

AUTRICHE ET POLOGNE

Accord au sujet de la conclusion d'une convention relative au traitement des ressortissants, sociétés et personnes civiles des deux États, en ce qui concerne les biens leur appartenant sur les territoires de l'autre partie contractante, et notamment aux mesures préparatoires en vue de l'établissement de l'impôt sur le capital, signé à Vienne le 9 janvier 1920.

AUSTRIA AND POLAND

Agreement relating to the conclusion of a Convention regulating the treatment to be accorded to their respective nationals, companies and corporate bodies with regard to property owned by them in the territory of the other party, and with reference to measures introduced with a view to a levy on capital. Signed at Vienna, January, 9, 1920.

TEXTE POLONAIS. — POLISH TEXT.

No. 185. — UKŁAD MIĘDZY RZĄDEM POLSKIM A AUSTRYACKIM W SPRAWIE ZAWARCIA UMOWY PAŃSTWOWEJ O TRAKTOWANIU OBOPÓLNYCH PODDANYCH, STOWARZYSZEŃ I OSÓB PRAWNYCH CO DO ICH MAJĄTKÓW, ZNAJDUJĄCYCH SIĘ W GRANICACH DRUGIEGO PAŃSTWA, I CO DO ZARZĄDZEŃ POCZYNIONYCH DLA PRZYGOTOWANIA DANINY MAJĄTKOWEJ¹, PODPISANY W WIEDNIU, DNIA 9 STYCZNIA 1920 R.

German and Polish official texts communicated by the Austrian Representative and the Polish Representative accredited to the League of Nations. The registration of this Agreement took place on November 23, 1921.

Artykuł 1.

Rząd Polski i Austriacki zobowiązują się zawrzeć po ratyfikacji traktatu pokojowego w myśl jego art. 265 osobny układ co do ochrony majątków swych obywateli, znajdujących się w granicach drugiego państwa, jakoteż co do swobody przesiedlenia się ich przedsiębiorstw.

Aż do wejścia w życie traktatu pokojowego zobowiązują się obie strony wydać następujące zarządzenia.

Rząd Polski znosi wszystkie tymczasowe zajęcia i ograniczenia rozporządzalności, odnoszące się do własności austriackich obywateli, w szczególności zarządzenia, dotyczące własności obywateli austriackich w zakresie uprawnień naftowych i zaniecha w tym względzie, aż do zawarcia układu w myśl ustępu 1 tego artykułu, takich samych lub podobnych zarządzeń, z zastrzeżeniem wszakże egzekucji i zabezpieczenia pretensji podatkowych w poszczególnych wypadkach, tudzież w szczególności także zarządzeń do przygotowania i przeprowadzenia daniny majątkowej. (Art. II).

Rząd Austriacki zobowiązuje się natomiast, równocześnie zaniechać w taki sam sposób zajęcia i ograniczenia rozporządzalności majątków obywateli polskich. Co się tyczy jednak austriackiej daniny majątkowej, zobowiązuje się rząd austriacki — z zastrzeżeniem przyszłych umów, dotyczących się przeprowadzenia tej daniny majątkowej — zarządzenia zamknięcia majątków, wydane w celu przygotowania daniny majątkowej zmienić w następujący sposób :

§ 1.

Zamknięcie wkładek, należności, depozytów w papierach wartościowych i skrytek bankowych znosi się po ogłoszeniu bez jakiegokolwiek retencji co do takich majątków :

1. które są własnością obywateli Państwa Polskiego, którzy do 1 stycznia 1919 r. ani nie mają miejsca zamieszkania, ani też stale nie przebywają w Austrii pod warunkiem, że w czasie od 1 sierpnia 1914 r. nie wykonywali w Austrii czynności zarobkowej, która spowoduje najpóźniej do dnia 31 grudnia 1919 wymiar podatku zarobkowego, albo też conajmniej doręczenia indywidualnego wezwania do przedłożenia fasji podatkowej.

¹ According to a letter of November 19, 1921 emanating from the Representative of the Austrian Federal Government accredited to the Secretariat of the League this convention has come into force as from its signature.

¹ TRANSLATION.

No. 185. — AGREEMENT BETWEEN THE AUSTRIAN AND POLISH GOVERNMENTS, RELATING TO THE CONCLUSION OF A CONVENTION REGULATING THE TREATMENT TO BE ACCORDED TO THEIR RESPECTIVE NATIONALS, COMPANIES AND CORPORATE BODIES WITH REGARD TO PROPERTY OWNED BY THEM IN THE TERRITORY OF THE OTHER PARTY, AND WITH REFERENCE TO MEASURES INTRODUCED WITH A VIEW TO A LEVY ON CAPITAL, SIGNED AT VIENNA JANUARY 9, 1920.

Article 1.

The Austrian and Polish Governments undertake, after the ratification of the Treaty of Peace, to conclude, in accordance with Article 265 of the said Treaty, a special convention for the protection of the property of their respective citizens situated in the territory of the other Party, and with regard to the free conduct of their business undertakings.

Pending the coming into force of the Treaty of Peace, both Parties undertake to adopt the following provisions :

The Polish Government shall cancel all existing measures of sequestration and restrictions on free disposal of the property of Austrian citizens, more especially the provisions relating to oil concessions held by Austrian citizens, and will abstain from identical or similar measures pending the conclusion of a convention as provided for in § 1, except with regard to the preferment or enforcement of claims for taxes in individual cases, and more especially to measures preparatory to the enforcement of a capital levy (Article 11).

The Austrian Government, on the other part, likewise undertakes to abstain from measures of sequestration and from restrictions on free disposal of property belonging to Polish nationals. With regard to the Austrian capital levy the Austrian Government undertakes to amend as follows the restrictive measures already imposed in preparation for a capital levy, subject to any conditions which may be subsequently agreed upon concerning the carrying out of this levy.

Section 1.

Paid-up capital, outstanding debts, deposited securities and safe deposits shall, without exception, be released from sequestration, on application in the case of property of the following categories :

(1) Property belonging to Polish nationals who have neither been domiciled nor permanently resident in Austria since January 1, 1919, provided that they have not, since August 1, 1919, carried on any trade or industry in Austria, involving liability to the Excess Profits Tax, in respect of which tax an assessment has been made, or at least a personal demand has been presented for the rendering of an Excess Profits declaration before December 31, 1919, at the latest.

¹ Translated by the Secretariat of the League of Nations.

(2) Subject to the same conditions as above, property belonging to Polish nationals who have taken up permanent residence in Austria since August 1, 1914, while maintaining their foreign domicile, even if they have resided in Austria after January 1, 1919, but have left Austrian territory not later than May 1, 1920.

(3) Subject to the conditions laid down in Section 1, property belonging to Polish nationals who, until the dissolution of the Austrian Empire, were serving as public (State or Court) officials, officers of the army or members of the Imperial Parliament in Austrian territory, and had taken up their residence there by reason of these duties, even if they should still be resident in Austria as late as May 1, 1920, owing to the fact that they have not been able to transfer their domicile to their own country.

These provisions shall similarly apply to Polish nationals who draw a pension from the public funds of the Polish State, in cases where the person drawing a pension intends to transfer his residence to his own country, and has hitherto not been able to do so, owing to causes due to the war.

(4) Subject to the conditions laid down in Section 1, property belonging to Polish nationals who, as officials, functionaries or employees of the Polish State, are obliged, by order of their Government, to reside in Austria for the exercise of their duties.

(5) Property belonging to Companies or corporate bodies which are located in the Polish State and maintain no business establishment in the territory of the Austrian State.

Nevertheless, Polish nationals who, since August 1, 1914, have carried on business in Austria rendering them liable to the excess profits tax, shall be exempt from all restrictive measures in respect of any portion of their property which can be shown not to have been derived from the business in question. It shall be the duty of the Government of the Austrian Republic to ensure that the fiscal authorities in applying this provision shall give due consideration to the special financial position of the Polish nationals concerned, and, in doubtful cases, shall consult the Polish representatives in Vienna.

Section 2.

All outstanding credits due to Polish credit banks from credit-banks situated within Austrian territory, shall be released on application.

The Polish banks entitled to such outstanding credits shall nevertheless undertake not to employ the means of payment accruing to them from this transaction for any payments outside the territory of the former Austro-Hungarian Monarchy.

Of the securities deposited by Polish credit-banks or State Banks with branches of credit-banks or State banks situated in Austrian territory, the following shall be released on application :

(1) Securities which are definitely shown by a legally binding declaration on the part of a deposit bank to be their own property, or the property of depositors who come under the provisions of Section 1, § 1-5. Deposits which such a bank may have effected in Austria in its own name, but with securities entrusted to it by other persons shall not, however, be considered as the property of the bank, within the meaning of these provisions.

Foreign securities which are proved to have been purchased through Austrian banks or agents on behalf of the Polish nationals referred to in Section 1, § 1-5, shall be exempt from any measures intended to make them available for Government payments. Extracts from accounts will normally be accepted as evidence.

(2) Such securities as have been imported for safe-keeping since August 1, 1914, and have remained on deposit in Austria without change of ownership

(3) War Loan Certificates, orders for which have been placed by depositors with Polish credit banks and which have been deposited in their own names by these credit banks with the Post Office Savings Bank and which remain deposited there, or which have been deposited by the latter

in an Austrian Bank of deposit on behalf of the Polish credit bank in question. The subscription and any subsequent deposit effected through the Post Office Savings Bank, must be certified.

Those securities which do not come under headings 1-3 shall remain in the hands of a Receiver until notification of their ownership is furnished by the depositing credit-bank to the fiscal authority at the place where the securities are deposited; they will then be released by the fiscal authority. This group of securities can then be transferred by the deposit-bank to another, *i. e.*, to an Austrian receiving office—in the name of the owner.

Sealed packets which have been brought in since August 1, 1914, for safe keeping, and have not been opened here, may, if they belong to persons named in sub-heads 1-5 of Section 1, be returned unopened as a result of previous agreements with the safe-deposit office.

Section 3.

Released securities may be exported before they have been officially registered. The owners may, however, allow them to remain in the office until after such registration has been effected. Bonds issued by the former Austrian Government are either to be left in the hands of the Receiver, or else deposited abroad through the deposit office itself. War Loan Certificates must, before being sent out of the country, be stamped in such a way as to show that they were in Austria on September 9, 1919, and were Polish property.

Section 4.

The licences for exports referred to in the law against evasion of taxation, shall be issued by the fiscal authorities to the persons named in Section 1, sub-heads 1-5. Such a licence renders it unnecessary to obtain the approval of the Central Office for securities.

Section 5.

The persons referred to in Section 1, sub-heads 1-5, shall not be subject to the obligations laid down by the Law of July 4, 1919, State Gazette No. 353.

Article 2.

In the case of the introduction of a capital levy or similar measures, it is agreed, in order to make such measures effective in Poland also, that the Polish Government will apply the provisions of Article 1 to Austrian nationals and their property in Poland.

VIENNA, *January 9, 1920.*

(Signed) REISCH.

(Signed) TWARDOWSKI.

FINAL PROTOCOL.

(1) In order to dispel all doubt as to whether the Contracting Governments are not in some measure entitled, during the period between the coming into force of the Peace Treaty, and the conclusion of an agreement in accordance with § 1, Article 1, to re-introduce the measures of seizure and the restrictions on the right of disposal, abandoned under Article 1, § 3 and 4 which affect the property of nationals of both parties, the Contracting Parties have agreed upon the following authoritative interpretation of Article 1 of this Treaty :

The provisions of this Treaty with regard to measures of seizure and the restrictions on the right of disposal which have already been adopted by both Parties with respect to property of the nationals of both Parties, shall only have provisional effect until the coming into force of the Peace Treaty.

On the other hand, the obligation not to re-enforce in future, the regulations which have been withdrawn, and not to enact any identical or similar regulations (with the exception of measures for making and ensuring payment of claims for taxes in individual cases and also for the preparation of a capital levy), shall also hold good after the ratification of the Peace Treaty until the conclusion of the agreement provided for by Article 1, § 1.

(2) The Austrian Government declares that it is prepared to permit the Austrian authorities to communicate the deposit-returns, which have come into their hands as a result of the execution of the Treaty, to the Polish Legation at Vienna, in order to enable the latter to make use of these returns.

VIENNA, *January 9, 1920.*

REISCH.
TWARDOWSKI.
