

**Treaty
between
the Kingdom of Denmark
and
the Federal Republic of Germany
on a fixed link across the Fehmarnbelt**

Unofficial translation

15 December 2008

This document is an unofficial translation of the Treaty between the Kingdom of Denmark and the Federal Republic of Germany on a fixed link across Fehmarnbelt. It is for information only and has no legal validity.

The Kingdom of Denmark and the Federal Republic of Germany,

recognizing that the transport infrastructure between the two states must be improved in order to promote the European and regional transport of goods and people, and that a fixed link across the Fehmarnbelt would lead to an appreciable improvement of the transport of goods and people between the Kingdom of Denmark and the Federal Republic of Germany and also between continental Europe and Scandinavia,

wishing to strengthen the transport links between the two states and thereby create the necessary conditions for a more intensive cultural and economic cooperation to the benefit of the European Union, the two states, and the regions bordering the Fehmarnbelt,

considering that a fixed link across the Fehmarnbelt will promote rail traffic between the Federal Republic of Germany and the Kingdom of Denmark and also between continental Europe and Scandinavia and strengthen the integration and vitality in the regions and promote competition and development in the regions,

expressing satisfaction that the European Parliament and the Council of the European Union have identified the railway axis across the Fehmarnbelt as a priority project within the development of the trans-European transport network (TEN-T) according to annex III of Decision No 1692/96/EC of the European Parliament and of the Council of 23 July 1996 on Community guidelines for the develop-

ment of the trans-European transport network (OJEC L 228 of 9 September 1996, p. 1), last amended by Decision No 884/2004/EC of the European Parliament and of the Council of 29 April 2004 (OJEC L 167 of 30 April 2004) and by Council Regulation (EC) No 1791/2006 of 20 November 2006 (OJEC L 363 of 20 December 2006),

in view of the fact that there are different technical solution models for the fixed link across the Fehmarnbelt with different effects, of which, according to the present level of knowledge, a cable-stayed bridge in particular would further the achievement of the common goals,

considering that the expected traffic volume is supposed to enable user funding for the fixed link across the Fehmarnbelt,

considering that the Kingdom of Denmark is to receive any profit and be liable for any loss in connection with the company that will be responsible for the construction and operation of the fixed link across the Fehmarnbelt,

acknowledging that a joint project of this magnitude requires close cooperation and continued, mutual support in all aspects,

recognizing the federal system in the Federal Republic of Germany and the interests of the federal state of Schleswig-Holstein,

have agreed as follows:

Article 1

Subject matter of the Treaty

(1) The Kingdom of Denmark and the Federal Republic of Germany (hereinafter: the Contracting States) agree that a user-financed fixed rail and road link across the Fehmarnbelt (hereinafter: the fixed link across the Fehmarnbelt) be constructed and operated. The Kingdom of Denmark shall construct and operate the fixed link across the Fehmarnbelt and shall bear the expenses. To finance the expenditures, the Kingdom of Denmark may collect road tolls and fees for using the rail infrastructure from the users of the fixed link across the Fehmarnbelt in accordance with Articles 9 and 10. The costs of the fixed link across the Fehmarnbelt shall comprise expenditures for construction, operation, and maintenance, including financing costs with a return on the invested capital at the market interest rate and market costs regarding guarantees issued.

(2) The Federal Republic of Germany shall upgrade the hinterland connections of the fixed link across the Fehmarnbelt on its territory. The Kingdom of Denmark shall upgrade the hinterland connections of the fixed link across the Fehmarnbelt on its territory.

(3) It is the goal to open the fixed link across the Fehmarnbelt to traffic in the year 2018.

Article 2

Description of the fixed link across Fehmarnbelt

(1) The fixed link across the Fehmarnbelt shall be constructed between Puttgarden and Rødbyhavn. The fixed link across the Fehmarnbelt shall be constructed as a combined rail and road link consisting of an electrified, double-track railway and a four-lane road link with the technical quality of a motorway. Additionally, the fixed link across the Fehmarnbelt shall comprise facilities for the collection of tolls to be located in the Kingdom of Denmark as well as miscellaneous operating facilities. The final definition of the alignment and the construction of the fixed link across the Fehmarnbelt shall take place in accordance with the respective national procedures in force for authoritative approval.

(2) The railway line shall be constructed as a part of the conventional TEN-T railway network. The railway link on the fixed link across the Fehmarnbelt shall be constructed for a speed of at least 160 km/h for passenger trains and at least 120 km/h for freight trains. Furthermore, the fixed link across the Fehmarnbelt is to be technically designed and equipped so that the road and rail traffic using the fixed link across the Sound (Øresund) today will be able to use the fixed link across the Fehmarnbelt in the future.

(3) Approval to construct the fixed link across the Fehmarnbelt shall be sought in accordance with the law, in force at any time, in the state concerned. If legally feasible, a third party, includ-

ing the company mentioned in Article 6, may be charged with submitting the application. In connection with the approval procedure, deviations from the requirements mentioned in paragraphs 1 and 2 above may become necessary. Deviations from these requirements must be put before the joint committee formed in accordance with Article 19 for decision.

(4) The technical interface between Danish and German railway technology, in particular that between the two Contracting States' power systems, signalling systems, and safety systems, shall be located on the German side of the fixed link across the Fehmarnbelt unless the Contracting States agree on another site. The detailed design of the interface will be approved by the competent Danish and German authorities following a proposal submitted by the company mentioned in Article 6.

(5) The interface between the road link on the fixed link across the Fehmarnbelt and the hinterland road connection in the Kingdom of Denmark shall be defined as the point where the road link on the fixed link across the Fehmarnbelt connects with the existing E 47 road link between Sakskøbing and Rødbyhavn in the Kingdom of Denmark. The interface between the railway line of the fixed link across the Fehmarnbelt and the hinterland railway connection in the Kingdom of Denmark shall be defined as the point where the railway line on the fixed link across the Fehmarnbelt connects with the existing railway line between Rødbyhavn and Ringsted.

(6) The interface between the road link of the fixed

link across Fehmarnbelt and the road facility in the Federal Republic of Germany will be situated immediately at the Puttgarden connecting facility (end of exit ramp, beginning of entry ramp). Thus, this connecting facility is included under the German road facilities. The interface between the railway section of the fixed link across Fehmarnbelt and the defined as the point where the change between the railway technology of the Federal Republic of Germany and that of the Kingdom of Denmark takes place, cf. subsection 4. hinterland railway facility in the Federal Republic of Germany is ...

Article 3

Construction and operation of the fixed link across the Fehmarnbelt

(1) The construction of the fixed link across the Fehmarnbelt shall comprise all the necessary services. In particular, the Kingdom of Denmark shall arrange for

- a) preparatory measures, in particular preliminary studies and surveying on the territories of the Contracting States,
- b) planning,
- c) tendering,
- d) contracting and scrutiny of the construction documents,
- e) obtaining all requisite approvals,
- f) construction including supervision of the construction,
- g) final acceptance of and settling of accounts regarding the individual contractual (partial) services rendered,

h) supervision and implementation of activities to remedy deficiencies with regard to the fixed link across the Fehmarnbelt.

(2) When constructing and operating the fixed link across the Fehmarnbelt, the requirements mentioned in Article 2, the requirements concerning the safe and smooth flow of traffic as well as the national legislation of both Contracting States applicable on their respective territories shall be observed provided that this Treaty does not hold different provisions.

(3) When the construction work is completed, the Kingdom of Denmark shall finally accept the fixed link across the Fehmarnbelt in the presence of the contractors and in accordance with the legislation of the Kingdom of Denmark that applies to public tenders. The Federal Republic of Germany shall be represented at the final acceptance by the competent authorities.

(4) After the final acceptance, the fixed link across the Fehmarnbelt shall be made available for public road and rail traffic.

(5) The Kingdom of Denmark shall exempt the Federal Republic of Germany from any third-party claims that may be advanced against the Federal Republic of Germany in relation to the duties that the Kingdom of Denmark will fulfil according to this Treaty through the company mentioned in Article 6.

Article 4

Public responsibility for the road part of the fixed link

(1) The part of the road link of the fixed link across the Fehmarnbelt that is situated on the territory of the Federal Republic of Germany shall be classified as a federal trunk road (Bundesfernstraße) in accordance with the Federal Trunk Roads Act (Bundesfernstraßengesetz). In accordance with German law, the Federal Republic of Germany shall be responsible for the construction and maintenance of this part of the fixed link across the Fehmarnbelt. The Federal Republic of Germany shall delegate the following tasks to the Kingdom of Denmark: construction, operation and financing. The Kingdom of Denmark may use the company mentioned in Article 6 to carry out the related tasks.

(2) The operation of the road link of the fixed link across the Fehmarnbelt shall include among other things its maintenance. The maintenance shall comprise all work that is necessary to maintain, repair, and renovate the fixed link across the Fehmarnbelt including the related parking areas and other necessary facilities. It shall comprise all measures that secure the proper use of and upkeep of the state of technology of the fixed link across the Fehmarnbelt as well as traffic safety including cleaning, winter maintenance, road inspection, and the operation of traffic installations. Any maintenance work on the fixed link across the Fehmarnbelt including the related parking areas and other necessary facilities shall be carried out in such a way that they inconvenience the traffic on the link structure and on the approaches as little as possi-

ble. The Contracting States may conclude separate agreements on the nature, scope, and implementation of the maintenance measures. The Kingdom of Denmark shall inform the competent bodies in the Federal Republic of Germany of major, scheduled maintenance work on the fixed link across the Fehmarnbelt. Major maintenance work shall be defined as maintenance work where a limitation or temporary suspension of road traffic is unavoidable. In addition, the competent bodies in the Contracting States shall inform each other if they intend to carry out major maintenance work on the hinterland infrastructure.

(3) The Kingdom of Denmark shall be responsible for procuring, placing, removing, and maintaining all traffic signs and traffic installations required for the operation for the part of the fixed link across Fehmarnbelt that is situated on the territory of the Federal Republic of Germany. The Kingdom of Denmark will use the company mentioned in Article 6 to carry out this task. In this respect, the company shall be subject to supervision by the competent German road traffic authority; their orders and instructions shall be complied with. Furthermore, no later than four weeks before the opening of the fixed link across the Fehmarnbelt, the company shall submit an application including a traffic sign plan for permission to place traffic signs and traffic installations to the competent German road traffic authority.

Article 5

Description of the hinterland infrastructure

(1) The Kingdom of Denmark should have the sole responsibility for upgrading and financing the hinterland connection to the fixed link across the Fehmarnbelt in the Kingdom of Denmark. The upgrading of the hinterland infrastructure in the Kingdom of Denmark should be completed no later than at the opening of the fixed link across the Fehmarnbelt. The E 47 road link between Sakskøbing and Rødbyhavn in the Kingdom of Denmark is constructed as a four-lane motorway. The electrification of the existing railway line between Ringsted and Rødbyhavn in the Kingdom of Denmark should be completed no later than at the opening of the fixed link across the Fehmarnbelt. The upgrading of the railway lines from Vordingborg to the Storstrøm Bridge and from Orehoved to Rødbyhavn in the Kingdom of Denmark to a double-track, electrified railway line should be completed no later than at the opening of the fixed link across the Fehmarnbelt. The Kingdom of Denmark reserves the right to finance the Danish hinterland infrastructure by yield from the fixed link across the Fehmarnbelt.

(2) The Federal Republic of Germany should have the sole responsibility for upgrading and financing the hinterland connections to the fixed link across the Fehmarnbelt in the Federal Republic of Germany. The upgrading of the E47 road link between Heiligenhafen (East) and Puttgarden in the Federal Republic of Germany to a four-lane federal road (Bundesstraße) should be completed no later than at the opening of the fixed link across the

Fehmarnbelt. The road link on the existing Fehmarn Sound Bridge should remain a two-lane road. The electrification of the railway line between Lübeck and Puttgarden in the Federal Republic of Germany should be completed no later than at the opening of the fixed link across the Fehmarnbelt. The Federal Republic of Germany shall take the necessary measures to secure a sufficient railway capacity on the single-track railroad between Bad Schwartau and Puttgarden no later than at the opening of the fixed link across the Fehmarnbelt. The upgrading of the railway line between Bad Schwartau and Puttgarden to a double-track, electrified railway line should be ready for operation no later than seven years after the opening of the fixed link across the Fehmarnbelt. The railway link across the Fehmarn Sound Bridge should remain a single-track link.

(3) The hinterland railway connections in the Kingdom of Denmark as well as in the Federal Republic of Germany shall be constructed as part of the conventional TEN-T railway network. None of the basic parameters of the German hinterland railway connections shall be inferior to those that are effective today on the segment between Puttgarden and Hamburg.

(4) The Contracting States shall do everything in their power to realize the project in accordance with the assumptions. Should the preconditions for the project or for parts of the project develop markedly in another way than assumed and differently from what is known at the time of the conclusion of the Treaty, the Contracting States shall renegotiate the situation. This shall apply,

for instance, to substantial cost increases in connection with the hinterland infrastructure. In this connection, it should be ensured that the hinterland railway connection is upgraded in line with the demand.

Article 6

Company responsible for the construction and operation of the fixed link across the Fehmarnbelt

(1) The Kingdom of Denmark shall establish a company (hereinafter: the company) that should in particular be in charge of preparing, planning, designing, obtaining approvals for, awarding contracts for, constructing, financing, operating, and maintaining the fixed link across the Fehmarnbelt. The company should gain ownership of the fixed link across the Fehmarnbelt, of the necessary land, and ownership of all permits, licences, and similar rights that are necessary to construct, operate, and maintain the fixed link across the Fehmarnbelt or any other related activity provided that this is permitted according to the national law, in force at any given time, in the Contracting States.

(2) The company shall be established in accordance with Danish law. The activities of the company shall be carried out in accordance with general business principles and in accordance with international obligations including the obligations according to Community law.

(3) The Kingdom of Denmark shall receive all profits and shall be liable for any loss caused by the

activities of the company according to paragraph 1 above.

(4) The Kingdom of Denmark shall have the right to change the organisation of the company. Any decree of this kind shall have no effect on the Contracting States' rights and obligations under this Treaty. Should, as a result of transferring or otherwise disposing of the shares of the company, 50 per cent or more of the shares be transferred to non-government-controlled entities, prior consent of the Federal Republic of Germany to the main conditions of this transfer shall be required. Should less than 50 per cent of the shares be transferred, the Federal Republic of Germany shall be consulted.

(5) The Kingdom of Denmark shall ensure that the company fulfils the tasks assigned to it according to this Treaty.

Article 7 ***Organisation of the company***

(1) The right of the Kingdom of Denmark to make decisions regarding the activities of the company shall be exercised at the general shareholders' meetings of the company.

(2) In matters of particular importance, the Minister for Transport of the Kingdom of Denmark may give general or specific instructions to the company regarding the exercise of the activities of the company.

(3) The responsibility for the activities of the company shall be laid down in accordance with Danish law.

(4) The Minister for Transport of the Kingdom of Denmark shall nominate the members of the board of directors, who are elected by the general shareholders' meeting of the company.

Article 8 ***Provision of the necessary land and permits***

(1) The Contracting States, in accordance with their applicable national law, shall make available the pieces of land on their respective territories that are needed permanently or temporarily for the construction and operation of the fixed link across the Fehmarnbelt. The company shall bear all expenses incurred in this connection, including expenses for the purchase of land.

(2) The Contracting States shall make available free of charge the waters and the seabed over which they exercise sovereignty, sovereign rights, or jurisdiction according to national and international law that are needed, permanently or temporarily, for the construction and operation of the fixed link across the Fehmarnbelt.

(3) The Contracting States, in accordance with their national law in force at any time, shall ensure that the approvals and permits that are necessary for the construction of the fixed link across the Fehmarnbelt are available in due time.

Article 9
Toll setting regarding road traffic

- (1) The Kingdom of Denmark will collect tolls for the use of the road link of the fixed link across the Fehmarnbelt by motor vehicles. The toll charges shall be due to the Kingdom of Denmark.
- (2) The toll rates for heavy goods vehicles (HGVs) shall be fixed annually by the Danish Minister for Transport in accordance with the provisions under Community law, in force at any given time, on the charging of heavy goods vehicles for the use of certain infrastructures. For other motor vehicles, the toll rates shall be fixed based on the criteria mentioned in Article 1 paragraph 1 and furthermore in consideration of the size and type of vehicle.
- (3) The Kingdom of Denmark shall inform the responsible authorities in the Federal Republic of Germany in writing and at least three months in advance of any change of the road tolls.
- (4) The tolls for using the road link on the fixed link across the Fehmarnbelt shall be collected at toll stations in the Kingdom of Denmark.
- (5) Special charges other than the customary infrastructure charges shall not be imposed on motor vehicles for the use of the hinterland infrastructure.

Article 10
Charges for the use of and access to the rail infrastructure

- (1) Charges for the use of the rail infrastructure on the fixed link across the Fehmarnbelt shall be fixed by the Minister for Transport of the Kingdom of Denmark following consultation with the regulatory authority in the Federal Republic of Germany and shall be collected by the Kingdom of Denmark.
- (2) The provisions of the Danish railway legislation regarding access to the rail infrastructure of the Kingdom of Denmark for rail operators shall apply to the entire fixed link across the Fehmarnbelt. The regulatory authority of the Kingdom of Denmark shall monitor compliance with the provisions following consultation with the regulatory authority of the Federal Republic of Germany. This shall not affect Article 31 of Directive 2001/14/EC.
- (3) To ensure that the fixed link across the Fehmarnbelt plays the role that it is intended to play within European rail transport, no special charges shall be collected for the use of the hinterland rail connections in addition to the usually applicable charges.

Article 11

Management of rail infrastructure and planning of rail transport

(1) The company shall have the responsibility for managing the rail infrastructure on the fixed link across the Fehmarnbelt. The management of the rail infrastructure shall comprise traffic and technical operation as well as the renovation and maintenance of the facilities included in the rail infrastructure. The company shall manage the rail infrastructure in accordance with the applicable Danish legal provisions on Danish territory and in accordance with the applicable German legal provisions on German territory.

(2) The operator of the Danish hinterland rail connection to the fixed link across the Fehmarnbelt shall allocate train paths for rail services on the fixed link across the Fehmarnbelt in cooperation with the competent German authorities.

Article 12

Community financial aid for the trans-European transport networks (TEN-T)

Depending on the wording of the future TEN-T programme, the Contracting States will aim at obtaining the maximum possible Community financial aid from the European Commission's budget line for trans-European transport networks for the fixed link across the Fehmarnbelt and for the upgrading of the hinterland infrastructure in the Federal Republic of Germany and in the Kingdom of Denmark, respectively.

Article 13

Approval procedure, environmental impact assessment, and construction

(1) The decision of the technical solution to be selected for the fixed link across the Fehmarnbelt shall be taken on the basis of an environmental impact assessment (EIA) etc. according to the Community law in force.

(2) The requirements laid down in Community law and national law shall be taken as the basis for the preparation, the construction, and the operation of the fixed link across the Fehmarnbelt so that harmful effects on nature and the environment are prevented, and considerable adverse impacts, especially regarding the European Natura 2000 Network, are countered adequately.

(3) The necessary approval procedures for the part of the fixed link across the Fehmarnbelt that is situated on German territory shall be carried out according to German law and for the part of the fixed link across the Fehmarnbelt that is situated on Danish territory, according to Danish law.

(4) In the exclusive economic zones of the Contracting States within the meaning of Article 55 of the United Nations Convention on the Law of the Sea of 10 December 1982 (hereinafter: exclusive economic zones), the law in force at any given time on the territory of the Contracting States shall be applied within the framework of the provisions laid down in the Convention on the Law of the Sea unless the present Treaty determines otherwise.

(5) The Contracting States will cooperate in all areas in order to quickly obtain authority approvals at the national and at the international level.

(6) It is the aim that the authority approvals in the Kingdom of Denmark and in the Federal Republic of Germany are available in time for the goal to open the fixed link across the Fehmarnbelt for traffic in 2018 to be achieved.

(7) The fixed link across the Fehmarnbelt shall be constructed in accordance with the Danish technical standards and rules in force. The Contracting States may agree on the application of other European standards and rules for individual components. Details regarding the rail technology to be used shall be agreed upon by the competent Danish and German authorities based on a proposal of the company.

Article 14

Matters of public safety and order and emergency management

(1) Matters of public safety and order as well as emergency management on the fixed link across the Fehmarnbelt on Danish territory and in the Danish exclusive economic zone shall fall within the competence of the Danish authorities; on German territory and in the German exclusive economic zone they shall fall within the competence of the German authorities. The competent Danish authorities shall include the police, the rescue services, the ambulance services, and other emergency services as well as the customs authori-

ties and the armed forces. The competent German authorities shall include the authorities responsible for civil protection and disaster control at the federal and state level as well as the public and private organisations involved, rescue services, and various police authorities.

(2) The competent authorities according to paragraph 1 above will cooperate to the extent necessary in accordance with international law and other law in force. In the event of serious accidents or disasters, the Agreement of 16 May 1985 between the Federal Republic of Germany and the Kingdom of Denmark on Mutual Assistance in the Event of Disaster or Serious Accidents shall be applied. When taking measures within the framework of the activated European Community Civil Protection Mechanism, the provisions in said Agreement on Mutual Assistance shall be applied. The company shall be invited to cooperate to the extent that this is admissible according to both German and Danish law.

(3) The company shall be obliged to prepare a safety concept and agree on it with the competent authorities according to paragraph 1 above before the opening of the fixed link across the Fehmarnbelt. In particular, the safety concept shall include a description of the cooperation between the competent authorities and the company as well as plans for possible emergencies.

(4) In addition to the vehicles that are used in the exercise of the company's tasks mentioned in Article 6 paragraph 1, the vehicles of the competent authorities mentioned in paragraph 1 above as

well as the vehicles used by the public and private organisations or enterprises involved shall be exempt from the toll charges according to Article 9. Vehicles shall only be exempt from toll charges if they are clearly recognisable as vehicles used for the said purposes, or if they may unmistakably be identified as such. In case of vehicle combinations, eligibility for toll exemption shall depend on the motor vehicle.

Article 15 **Taxes**

The provisions of the agreement in force at any given time between the Kingdom of Denmark and the Federal Republic of Germany for the avoidance of double taxation with respect to taxes on income and on capital as well as to taxes on estates, inheritances and gifts and for the provision of mutual administrative assistance in tax matters shall not be affected by this Treaty.

Article 16 **Provisions regarding working conditions**

(1) Regardless of who is responsible for carrying out the construction, the relevant national legal provisions on working conditions in force in the territory concerned shall apply in accordance with Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services.

(2) For work performed on German territory, this shall refer in particular to the German Posted Workers Act of 26 February 1996 in the version applicable at any given time. In accordance with this Act, the company shall especially respect the relevant conditions of employment stipulated in laws and collective agreements and shall notify the competent authority in the customs administration beforehand of any work scheduled to be carried out .

(3) Likewise for work performed on Danish territory, the Danish law on the posting of workers applies as it is in force at any time.

Article 17 **Right of entry and work permits**

(1) To the extent necessary and no later than 1 January 2011, the Contracting States shall conclude an agreement concerning right of entry and work permits.

(2) Pending the entry into force of the agreement mentioned in paragraph 1 above, the cooperation in the areas concerned shall take place in accordance with the laws of the Contracting State whose territory is affected by the cooperation. Until that point in time, the Contracting States shall discuss the situation should special conditions arise.

Article 18
Data protection

The Contracting States shall commit themselves to processing personal data transmitted within the framework of this Treaty in accordance with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

Article 19
Joint committee

(1) The Contracting States shall set up a joint committee consisting of equal numbers of representatives of the two Contracting States' ministries of transport. The two Contracting States shall have equal voting rights.

(2) The committee shall be responsible for monitoring and promoting the implementation of this Treaty. In particular, this shall include the performance of the tasks mentioned in Article 2 paragraph 3.

(3) The chair in the committee shall rotate every six months between the Contracting States. The committee shall hold at least two meetings per year in which the company shall participate. Either of the two Contracting States may request that a committee meeting be held if the Contracting State deems it necessary.

(4) Any member of the committee may request that experts or representatives of other authorities of

the two Contracting States and of the federal state of Schleswig-Holstein participate in meetings as required.

(5) The Contracting States shall agree on the rules of procedure of the joint committee.

Article 20
Consultation body

(1) A consultation body shall be established with the purpose of discussing questions of regional interest.

(2) The Contracting States, Region Sealand, Lolland Municipality, the federal state of Schleswig-Holstein and the Ostholstein district shall be represented in the consultation body. The tasks and the organisation of the consultation body shall be agreed upon separately.

Article 21

Disputes

(1) Without prejudice to Article 292 of the Treaty Establishing the European Community, disputes regarding the interpretation or application of this Treaty shall, to the extent possible, be settled amicably, either in the joint committee or through negotiations between the competent authorities of the Contracting States.

(2) If a dispute cannot be settled this way, it shall, at the request of either Contracting State, be brought before a court of arbitration for ruling.

(3) The court of arbitration shall be established from case to case. For this purpose, each of the Contracting States shall appoint an arbitrator. These two arbitrators, in agreement, shall nominate a citizen of another member state of the European Union as umpire. The arbitrators shall be appointed within two months and the umpire within three months after one of the Contracting States has sent a request to bring the dispute before a court of arbitration to the other State.

(4) If the deadlines set in paragraph 3 above are not met and the dispute is not settled in another way, each of the two Contracting States may request that the president of the European Court of Justice appoint the lacking arbitrator(s) according to the criteria in paragraph 3 above. If the president is a citizen of one of the two Contracting States or is for another reason prevented from fulfilling this task, the member of the European Court of Justice following in rank who is not a citizen of one of the

Contracting States shall appoint the arbitrator(s) concerned.

(5) The court of arbitration shall rule by majority vote on the basis of applicable treaties between the Contracting States and of general international law. The rulings of the court of arbitration shall be binding. Each of the Contracting States shall bear its own costs and the costs of the arbitrator it has appointed. The costs of the umpire and all other costs shall be divided equally between the two Contracting States. The court of arbitration may decide on other arrangements for the division of costs. In other respects, the court of arbitration shall decide on its own procedure.

Article 22

Treaty amendments and other obligations

(1) This Treaty may only be amended, complemented, or cancelled by mutual consent between the Contracting States.

(2) According to Article 5 paragraph 4, it shall be the general principle that the Contracting States do everything in their power to realize the project in accordance with the assumptions. Should the preconditions for the project or for parts of the project develop markedly in another way than assumed and differently from what is known at the time of the conclusion of the Treaty, the Contracting States shall renegotiate the situation. This shall apply, for instance, to substantial cost increases in connection with the project. In any case, the financial obligations of the Federal Republic of Germany shall concern only the German hinterland infrastructure.

(3) The Contracting States shall have no obligation to accept financial obligations other than those laid down in the present Treaty.

(4) The construction and operation of the fixed link across the Fehmarnbelt as well as the other obligations according to this Treaty shall be realized in accordance with the obligations of the two Contracting States under the applicable international law and Community law.

Article 23

Ratification and the entry into force

(1) This Treaty is subject to ratification; the instruments of ratification shall be exchanged as soon as possible.

(2) This Treaty shall enter into force 30 days after the exchange of the instruments of ratification.

(3) This Treaty shall be concluded for an indefinite time.

(4) In order to ensure that the fixed link across the Fehmarnbelt is ready for use as soon as possible in accordance with Article 1, the Contracting States shall apply this Treaty provisionally in accordance with the national law in force at any given time in the Contracting States. With regard to investments made, the Contracting States shall not raise claims against each other in connection with the provisional application of this Treaty.

(5) The registration of this Treaty with the United Nations Secretariat in accordance with Article 102 of the United Nations Charter shall be effectuated by the Kingdom of Denmark without delay after the entry into force of the Treaty. As soon as the registration has been confirmed by the United Nations Secretariat, the Federal Republic of Germany shall be informed of the United Nations registration number.

Done at COPENHAGEN on SEPTEMBER 3, 2008 and issued in two originals in Danish and German, each of these texts being of equal validity.

For the Kingdom of Denmark

For the Federal Republic of Germany