

No. 906

**SPAIN
and
PORTUGAL**

Treaty on boundaries between Spain and Portugal from the mouth of the Minho River to the junction of the river Caya with the Guadiana. Signed at Lisbon on 29 September 1864

Final Act approving annexes to the above-mentioned Treaty. Signed at Lisbon on 4 November 1866

Authentic texts: Spanish and Portuguese.

Filed and recorded at the request of Spain on 21 September 1982.

**ESPAGNE
et
PORTUGAL**

Traité de délimitation de la frontière entre l'Espagne et le Portugal à partir de l'embouchure du Minho jusqu'au confluent du rio Caya et du Guadiana. Signé à Lisbonne le 29 septembre 1864

Acte final approuvant les annexes au Traité susmentionné. Signé à Lisbonne le 4 novembre 1866

Textes authentiques : espagnol et portugais.

Classés et inscrits au répertoire à la demande de l'Espagne le 21 septembre 1982.

[TRANSLATION — TRADUCTION]

TREATY¹ ON BOUNDARIES BETWEEN SPAIN AND PORTUGAL
FROM THE MOUTH OF THE MINHO RIVER TO THE JUNC-
TION OF THE RIVER CAYA WITH THE GUADIANA

Her Majesty the Queen of the Spains and His Majesty the King of Portugal and the Algarves, having taken into consideration the state of uneasiness existing in many towns situated on the confines of the two kingdoms owing to the inexistence of any precise delimitation of territory or any international treaty defining such a delimitation; desiring to put an end once and for all to the unpleasant conflicts which, on that account, arise at various points on the frontier and to establish and consolidate peace and harmony between the border populations, and, finally, recognizing the need to end the anomalous situation in which, under the shadow of ancient feudal traditions, some towns bordering on the dividing line of the two States have remained until now, to the manifest and common disadvantage of the said States, have decided to conclude a special treaty that clearly and precisely determines the respective rights of the coterminous towns and the territorial limits of both Sovereignties along the stretch of frontier extending from the mouth of the Minho to the junction of the river Caya with the Guadiana.

For that purpose, they have appointed as their plenipotentiaries:

Her Majesty the Queen of the Spains: Mr. Juan Jimenez de Sandoval, Marquis de la Ribera, regular Knight Commander of the Royal and Distinguished Order of Charles III, Knight Commander of the Order of Isabella the Catholic, Knight of the Order of Saint John of Jerusalem, Knight Commander of the Order of the Netherlands Lion, Officer of the Légion d'Honneur of France, Knight, First Class, of the Order of the Red Eagle of Prussia, Secretary of Decrees, Her Envoy Extraordinary and Minister Plenipotentiary to the Court of His Most Faithful Majesty, etc.; and Mr. Facundo Goñi, Her Resident Minister, former Deputy to the Cortes, etc.;

And His Majesty the King of Portugal and the Algarves: Mr. Nuno José Severo de Mendonça Rolim de Moura Barreto, Duke and Marquis of Loulé, Count de Valle de Reis, Master of the Horse, Peer of the Realm, Councillor of State, Grand Cross of the ancient and very noble Order of the Tower and Sword of Valour, Loyalty and Merit, Knight Commander of the Order of Christ, decorated with Medal No. 9 of Dom Pedro and Dona Maria, Knight of the Supreme Order of the Most Holy Annunciation and Grand Cross of the Orders of Saint Maurice and Saint Lazarus of Italy, of Charles III of Spain, of the Green Crown of Ernest the Pious of Saxony, of Leopold of Belgium, of the Netherlands Lion, of the Red Eagle and the Black Eagle of Prussia, of the Danebrog of Denmark, of Pius IX, of the Légion d'Honneur of France and of Saint Olaf of Sweden, President of the Council of Ministers, Minister and Secretary of State for Foreign Affairs and, *ad interim*, for those of the Kingdom, etc.; and Mr. Jacinto da Silva Mengo, of his Council, Knight of the

¹ Came into force on 19 May 1866 by the exchange of the instruments of ratification, which took place at Lisbon, in accordance with article XXXI.

Orders of Christ, Our Lady of the Conception of Vila Viçosa and of the ancient and very noble Order of the Tower and Sword of Valour, Loyalty and Merit, decorated with Medal No. 9 of Dom Pedro and Dona Maria, extraordinary regular Knight Commander of the Royal and Distinguished Order of Charles III, of the Order of Isabella the Catholic of Spain, of the Orders of Saint Maurice and Saint Lazarus of Italy, of Leopold of Belgium, of the Danebrog of Denmark and of the Crown of Evergreen Oak of the Netherlands, Knight, Second Class, of the Imperial Order of Saint Anne of Russia, decorated with the Diamond Nişan İftihar of Turkey, Officer and Chief of the First Department of the Office of the Secretary of State for Foreign Affairs, etc.,

who, after communicating to each other their full powers, found in good and due form, having minutely and thoroughly examined various and numerous documents, both ancient and modern, produced by both parties in support of their rights and pretensions and, furthermore, having had before them the studies and proceedings of the Joint Commission on Boundaries, which during the past years has examined the frontier line, have agreed on the following articles:

Article I. The line of separation between the sovereignty of the Kingdom of Spain and that of the Kingdom of Portugal, starting from the mouth of the Minho River, between the Spanish province of Pontevedra and the Portuguese district of Viana do Castelo, shall proceed along the centre of the principal stream of the Minho to the confluence of the river Barjas or Troncoso.

Canosa Island, situated close to the mouth of the Minho, that called Cancela, Insula Grande, which is situated in the Verdoejo island group, between the Spanish town of Caldelas and the Portuguese Verdoejo, and the islet of Filla Boa, situated near Salvatierra, shall belong to Spain.

The islands called Canguedo and Raña Gallega, which form part of the said Verdoejo group, shall belong to Portugal.

Article II. From the confluence of the river Minho with the Barjas or Troncoso, the international line shall follow the course of the last-mentioned river up to Porto de los Caballeiros and shall continue from there along the Sierra de Laboreiro, subsequently passing through the heights of Guntín and Laboreiro, the Las Rozadas landmark and the Portela del Palo.

The land comprised between a straight line from the Las Rozadas landmark and the Portela del Palo and another line passing through the Chão de las Pasaras and the height of La Basteira, disputed by Gorgoa and Adufeira, shall be divided into two equal parts.

Article III. From the Portela del Palo the boundary shall continue through the Sierra de Laboreiro, touching the hill called Oteiro de Ferro and Cabezo de Meda, and then, passing through the Antela landmark, the height known as Coto de los Cravos, Penedo de Home and Penedo Redondo, it shall descend to meet the course of the Castro River, three hundred metres below the point on the said river known by the name Porto de Pontes.

The land disputed by Pereira and Meijoeira, situated between the Penedo Redondo and the Castro River, shall belong to Portugal.

Article IV. The dividing line, starting from the said point on the Castro River, shall continue along the course of that river and then along that of the

Barcias or Tivó up to its junction with the Limia, along the course of which it shall proceed up to a point equidistant between the confluence of the Cabril River and Bocelos Rock. From the said point it shall go up to the peak of the rocks of the Sierra de Jurés known as Cruz de los Touros.

The land in dispute between the Spanish villages of the parish of Manin and the Portuguese of Lindoso shall be divided by the frontier line into two equal parts.

Article V. From Cruz de los Touros the international boundary, turning its general direction toward the north-east, shall run along the summits of the Jurés and Pisco ridges, passing through the Portela de Home, the height of Amoreira, Pico de la Nevosa, Portela de Cerdeiriña, height of Orella del Cabaliño, Picos de Fuente Fría, Piedra de Pisco in the Portela del Pitós, and Pisco landmark.

The land situated between the two last-mentioned points and claimed by Gunt Emil and Pitós shall be divided by the boundary into two equal parts.

Article VI. Starting from the Pisco landmark, the frontier line shall follow the present demarcation, touching the Buraca del Fojo; and, crossing the river Salas, it shall continue through the Fuente Fría landmark up to the landmark called Laxa de la Ovella. From there it shall pass through the Calveira landmark to the Portuguese chapel of São Lourenzo; and, cutting across the river Salas again at the place called La Fraga, it shall continue along the Peñas de la Rapozeira and Fuente (spring) de la Devesa and then along the Barjas stream, which runs close to the said fuente as far as the Zapateiro landmark situated on the summit of the Pisco ridge. From there it shall proceed toward the east along the watershed of the Peña ridge to the Piedras de Malrandin, passing through Cabeza de Romano, Oteiro de Borracho, Cabezo de Sabugueiro and Portela del Grito.

The land which is situated on the right of the Barjas stream mentioned above and is claimed by Vilarinho and Torey shall belong to Spain. The land of doubtful ownership between Vilar and Sabucedo shall be demarcated by the watershed.

Article VII. From the rocks of Malrandin the frontier shall proceed toward the north along the present line of separation between the Coto Mixto and the boundary of Vilar up to the point where it is intersected by a straight line drawn from the Castillo de la Picoña to the Peak of Monteagudo and from that meeting point, turning eastward, it shall continue along another straight line to Porto de Bancelos.

Portugal renounces in favour of Spain all rights which it may have to the land of the Coto Mixto and to the villages situated therein, which, by virtue of the division determined by the line described above, fall within Spanish territory.

Article VIII. From Porto de Bancelos the frontier line between the two nations shall proceed through the Penedo de las Cruces, Cabezo de la Excusa, the place known as Capilla de San Fitorio, Penedo de los Bastos, ruins of the Portuguese castle of Portelo or Sendim, Piedra Laxa and Rousiá landmark, whereafter it shall climb up to the Sierra de Larouco, which it shall cross via the Peñas de la Cascalleira, Penedo Airoso, or Fraga de Eiroca and Bidoueiro del Extremo and continue half-way between the streams of El Infierno and Cabana as far as the Cruz de Gro. From the Cruz it shall continue along the Regueiro de Rega to a suitable point, which must be determined, from which it shall proceed in a straight line to the Oteiro de María Sacra.

The lands lying between Bidoueiro del Extremo and Cruz de Gro and between Cruz de Gro and the Oteiro de María Sacra which are disputed by Girona and Santo André shall be divided into equal parts.

Article IX. From the Oteiro de María Sacra the boundary shall go through Madorno de las Terras to Adéga de los Palomares, and from there in a straight line to the Penedo Grande de Madorno. Thereafter it shall continue through the spring of Codeceira, Piedras de Estiveira and Porto Covil or de las Bestias and, entering the river Porto del Rey, shall descend along it to a point situated about 150 metres from the Puntillón de Porto de Rey. From that point it shall go in a straight line to the Crosses of the Porto de Rey Landmark, entering the river Azureira and proceeding up its course to the Azureira bridge.

In consequence of the demarcation laid down in this article, the direct road from San Millán to Vidiferre shall lie entirely in Spanish territory.

Article X. From the Azureira bridge the line of separation between the two monarchies shall proceed through the presently existing landmarks to the environs of the promiscuous village of Souteliño and, passing through the points to be marked near that village, which shall lie in Portuguese territory, shall turn to meet the present frontier boundary and continue along it, touching Cruz de la Fuente del Asno, Upper and Lower Porto-Caballo, Piedra de las Machadas and the Fecha landmark, following the stream of Cambedo to its confluence with that of Valdeladera.

The promiscuous village of Souteliño shall belong to Portugal, a zone 90 to 100 metres wide contiguous to the settlement being marked off for it in Spanish territory.

Article XI. The boundary, starting from the stream of Valdeladera, shall follow its bed and continue along the limit of the Spanish municipal boundary of Cambedo to Portela de Vamba, proceeding to Peña or Fraga de la Raya. From that point it shall proceed across the valley of the river Tâmega through the landmarks which now determine the frontier and shall touch the Pontón de Lama, and then, passing close to the Portuguese villages of Vilarelho and Vilarinho, shall enter the river Tâmega by the Fraga de Bigode or Porto de Vilarinho. From there it shall follow the main channel of the Tâmega to the confluence of the river Pequeño or de Feces, along which it shall go up to the Fraga de María Aloes, continuing thereafter along the limit of the Spanish municipal boundary of Lama de Arcos to the Oteiro de Castelo Ancho.

The two promiscuous villages of Cambedo and Lamadarcos shall belong, with their present boundaries, to Portugal.

Article XII. From Oteiro de Castelo Ancho the boundary shall proceed across the Sierra de Mairos or Peñas Libres via the Oteiro de Texogeira, Piedra Lastra and Fuente Fría, and shall descend along the Pajeros stream to the Fraga de Maceira and Laga de Frade. It shall then continue along the demarcation made in 1857 to the Fuente de Gamoal or de Talleuales, from which it shall go to the Val de Gargalo landmark and, following a stream which has its source close to the said landmark to its union with the Valdemaderos River, descend along the latter to a point close to the first rivulet which joins it on the left and continue from there in straight lines contiguous to the road from San Vicente to Sigirey, which is to lie entirely within Portuguese territory, to the landmark of the Soutochao road.

From this landmark the boundary shall follow, without change, the demarcation made in 1857 to Piedra Negra, whence it shall proceed to a point equidistant between the landmark of Cabeça de Peixe and the place which the Portuguese designate by the same name.

Article XIII. From the Cabeça de Peixe point, the dividing line shall run along the existing demarcation, passing by the Iglesiña de Mosteirón to the confluence of the two rivers Arzuá and Mente and, ascending the course of the latter to the stream of Los Cabrones, shall follow the said stream to near its source, leaving it in order to pass between the two places which the Spanish and Portuguese call Cruz de Carapaiño and reach the confluence of the stream Val de Souto with the river Diabredo or Moás. From there it shall follow the said river a short distance, next going up through the Cobanco del Diabredo and proceeding thereafter to the Penedo de Pé de Meda, from which, crossing the Antas de Piñeiro, it shall run along the watershed to the Portelo del Cerro de Esculqueira.

The lands of doubtful ownership between Barja and Cisterna and between Esculqueira and Piñeiro Novo and Vello shall be divided as determined by the frontier line described in this article.

Article XIV. From the Portelo of the Cerro (hill) of Esculqueira the border shall run along the ridge thereof to the highest of the crags of the said hill, situated approximately midway in its descent and opposite Monte de Castro, whence it shall proceed in a straight line until it touches the first stream confluent with the river Azureira, but below Porto de Viño and at a point 450 metres distant from the said river. From there the boundary shall continue in a straight line ending at the point where the river Azureira changes direction from south to west, slightly above the Pontón de Cerdedo. From the said point, or in other words, from the turn in the Azureira, the boundary shall ascend that river to a point equidistant between the union of the Carballas stream and the place called Coba de Azureira, proceeding from there in a straight line ending at the Cabanca de los Ferreiros, beside the road from Manzalvos to Tuxelo. It shall then continue through the Carballas or Pedra de Vista landmark and along the path known as Vereá Vella to the Penedo de los tres Reinos, where the province of Orense terminates.

The disputed lands lying, respectively, between Chaguazoso and Piñeiro Vello, Vilarinho das Touças and Cerdedo and between Manzalvos and Casares and Carballas shall be divided as determined by the frontier line described in this article.

Article XV. From the Penedo de los tres Reinos the boundary shall go to the Piedra Carvallosa, then it shall cross the river Tuela at the port of Barreira and, going up to a point close to the Horno de la Cal and turning toward the east, it shall pass through the places called Escuzaña and Val de Carballas and through the landmark of Rol and Piedra Estante or Piedra de los Tres Obispos, on the Gamoneda ridge, and continue through Fuente Grande, Piedra Negra and Peña de la Hormiga.

The land disputed by Castromil and Moimenta which is situated between the Penedo de los tres Reinos, Penedo de Mozo and Fraga or Piedra Carballosa shall be divided into two equal parts.

Article XVI. From the Peña de la Hormiga the international line shall continue through the Valle de las Porfias until it crosses the Calabor River. From there it shall proceed through the Campiza landmark and then in straight lines

through Cabezo or Cerro de Pedra Pousadeira, the Trapilla or Ervancede landmark and the Rionor landmark, proceeding up along the stream that runs between the Rionor de Arriba and Rionor de Abajo. Passing next through the Leixo and Ripas landmarks in the Sierra de Barreras Blancas it shall go on to meet, near the Spanish village of Santa Cruz, the river Manzanas, whose course it shall follow to the landmark situated below the Ribeira Grande mill.

From there it shall proceed to the Candena or Picón landmark and, turning eastward, shall again, at Peña Furada, meet the river Manzanas, whose course shall mark the frontier as far as the Piedra or Pozo de la Olla.

Article XVII. From the Piedra or Pozo de la Olla the frontier line shall go up to the Mal-Vecino Castle and, running along the summit of the ridge of Rompe Barcas, shall proceed, successively touching the top of La Manchona, Alto de la Urieta del Cerro or de la Lameira, Val de Frades landmark, Val de Madeiros landmark and Cazica landmark in the sierra of the same name and the mill of La Raya in the Avelanoso stream and sierra of Cerdeira, to the place Las Tres Marras.

Article XVIII. From the place of Las Tres Marras the line shall run along the divide of the Bouzas ridge to the mill of La Raya in the Alcañices River, rising from there to the top of El Cañizo in the sierra of San Adrian and, passing thereafter via the geodesic pyramid, landmarks of Nuestra Señora de la Luz, de la Aparición, of Prado Pegado or bridge of El Palo, of the Platera and of the Nogueira, it shall enter the river Douro near the confluence of the Castro stream. From that point the international line shall go along the centre of the principal stream of the Douro to its confluence with the Agueda, proceeding up the latter to its junction with the Turones, which shall in turn mark the frontier up to a point close to the Nave Cerdeira mill.

Article XIX. From the indicated point close to the Nave Cerdeira mill the boundary shall continue along the Valle de Amedias and climb up to the height of Viñas de la Alameda, whence it shall proceed along the right side of the Spanish road leading from Aldea del Obispo to Fuentes de Oñoro until it reaches the valley of Golpina or Provejo. Then, passing close to the Cruz de la Raya and, further on, by the wall of the Tapada de la Huerta de la Calzada, it shall pass by the Espíritu Santo hermitage to the Alto or Texo de la Polida, cross the Campo stream and, turning south, proceed via Cabeza de Caballo mountain to the height of Los Campanarios. From there it shall go on to enter the road that leads from Nave de Aver to Alamedilla, along which it shall continue to Alto Redondo, passing thereafter through the Cabezo de la Atalaya, Cruz de la Raya and Monte Guardado to the Peña de las Golondrinas.

The land of doubtful ownership situated between Monte Guardado and the Peña de las Golondrinas shall be divided into two equal parts between the two nations.

Article XX. From the Peña de las Golondrinas the dividing line, passing along the east wall of the Tapada del Manso and then turning toward the south, shall follow the rocks marked with ancient crosses to the point called by the Portuguese Canchal da Raia. From there it shall pass next to the Tapada de Pión de Oro and, crossing the Lagioza Brook and the Canchal de Freixo, continue along the Codesal stream, thereafter touching Cabezo de las Barreras or Vermello, whence it shall proceed to the Peña de Navas Molladas, situated on the Mesas

ridge. Continuing along the summits of that ridge, which here separates the waters of the rivers Douro and Tagus, and passing through the Alto de Clérigo, it shall also run along the watershed of the Marvana ridge and descend to where it meets the river Tuerto or Ribeira Grande at the site of La Ginjeira or Corral de las Colmenas.

Article XXI. From the said site of La Ginjeira the international line shall continue down the course of the river Tuerto to its junction with the Basabiga, which shall form the frontier as far as its confluence with the Erjas, which shall in turn mark the boundary up to where it empties into the Tagus. The boundary shall then continue along the centre of the main stream of the river Tagus, leaving the Tagus where it receives the waters of the Sever, along whose main stream it shall ascend as far as the dam of the mill of La Negra, at the place known as Pego de la Negra.

Article XXII. From Pego de la Negra the boundary shall run to Canchal de la Guerencia and along the watershed to Canchal de la Cueva del Oro, from where it shall proceed via the Peñas de la Limpia to run along the summits of the Sierra Fría, then continue along the Sierra de la Paja, passing through Cerro Mallón and Portela de Jola, whereupon it shall descend until it intersects the river Géborá at Pego de la Raya, continuing through Cabezo de Valdemouro and Cabezo de los Tres Términos until it enters the Abrilongo stream. After following the bed of this stream for a certain interval, it shall leave it in order to cross the Reyerta de Arronches, whose land it shall divide so that one third thereof is in Portugal, and shall continue along the boundary that separates the first Reyerta de Onguella from Spain to the mill of Rosiña on the river Géborá. From there it shall continue through the Alto de la Dehesiña and through the existing boundary marks to the Garrota landmark, and, passing along the boundary which separates the second, or Lower, Reyerta de Onguella from Portugal, it shall go on until it touches the first landmark of the boundary of Badajoz.

The land included in the Reyertas and enjoyed in common by the Spanish people of Alburquerque and the Portuguese of Arronches and Onguella shall be divided in equal parts between the two States in the following manner: the second, or Lower, Reyerta de Onguella shall belong wholly to Spain; the first, or Upper, Reyerta de Onguella shall belong wholly to Portugal; the Reyerta de Arronches shall be divided so that the third of the land contiguous to the first Reyerta de Onguella shall go to Portugal and the remaining two thirds, to Spain.

Article XXIII. From the first landmark of Badajoz the boundary shall follow the existing demarcation, cutting in its path the Géborá and proceeding until it enters the river Caya, whose principal stream it shall follow to where it empties into the river Guadiana between the province of Badajoz and the Portuguese district of Portalegre.

At the confluence of the Caya with the Guadiana the international frontier whose delimitation has been the object of the present Treaty terminates.

Article XXIV. In order to fix precisely, and in such a way as not to give rise to any doubts, the international dividing line whose principal points are mentioned in the preceding articles, the two Contracting Parties agree that the setting up of the necessary landmarks and their geometric description shall be undertaken as soon as possible. To carry out these operations, both Governments shall appoint competent commissioners.

In addition, the setting up of the landmarks of each portion of frontier shall be attended by delegates of the respective Spanish and Portuguese municipalities concerned.

In order that the placing of boundary marks at points on the dividing line not mentioned in this Treaty may take place fairly and duly, the proceedings of the Joint Commission on Boundaries shall be consulted in case of disagreement.

The record of the placing of landmarks and the geometric description thereof, drawn up in duplicate and duly authenticated, shall be attached to the present Treaty and its provisions shall have the same force and effect as if they had been literally inserted therein.

Article XXV. To ensure the permanence of the boundary markers or landmarks which indicate the international line, it is agreed that the bordering municipalities of both kingdoms may adopt, in respect of the part which concerns them and in accord with the competent authorities, such measures as they deem necessary for the preservation of the landmarks set up, the replacement of any that are destroyed and the punishment of the offenders. For that purpose, every year in the month of August the boundary shall be examined by municipal delegates of the abutting villages, with the attendance of the Spanish *alcaldes* and the administrators of the Portuguese *concelhos*. A record of the examination shall be drawn up and a copy of it shall be delivered to the higher administrative authorities in order that they may be informed of the state of the frontier and proceed as circumstances may require.

Article XXVI. The villages of both countries which have for a long time enjoyed the right jointly to reap herbage from the island of Canosa, situated in the Minho, shall continue as hitherto and, in accordance with their municipal regulations, to have common enjoyment of that advantage.

Considering the damage suffered by various villages situated on the edges of some bordering rivers, and particularly those of the Minho, as well as the obstacles created for navigation as a consequence of works constructed on the banks of the said rivers and the resulting alteration of the course of their waters, and desiring to prevent abuses and regulate the exercise of legitimate rights, the two Contracting Parties agree that, after the necessary studies, special regulations shall be created which, duly taking into account the damage caused in the past, shall establish and lay down for the future suitable rules concerning the construction of works of any nature on the banks of frontier rivers, and particularly on those of the Minho and its islands.

Article XXVII. Whereas pursuant to articles X and XI above the three promiscuous villages known as Souteliño, Cambedo and Lamadarcos have passed entirely under the dominion and sovereignty of Portugal, while pursuant to article VII the three villages of the Coto Mixto known as Santa Maria de Rubiás, Santigao and Meaus are placed under the dominion and sovereignty of Spain, the two Parties agree that both the inhabitants of the promiscuous villages who are really Spanish subjects and the inhabitants of the villages of the Coto Mixto who are really Portuguese subjects shall have the right to retain their nationality if it so suits them. For that purpose, both the former and the latter shall declare their decision to the local authorities within a period of one year, reckoned from the date on which the present Treaty is put into operation.

Article XXVIII. In consideration of the fact that in various parts the international line follows water courses or the direction of roads and touches some springs, it is agreed that such roads, water courses and springs shall be for common use by the peoples of both kingdoms.

Bridges constructed over rivers which delimit the frontier shall belong half to each of the two States, subject to just compensation to be made between the two Governments for the expenses incurred in the construction of such bridges.

Article XXIX. To avert in so far as possible the damage that might be caused to the villages of the frontier through the seizure of livestock and to maintain the greatest possible harmony between them, it is agreed:

1. That the entry of livestock into territory of the other nation to graze unduly shall be subject to pecuniary penalties only;
2. That as security for the penalties and expenses incurred, not more than one animal may be retained for every ten seized;
3. That only seizures effected by village guards or by the public force shall be considered lawful, and that the livestock seized must always be turned over to the authorities within whose jurisdictional bounds it was found.

To put into practice the principles established, both Governments shall adopt by agreement such measures as they deem necessary.

Article XXX. All conventions and arbitral awards and any other agreements that may exist in connection with the demarcation of the frontier from the discharge of the Minho into the sea to that of the Caya into the Guadiana are declared null *de facto* and *de jure* in so far as they are in conflict with what is set out in the articles of this Treaty, from the day on which they come into operation.

Article XXXI. This Treaty shall be ratified as soon as possible by Her Majesty the Queen of the Spains and His Majesty the King of Portugal, and the ratification shall be exchanged at Lisbon one month thereafter.

IN WITNESS WHEREOF the respective undersigned Plenipotentiaries have signed the present Treaty in duplicate and sealed it with the seal of their arms at Lisbon, on 29 September 1864.

The Marquis DE LA RIBERA
FACUNDO GOÑI

Duke of LOULÉ
JACINTO DA SILVA MENGÓ

[TRANSLATION — TRADUCTION]

ANNEXES¹ OF 4 NOVEMBER 1866 TO THE TREATY ON BOUNDARIES BETWEEN SPAIN AND PORTUGAL FROM THE MOUTH OF THE MINHO RIVER TO THE JUNCTION OF THE RIVER CAYA WITH THE GUADIANA²

Her Majesty the Queen of the Spains and His Majesty the King of Portugal and the Algarves, desiring to render applicable in all its parts the Treaty on Boundaries concluded between the two nations on 29 September 1864,² in order that the peoples of the one and the other country may enjoy the benefits which that international pact is intended to bring, have decided to agree on the covenants and stipulations which are to serve as a complement to the said Treaty.

For that purpose, they have appointed as their plenipotentiaries:

Her Majesty the Queen of the Spains: Mr. Facundo Goñi, Her Minister Plenipotentiary, Royal Councillor of Agriculture, Industry and Commerce, former Deputy to the Cortes, etc.;

And His Majesty the King of Portugal and the Algarves: Mr. José da Silva Mendes Leal, of his Council, Knight of the Order of Our Lady of the Conception of Villa-Viçosa, Grand Cross of the ancient, most noble and illustrious Order of Santiago of scientific, literary and artistic merit, of that of Saint Maurice and Saint Lazarus of Italy, Honorary Secretary of State and Minister, Deputy to the Cortes, Chief Librarian, etc.;

who, after communicating to each other their full powers and having found them in good and due form, have agreed to and drawn up the following annexes to the Treaty.

ANNEX I

REGULATIONS RELATING TO THE BOUNDARY RIVERS BETWEEN THE TWO NATIONS

In consequence of what is covenanted in article XXVIII of the Treaty on Boundaries concluded at Lisbon on 29 September 1864, wherein it is provided that the waters whose course determines the international line along various stretches of the frontier shall be for common use by the peoples of both kingdoms; and in compliance, furthermore, with the provision of article XXVI concerning the creation of regulations to put an end henceforward to abuses with respect to the construction of works on the banks of the rivers, and especially on those of the Minho and its islands, both because navigation is obstructed and public use and exploitation are hindered and because the course of the waters is altered, to the detriment at the same time of private property situated on the river-side and of the territorial sovereignty of each of the two States;

Considering that although dividing rivers, when by the operation of nature they suddenly and totally change direction, do not alter the boundary of nations, since it continues to be determined by the former river bed, they do, on the contrary, when they change slowly and gradually due to the work of man, produce an alteration in the frontier line and prejudices to privately owned lands;

¹ Came into force on 20 November 1866 by the exchange of the instruments of ratification, which took place at Lisbon, in accordance with its final clauses.

² See p. 275 of this volume.

Considering, therefore, that with a view both to preventing the artificial diversion of the course of rivers and to rendering the common use thereof practicable, it is fitting to set down and apply in the matter the recognized principles of the law of nations;

The Plenipotentiaries of both States, having examined in general the circumstances of the rivers that divide the two countries, and in particular the special situation of the river Minho, having before them the necessary documents and the plans pertaining to the part of the said river most susceptible to disputes, and after duly assessing the complaints which in that connection have been presented in recent years by various proprietors on both banks, have agreed to draw up the regulations entrusted to them, which read as follows:

Article I. The rivers that serve as an international frontier between Spain and Portugal on the line comprised in the Treaty on Boundaries of 1864, notwithstanding their belonging to each of the two nations to the extent of one half of their streams, shall be for common use by the peoples of the two countries; and, both in order that those peoples may suitably avail themselves of them and in order that the international boundary defined by the course of their waters shall not undergo any alteration, the said rivers shall remain under the constant vigilance of the authorities of the bordering towns.

Article II. In virtue of the common use of limitrophe rivers which shall belong to the peoples of both nations, those peoples shall have the right freely to sail the Minho, Douro and Tagus over their respective suitable lengths, as well as other frontier rivers where circumstances so permit; they must always, however, in respect of both navigation itself and any traffic or trade that they may carry on, abide by the covenants existing between the two Governments and the special regulations in force in each country.

The inhabitants of both territories shall also have the right to pass from one bank to the other with all kinds of vessels and to avail themselves of the waters for all purposes which suit them, provided that in such cases they do not violate the existing public agreements or the customs prevailing between the peoples of the two banks or alter, however slightly, the condition of the rivers with respect to common and public use.

Article III. Vessels which, in accordance with the provisions of the preceding article, sail or fish in border rivers shall be subject to the jurisdiction of the country to which they belong and shall not be pursued by the authorities of either State on the ground of legal contraventions or offences except when they are attached to the mainland or islands under the respective jurisdictions of those authorities.

Nevertheless, in order to prevent any difficulties and abuses to which the erroneous application of this rule might give rise, it is agreed that any vessel which is moored to the bank or so close to the bank that one can go aboard it directly shall be deemed to be situated in the territory of the country to which such bank belongs.

Article IV. As a consequence of the provisions of the foregoing articles and in order to keep navigation clear and the enjoyment of the rivers free and at the same time maintain unchanged, in so far as possible, the boundary defined by their courses, it shall not be permissible to construct, in the rivers or on their banks or those of their islands, works of any kind that might be detrimental to navigation or alter the course of the waters or in any way impair the condition of the rivers with respect to common and public use.

Therefore, the construction of all kinds of works, such as mills or water-wheels, stationary or movable weirs, dikes, fisheries, canals, palisades and any others that might cause an impediment or injury to the public interest in the respects stated above shall be prohibited as a general rule.

Article V. Whenever any of the works mentioned above or others of a different kind which the private owners of both banks find it expedient to construct can be executed without any prejudice to the common use and enjoyment of the two countries, the respective authorities may grant special licence for that purpose, subject to the requirements and procedures stated hereinafter.

Article VI. If any subject of either of the two States should consider it necessary or useful to construct a particular work in or on the rivers, whether to defend his property against flooding or to improve his interests and develop his property, without prejudice in any case to the public or to others, he must, before executing any work, solicit and obtain licence to do so. For that purpose he shall apply by means of a petition to the chief official of the administrative circumscription (at present, the provincial civil governor in Spain and the district civil governor in Portugal) stating his intention and the circumstances which warrant it and accompanied by a sketch of the work which he means to construct and a plan of the corresponding portion of the river, as necessary data deemed sufficient for assessing the probable results of the proposed work.

The civil governor, after requesting information from the *alcalde* (or administrator of the *Concejo*) of the town and hearing such technical or expert opinions as are deemed advisable, shall decide in accordance therewith. In case the work is considered prejudicial at present or in the future to the interests of the riverain towns or to the common use of the river, he shall deny the licence solicited.

If, on the contrary, the work is not liable to cause public or private damage, he shall deliver a copy of the file to the governor of the frontier administrative circumscription. The latter, in turn requesting the necessary information and proceeding as befits neighbours having common interests, shall give an answer stating his opinion, either granting his assent to the construction of the work, if it proves inoffensive to all, or denying it, with a statement of the reasons for which he deems it inexpedient. In the first case the civil governor to whom the petition was addressed shall grant the requested licence and communicate it to the person concerned; in the second case he shall deny the said licence; and in either case the proceeding shall be considered closed without further appeal.

Article VII. Licences for the construction of works granted by the competent authority shall lapse six months from the date of their issue if within that time the grantee has not commenced the work. They shall also lapse if the work, after being started, remains interrupted or suspended for the space of a year.

Article VIII. Contraventions of the provisions of these regulations, whether by constructing works or by otherwise perverting the condition of the rivers, shall be reportable by private persons in the manner laid down by law, by guards and other agents and by the local authorities.

Notwithstanding the denunciations and proceedings to which infractions or abuses committed may at any time give rise, with a view to the maintenance and preservation of the good condition of the rivers an inspection of the rivers shall be carried out annually in accordance with the general provision contained in article XXV of the Treaty on Boundaries.

In consequence, every year in about the month of August the Spanish *alcaldes* and the Portuguese administrators of *Concejo* accompanied by municipal delegates, shall examine the fluvial part of the frontier in the area belonging to their jurisdictional circumscription; they shall agree to make *ex officio* the necessary denunciations if there exist grounds therefor, and shall draw up a record of the examination carried out, delivering a copy to the higher administrative authorities in order that they may, within the purview of their powers, determine as they see fit.

Article IX. The penalties to be imposed by the administrative authorities mentioned above for infractions of these regulations shall be as follows:

Persons who build works in or on the rivers without having obtained the proper licence in the manner laid down in the preceding articles shall be required to:

- (1) Destroy, at their own expense, all the work done until everything is fully restored to its original state;

- (2) Pay a fine, which shall be neither less than 10 escudos in Spanish currency (4,500 reis in Portuguese currency) nor more than 100 escudos (45,000 reis) and which shall be in proportion at the same time to the cost of the work and the damage that it might have caused, according to an expert appraisal;
- (3) Pay all the expenses to which the proceedings carried on and measures taken by the authorities give rise, until the complete demolition of the unduly executed work.

Equal or analogous penalties will be incurred by all persons who by any means not specified here turn or alter the course of the waters or obstruct navigation or otherwise impair the condition of rivers with respect to the common use thereof by the border inhabitants of both kingdoms.

Article X. The provisions contained in the foregoing articles shall be observed and complied with by the people and the authorities of both States as soon as these regulations are declared to be in force.

Transitional article. Pursuant to article XXVI of the Treaty on Boundaries, bearing in mind the exceptional situation of the river Minho, in which, owing to the fact that proprietors on both banks have been allowed to build freely, now dikes and palisades to defend their estates, now fisheries and other works for private exploitation, serious alterations have been produced in the course of the river and abnormal irregularities in its currents, with damage to public and private interests; and desiring at the same time to improve the condition of the river for the service and common use of the two countries and to attend in so far as may be just and legitimate to the interests of the proprietors whose lands, upon the putting into practice of the prohibition against constructing works after such inveterate toleration, may be threatened as a consequence of artificial diversions, the two Parties have concluded the following agreement:

As soon as these regulations are declared to be in force, the Governments of both States shall order the engineers of the province of Pontevedra in Spain and the district of Viana do Castelo in Portugal to carry out together an examination of the frontier portion of the river Minho, and in particular the part lying between Valença and Monção, where the complaints have been the greatest. The engineers, accompanied by a competent person whom they shall designate by mutual consent to settle any differences in evaluation that may arise, shall, after carrying out the necessary studies, draw up a report containing two parts: the first, a description of the Minho from its mouth to the confluence of the river Troncoso or Barjas, wherein they shall specify the obstacles that hinder navigation in various places, the means for removing them and the works which they deem it necessary to construct or demolish, both for making the river navigable and for regularizing the course of its waters, in order that the Governments may, at the opportune time and under suitable circumstances, adopt such measures concerning this point as they consider expedient; the second, a report on riparian lands threatened by artificial inclination of the river, that is to say, as a result of constructions on the opposite bank, and a designation of the works which owners may with justice be permitted to carry out for their preservation and defence, the said owners being given, for the construction of each work, such fixed time-limit as is prudentially deemed necessary according to the circumstances.

After the report has been drawn up and submitted to the supreme Governments through the respective civil governors, the latter shall communicate to the proprietors concerned the part relating to the construction of works of preservation on specified lands, and the said proprietors shall thereby become entitled to execute them in the manner and within the time-limit prescribed; they must, however, in all cases in which they intend to construct a work, notify the civil governor so that he may have the work inspected and prevent any transgression or abuse.

The agreement of a transitional character confirmed for the stated purpose in the present article neither alters nor modifies the general and permanent provisions of these regulations, which shall govern for the future without exception.

ANNEX II

REGULATIONS GOVERNING THE SEIZURE OF LIVESTOCK

Whereas it is necessary to expand what is covenanted in article XXIX of the Treaty on Boundaries concerning the seizure of livestock that crosses the frontier and enters alien lands to graze unlawfully, and in order to render the general rules laid down on that subject easily applicable in practice, the Plenipotentiaries of both States have agreed as follows:

Article I. Seizures of livestock shall be considered lawful only if made by the public force or the rural guards of the villages, whatever may be the name by which they are designated in either country.

The rural guards of the villages must be sworn and their word, like that of other lawful seizers, shall constitute evidence before the authorities of the district in question in the absence of sufficient proof to the contrary.

The appointment of village guards shall take place in each municipal district in accordance with its uses and customs and shall be notified, by the local alcalde in Spain and by the administrator of the *Concejo* in Portugal, to the authority and adjoining municipalities of the neighbouring nation so that they may recognize the said employees as such. For the same purpose, the guards must wear an external badge to distinguish them in the exercise of their office.

Article II. Whenever a seizure of livestock takes place, the seizer, after retaining as security one animal for every 10 and in any case one, even where the number seized is less than 10, shall make the corresponding report to the competent alcalde or authority, handing over the animals retained, which shall be impounded to answer for the penalty and expenses.

The alcalde, and in Portugal the administrator of the *Concejo*, shall without delay notify the competent authority of the residence of the owner of the livestock by means of an official dispatch communicating the occurrence and such circumstances as he may deem necessary, stating in particular the name of the herdsman and of the owner of the livestock in order for the said owner to appear personally, or represented by a duly empowered person, in trial within a period of 10 days following the date of the capture.

Article III. When the trial has been held in the presence of the person concerned and in the briefest, most summary manner possible, in accordance with the procedure laid down in the legislation of each country for this type of violation, if the legitimacy of the seizure is established, the owner shall become liable for the appropriate fine by way of penalty, the costs incurred in the trial, the remuneration paid to messengers for the notices involved in the judicial proceedings, and the expenses of feeding and guarding the livestock retained.

Article IV. The fines to be imposed in the trial by way of penalties shall be in keeping with what has become established between the conterminous municipalities by mutual covenants or by prevailing customs. Where no mutually accepted covenants or customs exist concerning such matters, the owners of the transgressing livestock shall pay, by way of penalty, a fine of one escudo (450 Portuguese reis) per animal for large livestock (cows, horses, oxen and mules) and one real (45 reis) per animal for small livestock (sheep and goats), the young of such animals not being included in either case for purposes of this evaluation.

If the infraction was committed during the night, the established penalties shall be doubled. They shall also be doubled where the violator is declared to have offended previously.

Article V. The amounts to be paid by the owners of the livestock (in addition to the fine and costs of the trial) shall be computed, as relates to the remuneration of messengers who have delivered notices, at the rate of 2 reals (or 90 Portuguese reis) for

every league travelled, both going and returning, and, as relates to the feeding and guarding of the animals kept as security, at the rate of 5 reals (225 reis) a day per animal for large livestock and 1 real (45 reis) per animal for small livestock.

If in any village or municipal district it is deemed appropriate to allot a pecuniary recompense to the seizers, it shall be deducted from the fine imposed on the owners of the livestock seized and shall not entail any increase in such fine or liability of the owners for greater expenses.

Article VI. Where the owner of transgressing livestock, having been duly notified as provided in article II above, fails to appear for trial before the expiration of the prescribed 10-day time-limit, the authority shall peremptorily proceed to sell the impounded animals by public auction and order the fine and all other expenses incurred to be paid from the proceeds of the sale.

Any surplus shall be kept for one year at the disposal of the owner of the livestock; and if it is not claimed within that period, it shall be used for works of public charity in the village where the auction was held.

Article VII. If a seizure has been made unduly, the animals seized and retained shall be returned to their owner; and in case any are missing through proven fault or negligence, their value shall be paid to the owner at the expense of the person responsible.

All expenses incurred in the case of an undue seizure shall be borne by the person who effected it.

Article VIII. The rules laid down in the foregoing articles shall be binding on the towns concerned in both States from the time when the respective Governments declare these regulations to be in force.

The present annexes, which shall have the same force and value as if they were inserted in the Treaty on Boundaries of 29 September 1864, shall be subject to ratification and the ratifications shall be exchanged at Lisbon as soon as possible.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed them in duplicate and affixed to them the seals of their arms at Lisbon, on 4 November 1866.

FACUNDO GOÑI

JOSÉ DA SILVA MENDES LEAL