.

(5) Each Contracting Party shall provide the services of dock pilots for ports situated in its territory.

(6) The two Contracting Parties undertake not to train or employ on the Shatt al'Arab pilots who are not nationals of either State.

The regulations concerning navigation on the Shatt al'Arab referred to in article 3, paragraph 8, shall also determine the criteria and rules to be applied in selecting pilots.

Part Eleven. FLAG

Article 19. Every vessel entering the Shatt al'Arab or coasting between ports on the river shall fly the flag of the State of the port of destination. When heading out to sea it shall fly the flag of the State of the port from which it has sailed.

Part Twelve. SCOPE

Article 20. The provisions of this Agreement shall apply to the stretch of the Shatt al'Arab referred to in article 2 of the Protocol concerning the delimitation of the river frontier between Iran and Iraq, signed at Baghdad on 13 June 1975.

Part Thirteen. SETTLEMENT OF DISPUTES

Article 21. In the event of a dispute concerning the interpretation or application of this Agreement, the two Contracting Parties shall settle the dispute in accordance with the methods set forth in article 6 of the Treaty concerning the State frontier and neighbourly relations between Iran and Iraq, signed at Baghdad on 13 June 1975.¹

Article 22. This Agreement shall be ratified by each Contracting Party in accordance with its domestic law and shall enter into force on the date of the exchange of the instruments of ratification.

DONE at Baghdad, on 26 December 1975.

For the Imperial Government
of Iran:

[Signed]

ABBAS-ALI KHALATBARY

For the Government
of the Republic of Iraq:

[Signed]

SAADOUN HAMADI

¹ See p. 54 of this volume.

EXCHANGES OF LETTERS

Ia

26 December 1975

Sir,

I have the honour to propose that an *ad hoc* committee be established as soon as possible to draft, on the basis of equality of rights of the two Parties, regulations concerning navigation on the Shatt al'Arab to be approved, in accordance with article 3, paragraph 8, of the above-mentioned Agreement, by the Joint Co-ordinating Bureau.

It is understood that, until such time as these regulations are approved by the Joint Co-ordinating Bureau, navigation on the Shatt al'Arab shall be governed temporarily by the regulations attached to this letter.¹

Accept, Sir, etc.

[Signed]

ABBAS-ALI KHALATBARY
Minister for Foreign Affairs of Iran

IIa

26 December 1975

Sir,

I have the honour to acknowledge receipt of your letter of today's date which reads as follows:

[See letter Ia]

I am to inform you that the Iraqi Government agrees with the content of the above-quoted letter.

Accept, Sir, etc.

[Signed]

SAADOUN HAMADI
Minister for Foreign Affairs of Iraq

Ib

26 December 1975

Sir,

I have the honour to inform you that, for practical reasons, the Imperial Government of Iran agrees that the dredging and marking operations provided for in article 6 of the Agreement between Iran and Iraq concerning the rules governing navigation on the Shatt al'Arab should be entrusted to the competent Iraqi authorities, who shall act on behalf of both the Iranian and Iraqi States, for a period of seven years from the entry into force of the above-mentioned Agreement.

¹ These regulations do not form an integral part of the Agreement (information provided by the Government of Iran).

One year before the expiry of this period, the two Parties shall consult each other with regard to the implementation of the said article 6.

It is understood that the Joint Co-ordinating Bureau shall fully reimburse the Iraqi authorities for the cost of the works they carry out.

The two Parties shall ratify this letter in accordance with their domestic law when they ratify the Agreement between Iran and Iraq concerning the rules governing navigation on the Shatt al'Arab.

Accept, Sir, etc.

[Signed]

ABBAS-ALI KHALATBARY
Minister for Foreign Affairs of Iran

Iib

26 December 1975

Sir,

I have the honour to acknowledge receipt of your letter of today's date which reads as follows:

[See letter Ib]

I am to inform you that the Iraqi Government agrees with the content of the above-quoted letter.

Accept, Sir, etc.

[Signed]

SAADOUN HAMADI
Minister for Foreign Affairs of Iraq