

N° 1400.

---

## AUTRICHE ET POLOGNE

Convention commerciale, avec annexes A, B et C (Convention relative aux entreprises de production et de transport), protocole final à l'annexe C, et protocole final de la convention. Signés à Varsovie, le 25 septembre 1922.

---

## AUSTRIA AND POLAND

Commercial Convention with Annexes A, B and C (Convention relating to Manufacture and Transport Undertakings), Final Protocol to Annex C, and Final Protocol to the Convention. Signed at Warsaw, September 25, 1922.

<sup>1</sup> TRADUCTION. — TRANSLATION.

No. 1400. — COMMERCIAL CONVENTION <sup>2</sup> BETWEEN AUSTRIA AND POLAND. SIGNED AT WARSAW, SEPTEMBER 25, 1922.

---

*French official text communicated by the Polish Delegate accredited to the League of Nations. The registration of this Convention took place February 1, 1927.*

---

THE HEAD OF THE POLISH STATE, of the one part, and THE FEDERAL PRESIDENT OF THE AUSTRIAN REPUBLIC, of the other part,

Being equally desirous of promoting the development of commercial relations and economic co-operation between the two countries, have decided to conclude a Convention adapted to the temporary régime at present in force in their respective countries, and have appointed as their Plenipotentiaries for that purpose :

THE HEAD OF THE POLISH STATE :

M. Henryk STRASBURGER, in charge of the Ministry of Industry and Commerce ;

THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA :

M. Nikolas POST, Envoy Extraordinary and Minister Plenipotentiary of the Austrian Republic at Warsaw ;

Who, having communicated their full powers, found in good and due form, have agreed upon the following Articles.

*Article 1.*

Nationals of each of the Contracting Parties shall enjoy in the territory of the other, as regards their establishment and the carrying on of trade and industry, all privileges, immunities and facilities granted to the nationals of the most favoured nation.

It is understood, however, that the above provision shall in no way affect such special laws, ordinances or regulations in respect of trade, industry, police, public security and the exercise of certain trades and professions, as are or may hereafter be in force in the territories of the Contracting Parties and are or may be applicable to all foreigners without distinction.

*Article 2.*

Nationals of one of the Contracting Parties proceeding to fairs or markets in the territory of the other Contracting Party for the purpose of carrying on their trade there, shall, on a basis of

---

<sup>1</sup> Traduit par le Secrétariat de la Société des Nations.

<sup>1</sup> Translated by the Secretariat of the League of Nations.

<sup>2</sup> The exchange of ratifications took place at Warsaw, January 5, 1923.

reciprocity, receive the same treatment as nationals if they show an identity card which is in conformity with the specimen attached hereto (Annex A) and is issued by the authorities of the State of which they are nationals.

*Article 3.*

Nationals of each of the Contracting Parties shall, on the territory of the other Party, have the right to establish themselves and acquire and own every kind of property, whether movable or immovable, which the laws of the country allow, or may in the future allow, to be acquired and owned by nationals of any other country. They shall be entitled to dispose of such property by sale, exchange, donation, marriage settlement, bequest, or in any other manner or to acquire it by inheritance, under the same conditions as are or may be laid down in respect of the nationals of any other foreign nation, and they shall not be liable in any of the above-mentioned cases to duties, taxes, or charges of any kind other or higher than those which are or may be laid down in respect of nationals.

They shall have the right, provided they comply with the laws of the country, to appear in court either as plaintiffs or defendants ; and in this respect they shall enjoy all the rights and immunities of nationals and, like the latter, shall be free to employ counsel or agents of their own choice.

*Article 4.*

Nationals or commercial and industrial companies of either of the Contracting Parties shall not be required to pay for the right of carrying on their trade or industry in the territory of the other Contracting Party, any duties, taxes or charges other or higher than those levied on the nationals of the country.

*Article 5.*

Nationals of either of the Contracting Parties shall, in the territory of the other Party, be exempt from all military service in the army or navy, national guard or militia.

In time of peace and of war alike they shall only be subject to the contributions or requisitions imposed on nationals, to the same extent and on the same principles as the latter.

They shall also be exempt from all compulsory official duties, whether of a judicial, administrative or municipal nature, except the duties of guardian or trustee in respect of their own nationals.

*Article 6.*

Limited liability companies and other commercial and industrial companies (except financial and insurance companies) which are constituted under the laws of one of the Contracting Parties and have their domicile in its territory, may, provided they comply with the laws of the other country, be established in the territory of the latter and carry on their trade or industry there, except in the case of such branches of trade and industry as are, on account of their public utility, subject to special restrictions.

The above-mentioned companies may, provided that they comply with the laws of the country, enjoy all their rights and appear in court as plaintiffs or defendants in either country.

The permission granted to such companies belonging to one Contracting Party to carry on their trade or industry in the territory of the other shall be subject to the laws and regulations which are or may hereafter be in force in that territory.

*Article 7.*

Internal taxes levied for the State, communes or corporate bodies, which are or may hereafter be imposed on the production, manufacture or consumption of any article in the territory of one of the Contracting Parties, shall on no account be levied on the products of the other Party in a higher or more burdensome degree than on home products of the same nature or products of the most favoured nation.

*Article 8.*

All products of the soil or industry of one of the Contracting Parties which are imported into the territory of the other and are intended for consumption, warehousing, re-exportation or transit shall be granted the treatment accorded to the most favoured nation, and shall not be subject to any import taxes or duties other or higher than those levied on the products or merchandise of the most favoured nation.

When products or merchandise of one Contracting Party are exported to the territory of the other, no export duties or charges of any kind shall be levied other or higher than those leviable on the same products or merchandise when exported to the countries most favoured in this respect.

The Contracting Parties undertake to grant each other most-favoured-nation treatment in the application of Customs regulations, Customs formalities, the verification and analysis of merchandise imported, and as regards the payment of dues and charges, the classification and interpretation of Customs tariffs and the exercise of monopolies.

Products coming from a third country which have undergone industrial transformation in the territory of one of the Contracting Parties shall be regarded, on importation into the territory of the other Contracting Party, as a product of the country in which transformation took place.

The provisions of this Article shall not apply :

- (1) To favours which are or may hereafter be accorded to co-terminous States with a view to facilitating frontier traffic, or to the inhabitants of certain frontier districts ;
- (2) To favours accorded under a Customs Union ;
- (3) To the provisional Customs régime in force between the Polish and German portions of Upper Silesia.

Goods from any source which are sent in transit through the territory of one of the Contracting Parties, or have been placed in bond in free ports or free zones, shall not, on entering the territory of the other Contracting Party, be subjected to duties or taxes other or higher than if they had been imported direct from the country of origin. This provision shall apply to merchandise which has been transhipped, repacked or placed in bond, as well as to that sent in through transit.

*Article 9.*

I. The two Contracting Parties agree that restrictions in the form of import or export prohibitions on the trade between the territories of the Contracting Parties may only be imposed :

- (a) In cases in which prohibition of transit is permitted under Article 10 of the present Convention ;
- (b) In respect of merchandise which is subject to a State monopoly ;
- (c) In order to apply to foreign merchandise prohibitions or restrictions which have been or may be established by municipal legislation for the production, sale, transport or consumption within the country of similar merchandise of the home country ;
- (d) In any other cases in which, on account of exceptional economic difficulties still existing in the country of one of the Contracting Parties, it may be necessary to maintain or establish restrictions or prohibitions.

2. The Contracting Parties shall neither establish nor maintain prohibitions or restrictions on imports or exports into or from each other's territory which are not similarly applied to the import or export of the same merchandise in trade with all other countries.

*Article 10.*

The two Contracting Parties shall grant each other freedom of transit for persons, baggage, merchandise, vessels, boats, carriages, wagons and other means of transport coming from or proceeding to either country, by rail or by water, on routes adapted for international transit, without drawing any distinction based on the nationality of the persons or the flag which the vessels or boats fly, or on the source or commercial origin, place of entry, exit or destination, or on any consideration regarding the ownership of such merchandise, vessels, boats, carriages, wagons or other means of transport.

Transit traffic shall not be subjected to any special duty or tax on the ground that it is in transit (entry and exit included).

There may, however, be levied on such traffic duties or taxes intended solely to defray the costs of supervision and administration entailed by the transit.

The scale of all duties or taxes of this nature must as far as possible be commensurate with the expenditure which they are intended to cover, and these duties or taxes shall be applied under the conditions of equality defined in the first paragraph of this Article, except on certain routes where these duties or taxes may be reduced or even abolished on account of differences in the cost of supervision.

In exceptional circumstances, and for as short a period as possible, the provisions of this Article may be superseded by such special or general measures as either of the Contracting Parties may be obliged to adopt on the following grounds :

(a) National Security;

(b) Public health or veterinary measures, particularly with a view to preventing the spread of epizootic disease, or the destruction of plants, particularly by harmful insects or parasites. It is understood that the generally recognised international principles and the conventions in force between the Contracting Parties shall be applied in this connection.

The Contracting Parties shall be entitled to take the necessary precautions to ascertain that persons, baggage, merchandise, more particularly merchandise which is subject to a monopoly, vessels, boats, carriages, wagons or other means of transport are genuinely in transit, and that passengers in transit are able to complete their journey, and to prevent the safety of routes and means of communication being endangered.

No hindrance in the form of transit prohibitions or restrictions shall be caused to traffic beyond what is absolutely necessary for the attainment of the object of such prohibition or restriction.

If transport services, which are the subject of a monopoly, are established on navigable waterways used for transit, these services shall be so organised as not to hinder the transit of vessels and boats.

The above precautions shall also apply to transit with transshipment.

It is understood that transit traffic may in no case be subject to prohibitions or restrictions which are not simultaneously and similarly applied to the transit of merchandise of all other countries similarly situated.

Austria takes cognisance of Article XXII, paragraph 4, of the Treaty<sup>1</sup> of Riga and undertakes to adhere to its provisions.

*Article 11.*

Merchants, manufacturers or other industrialists of either country who can produce an industrial identity card issued by the competent authorities of their country showing that they are authorised to carry on their trade or industry in that country and that they pay therein the taxes

<sup>1</sup> Vol. VI, page 51, of this Series.

and dues required by law, may, either personally or through travellers in their employ, make purchases in the territory of the other Contracting Party, from merchants or producers or at public places of sale. They may also take orders, even by means of the display of samples, from traders or other persons who use in their business or industry merchandise corresponding to the samples shown. In neither country shall they be obliged to pay any special tax on that account.

Commercial travellers of the two Contracting Parties provided with an identity card issued by the authorities of their respective countries shall be reciprocally entitled to take with them samples or patterns but not merchandise. This card must be drawn up in conformity with specimen form B.

The Contracting Parties shall communicate to each other the names of the authorities instructed to issue these identity cards, and the regulations which commercial travellers must observe while conducting their business.

It is understood, however, that such commercial travellers shall not be entitled to transact business on behalf of traders or industrialists other than those indicated on their cards.

Articles liable to Customs duty or to any other dues assimilated thereto — except merchandise the importation of which is prohibited — imported by commercial travellers as samples or patterns, shall be admitted by both Parties free of import and export duty, provided that such articles be re-exported within the prescribed period, and be found identical with the articles imported, by whatever Customs office they leave the country.

Security for re-exportation of samples or patterns must be given at the Customs house of importation by a cash deposit or other valid security.

As regards all formalities to which merchants and industrialists (commercial travellers) may be subject in the territories of the Contracting Parties, both countries undertake to grant each other most-favoured-nation treatment.

#### *Article 12.*

The Contracting Parties mutually undertake to accord temporary exemption from import and export duty on merchandise (except articles which form the subject of a monopoly or are liable to excise) intended for experiments, tests, exhibitions or shows, or which may be sent into the territory of the other Contracting Party to markets or fairs or for possible sale, provided they are re-exported within a period fixed beforehand and that such re-exportation shall be secured by the deposit of the amount of the duties at the Customs Bureau, or by other valid security.

It is understood that the Contracting Parties shall accord to each other most-favoured-nation treatment in this respect.

#### *Article 13.*

The two Contracting Parties undertake to accord each other most-favoured-nation treatment in the matter of railway rates.

#### *Article 14.*

The two Contracting Parties agree that they will make no discrimination as regards forwarding, the cost of transport and public charges for railway transport in the case of passenger traffic — including passenger's baggage — effected under the same conditions.

#### *Article 15.*

Merchandise despatched in the territory of one of the Contracting Parties to the territory of the other Contracting Party or through the latter territory to a third State shall not, in so far as

forwarding, cost of transport, and public charges on consignment are concerned, be treated less favourably than similar merchandise of the other Contracting Party or of a third State, despatched, under the same conditions, to the same destination and by the same route.

Merchandise despatched from a third State through the territory of one of the Contracting Parties to the territory of the other Contracting Party shall receive similar treatment.

*Article 16.*

The provisions of Articles 14 and 15 shall not apply to reduced rates accorded for charitable or educational purposes, nor to the reduced rates accorded in cases of public disaster for the transport of passengers and goods, nor to those accorded for the transport of troops, public officials, railway and similar employees and members of their families, nor to the purely administrative traffic of organisations for maintaining communications in the country.

It is also understood that on secondary railways (local steam tramways, lines of local interest and tramways) engaged mainly in the tourist traffic, reduced rates may be granted exclusively to natives of the surrounding communes.

*Article 17.*

The Contracting Parties agree that through rates for passenger and goods traffic between the territories of the Contracting Parties, as well as for the traffic between the territory of one of the Contracting Parties and that of a third State, in transit through the territory of the other Contracting Party, shall be drawn up as far as the need for them is felt and as soon as circumstances permit.

Until these through rates are drawn up, the calculation of transport rates shall be facilitated by the use of the tables drawn up for that purpose.

*Article 18.*

The two Contracting Parties undertake to take all measures necessary with a view to removing any obstacles which might, in certain cases, impede passenger and goods traffic whether between their territories, or between the territories of one of the Contracting Parties and those of a third State through the territory of the other Contracting Party.

In principle, national goods shall not receive more favourable treatment as regards despatch than the goods of the other Contracting Party.

The Contracting Parties shall endeavour to meet the needs of through traffic between their respective territories or between the territories of one Contracting Party and those of a third State through the territory of the other Contracting Party. They shall establish through services of passenger and goods trains, and settle in a spirit of mutual conciliation all questions concerning the traffic and transport service.

As regards the supply of wagons, the needs of the internal traffic and of the export traffic to the territory of the other Contracting Party shall in principle be given equitable consideration.

In particular, in respect of the supply of wagons for the export traffic to the territory of the other Contracting Party, the treatment accorded shall be not less favourable than that accorded when rolling stock is supplied for export traffic to third States.

*Article 19.*

The Contracting Parties shall ensure that the mutual transit of goods by rail shall be regulated by the provisions of the International Convention<sup>1</sup> of October 14, 1890, on the Transport of Goods

<sup>1</sup> *British and Foreign State Papers*, Vol. 82, page 771.

by Rail, as amended and supplemented by the Additional Agreement<sup>1</sup> of July 16, 1895, and the Additional Conventions of July 16, 1898<sup>2</sup>, and of September 19, 1906, as well as the uniform supplementary provisions of the conventions drawn up by the International Transport Committee.

The railway administrations may allow certain derogations from the provisions of the International Convention as long as the present transport difficulties continue.

The Conventions submitted for approval to the higher controlling authorities must be limited as regards range and scope to the limits strictly necessary, and shall in no case apply as regards the degree of responsibility borne by the railway for loss (total or partial) of goods or damage to goods, nor for failure to deliver goods within the prescribed period.

The two Contracting Parties shall ensure that the provisions of the International Convention on the Transport of Goods by Rail shall likewise be applied as far as possible, without modification, to traffic with a third State in which one of the Contracting Parties participates.

#### *Article 20.*

1. The Contracting Parties undertake to examine jointly and in a spirit of friendship the question of the treatment of workmen and employees who are nationals of one Party and are in the territory of the other, with reference to the protection of workmen and employees and social insurance, with the object of adopting appropriate agreements, mutually ensuring for these workers and employees, treatment which will as far as possible give them equal benefits. The agreements in question shall be incorporated in a special convention.

2. The Contracting Parties mutually guarantee the maximum seasonal travelling facilities for itinerant agricultural labourers. They shall take special steps to ensure that the mutual need for workers of this kind shall be duly met. In practice, this traffic shall be regulated by the Polish State and the Republic of Austria through the Government or Federal Offices concerned.

3. The Contracting Parties mutually guarantee to give the necessary orders to facilitate as far as possible, and at least to the same extent as hitherto, the crossing of the frontier by such labourers both on entering and leaving the country.

As regards conditions of work, particularly in connection with all aspects of social policy, these seasonal itinerant labourers shall enjoy the same treatment as national agricultural labourers of the same category.

4. Detailed provisions regulating the recruitment and allocation of agricultural labourers, as well as the incorporation of the conditions of work in a conventional tariff, shall be laid down in an agreement to be concluded between the competent Polish and Austrian authorities.

5. As regards itinerant labourers who, when travelling from the territory of one of the two Contracting Parties to the territory of the other, have to pass through the territory of a third State, the Contracting Parties agree to take joint steps to obtain from the Government of that State all possible facilities regarding transit and the crossing of the frontier.

#### *Article 21.*

The two Contracting Parties undertake to draw up a convention with a view to avoiding double taxation in so far as concerns direct State taxation, and regarding mutual judicial assistance in questions of taxation.

<sup>1</sup> *British and Foreign State Papers*, Vol. 87, page 806.

<sup>2</sup> *British and Foreign State Papers*, Vol. 92, page 433.



Article 22.

Special agreements regarding the questions mentioned below shall be concluded as soon as possible.

- (a) An agreement concerning the mutual recognition of small arms licences ;
- (b) An agreement concerning the mutual recognition of certificates for goods ;
- (c) An agreement concerning veterinary regulations for the traffic in livestock and raw animal products.

Article 23.

It is agreed that the Convention on undertakings for production and transport (Annex C) shall form an integral part of the present Convention.

Article 24.

The present Convention shall be ratified and the ratifications shall be exchanged at Warsaw as soon as possible.

It shall enter into force on the tenth day after the exchange of ratifications.

The present Convention shall remain in force for a period of one year from the date of its coming into force.

After the expiration of this period it shall be extended by tacit agreement, and shall remain in force for three months from the date of its denunciation by one of the Contracting Parties.

In faith whereof the Plenipotentiaries have signed the present Convention.

Done in duplicate at Warsaw, the twenty-fifth day of September, One thousand nine hundred and twenty-two.

(Signed) Henryk STRASBURGER.

(Signed) POST.

ANNEX A.

Certified that M. ...., the bearer of this card, who wishes to proceed with his merchandise to fairs and markets in .....  
 (for Polish nationals) in Austria,  
 (for Austrian nationals) in Poland, is domiciled at .....  
 .....  
 and is bound to pay the taxes and duties required by law for the exercise of his trade or industry.

The present certificate is valid for a period of ..... months.

(Place, date, signature and seal of authority issuing the certificate).

Description of bearer.

## ANNEX B.

## IDENTITY CARD FOR COMMERCIAL TRAVELLERS.

For the year.....

valid for Poland and Austria.

Bearer : (Christian name and surname) .....

Issued at ..... on .....  
(day, month, year).

(Seal)

(Signature of competent authority).

Certified that the bearer of this card possesses a (here give name of factory or business) at.....  
.....  
under the title of.....  
is employed as commercial traveller in the firm of .....  
at ..... which possesses a (give name of  
factory or business) at that place.....  
.....

The bearer of this card intends to solicit orders and to make purchases on account of his firm and of the following firm(s) (give name of factory or business) at ..... It is further certified that the said firm(s) is (are) bound to pay the taxes required by law for the exercise of its (their) trade (or industry) in this country.

Description of bearer :

Special marks ..... Age ..... Height .....

Hair .....

Signature.

*Note.* — The bearer of this card shall not be entitled to solicit orders or to make purchases except when travelling on account of the above-mentioned firm(s). He may carry samples with him, but not goods. He must also comply with the regulations in force in each State.

*N.B.* — Where alternative words appear in the above specimen form, sufficient room should be left to allow the insertion of either wording according to the requirements of the case.

## ANNEX C.

CONVENTION CONCLUDED BETWEEN THE AUSTRIAN AND POLISH REPUBLICS RELATING TO  
MANUFACTURE AND TRANSPORT UNDERTAKINGS.*Article 1.*

1. The Austrian Federal Government shall grant to companies which exploit undertakings for production or transport on territory formerly Austrian and now part of Poland and whose seat of business is situated in the territory of the Austrian Republic, the right to transfer their seat of business to the territory of the Polish Republic.

2. This right shall only be granted to such companies in cases when they produce or transport exclusively on Polish territory and without exercising any similar activity on territory belonging to the Austrian Republic. Nevertheless, the existence in Austria of commercial undertakings and other similar enterprises belonging to companies whose main undertakings for production and transport are situated in Poland, shall not prevent the transfer of the seat of business of the enterprise to the territory of the Polish Republic.

3. The right to transfer their seat of business is restricted to companies whose establishments for production and transport were operating in the territory of the Polish Republic before November 1st, 1918, and whose seat of business is in the territory of the Austrian Republic. The decision to transfer the seat of business must be taken not later than March 31st, 1924.

*Article 2.*

It shall be regarded as a transfer if the assets of a company of the kind described in Article 1 are handed over to an already existing or newly established Polish company.

*Article 3.*

1. Those producing companies whose seat of business is in the Austrian Republic and which possess producing establishments in the territory of the Polish Republic, may effect a division of the company. The existence on Polish territory of commercial undertakings or other subsidiary enterprises belonging to a company whose main undertakings for production and transport are in Austria, shall not justify such division. Article 1, paragraph 3, shall apply in this case also.

2. If companies are divided up their property and reserves must be distributed. This distribution shall be effected in conformity with the following regulations :

(a) Immovable property, and movable property, employed in the establishments in question shall be divided territorially ;

(b) Subject to the provisions of (c), other movable property shall be divided in accordance with the conditions arising from (a) ;

(c) With regard to the division or allocation of special reserves, the question shall generally be decided by their economic purpose ;

(d) If the division cannot be effected without an assessment, the basis of assessment shall be the internal value fixed on the same principles in the territories of both States ;

(e) Pension funds shall be divided in proportion to the wages and salaries payable in the two States during the three years preceding the division ;

(f) If in a particular case it has seemed opportune to depart from the above-mentioned provisions (a) - (c), and if it is impossible to arrive at an agreement in this matter, the two Governments shall negotiate for the settlement of this question.

3. The division may be effected by the creation of independent Polish companies or by handing over the corresponding part of the assets when separated to an already existing Polish company.

*Article 4.*

1. The transfer of the seat of business and the division of the company may not be accompanied by liquidation.

2. Similarly, no change in the conditions governing the ownership of the two shares need be made in connection with such transfer.

3. In all the cases provided for in Articles 1-3, the company is entitled to request that its statutes shall be approved in the country in which it establishes its new seat of business and that it shall be registered in the trade register of the competent court in its new country of residence ; the company may continue in the new territory to exercise the same activities as formerly and may not be required on that ground to fulfil other conditions than those laid down by the present Convention.

*Article 5.*

1. The company must without delay inform the competent Austrian tribunal responsible for keeping the trade registers and the competent taxation authorities, of its decision to transfer the seat of business or to divide up the company in conformity with Articles 1-3. The intended transfer must be entered in the trade register. The party concerned must then obtain an official certificate in virtue of which it will take the necessary action with the competent authorities in the territory of its new seat of business. Before the company in question is removed from the Austrian trade register there must be a meeting of creditors. This shall be arranged for by the publication of the impending transfer in the newspapers intended for publications of the company. It must be announced that the company is prepared to satisfy or offer guarantees to all creditors who have claims at the date of publication, that creditors are given one month in which to submit their claims, and that those creditors who have not replied to the notice within that period shall be regarded as having agreed to the proposed transfer of the seat of business.

The company is required to prove to the registration tribunal that the prescribed publication has been made and that the creditors who replied have received satisfaction or guarantees. It must also make a statement to the effect that, in addition to the creditors to whom satisfaction or guarantees were given, no others have made application within the term fixed. In the event of false statements the persons authorised to represent the company shall be personally responsible to creditors for any loss which they sustain.

2. Creditors need not be summoned if the Federal Ministry for the Interior and Education declares that the company may be removed from the register without such procedure, or if the company founds in Austria a branch in place of the principal undertaking formerly in that country, obtaining authorisation to open this branch, and if it also declares that the capital hitherto invested in the Austrian undertaking shall henceforth be employed in the branch.

In this case, the company may claim the right to carry on the business, in so far as such permission is required by general regulations.

3. On these conditions the company may be removed from the Austrian trade register at the request of the party concerned if proof is furnished of the legal existence of the company abroad. Should no application for removal be submitted within six months of the date on which the transfer was decided, the decision in question and the notification of transfer in the commercial register shall lose their validity. This term may be prolonged by the Ministry for the Interior and Education in cases deserving of consideration. In particular cases, and at the request of the Polish Government, the two Governments shall agree regarding the prolongation of the period fixed.

Article 6.

If companies, in addition to undertakings for production and transport, possess other establishments directly connected therewith, this shall not affect the above stipulations.

The provisions of the foregoing Articles shall not apply to establishments belonging to production or transport companies which are not engaged on production or transport and are not directly connected with those branches of industry.

Article 7.

During the procedure indicated in Articles 1-5, the operation of the companies shall remain unaffected.

Article 8.

1. The Government of the Polish Republic takes note of the fact that the Austrian Government will recognise as the property of Polish nationals war loan which has been registered with the Property Control Office in Austria by companies transferring their seat of business to Polish territory in accordance with the present Convention. In so far as any part of war loan holdings shall have been subject to the Austrian control mark, the above-mentioned procedure shall only be applied to the said undertakings provided they forward to the Austrian *Staatsschuldverwaltung*, with a view to the cancellation of the control marks and in order that they may be registered as belonging to Polish nationals, coupons of the same kind and to the same amount as the loan previously marked by the control authorities.

2. With regard to companies dividing their assets in accordance with Article 3, war loan funds shall be distributed in proportion to the division of the property and reserves of the company effected in virtue of the above-mentioned Article.

Article 9.

1. Undertakings transferring their seat of business in accordance with the present Convention shall not thereby be subject to any taxes, charges and contributions or to additional taxes imposed in virtue of Article 96 of the Austrian Law on Personal Taxation.

This exception refers in particular to taxes on contracts, issues of shares and registrations necessitated by the transfer of the seat of business.

2. The provisions of paragraph 1 shall also apply to the division of companies.

3. The above-mentioned stipulations shall not, however, prejudice the right to levy taxes on reserve funds, in conformity with existing regulations, in the State not only of the seat but also of the branch.

4. Profits derived from operations in connection with the transfer of the seat of business or the division of the company shall not be liable to taxation provided they are placed in an extraordinary reserve fund to be shown in the balance-sheet as a special liability, and provided also that the company waives its claim to plead prescription of the law on additional taxation in cases where the reserves are used for purposes liable to taxation.

5. Companies for production and transport which had their seat of business in the territory of one of the Contracting Parties before November 1, 1918, and a branch or subsidiary establishments in the territory of the other, shall not be subject to "admission duty" in respect of that part of the share and debenture capital which before November 1, 1918, was allocated to the said branches. This principle must also be applied when one of the companies transferring its seat of business establishes a branch in the place of its former central establishment.

6. Furthermore, the following regulations shall be binding upon companies transferring their seat of business or effecting a division of assets :

(a) As regards Austrian taxes on profits for the year 1919 and following years, the yield of industrial undertakings in the Polish Republic shall not be taken into account.

(b) As regards the property tax in Austria, land, buildings and establishments in Poland shall be exempt from the tax, and any portion of the tax which has already been collected and which refers to the above-mentioned property, shall be refunded at the request of the party concerned.

(c) Property belonging to industrial undertakings in the Polish Republic shall not be regarded in Austria as constituting a liability to subscribe to the forced loan. This consideration shall also be taken into account in the taxation of movable property. Companies which on or before December 1, 1922, communicate to the competent authorities responsible for the collection of taxes that they intend to transfer their seat of business to Poland, shall be treated as foreign companies in respect of the forced loan, provided that the decision to transfer is taken before March 31, 1923.

#### *Article 10.*

The Contracting Parties undertake to support and facilitate any transactions necessary or recognised as opportune in order to effect the transfer of the seat of business or the dividing up of the company and to hinder these operations by no measures of any kind, particularly of a fiscal nature.

#### *Article 11.*

Any complaints arising from a measure which, according to one of the Governments, is not in conformity with the principles of the present Convention, shall be communicated to the other Government with a view to arriving at an agreement. The transfer or division (Articles 1-3) shall not be hindered by the above-mentioned measures.

#### *Article 12.*

The Austrian Federal Government agrees that the Polish Government shall reserve the right to request companies of the kind mentioned in Article 1 to transfer their seat of business or divide up their assets. Should a company not comply with this request in due time, the Polish Government may suspend the operations of the company on Polish territory.

#### *Article 13.*

Similarly, the provisions of the present Convention shall apply to companies engaged in production or transport in Austria and having their seat of business in the Polish Republic.

#### *Article 14.*

Whenever it shall be impossible to arrive at an agreement with regard to the application of the provisions set forth above, the dispute shall be settled by a court of arbitration. This court of arbitration shall consist of a delegate of each of the Contracting Parties and a president appointed by agreement, or, should this agreement not be obtained, by the President of the Swiss Confederation.

## FINAL PROTOCOL TO ANNEX C.

1. The two Contracting Parties agree that the stores for crude oil, pipe-lines and other establishments of this kind shall be regarded as undertakings for production and transport.
2. The two Contracting Parties undertake to give instructions to the respective authorities and offices for the execution of the present Convention as soon as possible.
3. The two Contracting Parties intend that any disputes which arise shall be settled by agreement between their delegates, particularly in cases when the companies concerned bear the expenses.

## FINAL PROTOCOL.

When signing the present Convention, the two delegations made the following declarations :

*Ad Article 1.*

In order to facilitate the putting into effect of the provisions of Article 1, the Contracting Parties declare that Polish nationals in Austria and Austrian nationals in Poland shall be permitted to establish and carry on trade or industry under the same conditions as nationals of the country.

As regards the rights laid down in Article 1, no distinction shall be made between nationals of the Contracting States who have settled in the territory of the other Contracting State before, during or since the war.

*Ad Article 2.*

The Contracting Parties shall notify to each other the authorities responsible for issuing the identity cards provided for in Article 2.

*Ad Article 3.*

It is agreed that the conditions governing the acquisition and possession of immovable property shall be regulated according to the laws in force in the territory of each of the Contracting Parties.

*Ad Article 8.*

The two Contracting Parties shall communicate to one another the conventions in virtue of which they accord favours to the inhabitants of frontier districts.

Austria undertakes not to claim the reductions of duties granted by Poland to France in the Commercial Convention<sup>1</sup> concluded between Poland and France on February 6th, 1922, in respect of the following articles :

Polish Tariff No.	Description of Goods
ex 13	Patties and condiments.
ex 14	Truffles.
ex 15	Spices : (1) Vanilla ; (2) Pepper.
ex 21	Tobacco in the leaf or in boxes.
ex 27	Arrack, rum, brandies, liqueurs.
ex 35	Cheese : (1) Fine ; (2) Other.
ex 37	Fish : marinated, preserved in oil.
ex 38	Langoustes and crayfish, tinned lobsters.
ex 43	Glue and gelatine.
ex 46	Brushes.
ex 58	Cork ; 46. In sawdust or powder.
ex 60	Wares of cork-wood : (1) Slabs and cubes ; (2) Corks for bottles ; (3) Articles manufactured from cork waste.
ex 62	Cut flowers.
ex 95	Tartar (cream of tartar), tartrate of lime and citrate of lime, semi-purified (not in powder) of natural colour.
ex 117	Olive oil.
ex 162	Compositors' and printing trade materials.
ex 169	Cinematographic films, non-impressed.
ex 185	Yarn from silk : (1) Twisted ; (2) Yarn from waste silk.

*Ad Article 9.*

1. Being jointly desirous of re-establishing as soon as possible complete freedom in their mutual commercial relations and of mitigating and gradually abolishing as far as possible those restrictions which for the time being have to be maintained owing to exceptional circumstances, the Contracting Parties agree generally that, in applying existing import and export prohibitions and as regards the system of import and export licences for goods subject to prohibition, they will take account as far as they can of commercial requirements and will encourage and facilitate to the best of their ability and by a liberal policy, the resumption of normal commercial relations and active trade between the two countries.

2. No fresh import and export prohibitions shall be applied to goods which have already been consigned on the day when the prohibition is published.

3. It is agreed that an import or export licence already granted may be withdrawn if the vital interests of the country are in danger.

*Ad Article 10.*

1. It is agreed that the provisions of the present Convention relating to freedom of transit shall not prevent traffic of vital interest to a country, whether internal traffic or import and export traffic, from being given priority temporarily over transit traffic of lesser economic importance.

2. It is agreed that the provisions of the present Convention shall not in any way affect the autonomous rules and regulations of the two Contracting Parties in regard to the transit of goods liable to deterioration.

3. It is agreed that goods in transit which, at the moment of the entry into force of a prohibition in accordance with Article 10 of the present Convention, have already entered the territory of the State imposing the prohibition, shall not be affected thereby, but shall be forwarded to their destination. Should the present Convention cease to be operative, goods previously delivered to the forwarding agent shall be forwarded to their destination, even if the transit should actually be effected after the Convention has ceased to be in force.



*Ad Article 11.*

The provisions of Article 11 shall not apply to itinerant traders nor to hawkers nor to the soliciting of orders from persons not engaged in industry or commerce. Each of the Contracting Parties reserves to itself complete legislative freedom in this respect.

*Ad Article 15.*

The two Contracting Parties agree that for the time being the clauses relating to equality of treatment with national traffic shall, as regards goods tariffs, only be applied to the charges on consignments registered through from the station at which the country is entered to the station of destination, or to the station at which the country is left.

*Ad Article 17.*

It is understood that, pending the conclusion of other agreements between the railway administrations, the question whether there is a real need to establish through rates to be included in the existing tariffs for passenger and goods traffic, shall in principle be decided on the advice of the administration making the proposal, provided adequate reasons are given therefor.

The two Governments shall assist in concluding conventions with a view to facilitating and regulating international traffic in a single currency or in two currencies and the mutual settlement of claims resulting from this traffic.

Similarly, they shall proceed to establish a uniform tariff base and to adopt a single currency for international rates.

*Ad Articles 15—19.*

It is agreed that the provisions contained in Articles 15—19 shall only be applied to traffic with a third State, provided that an agreement has been concluded with that State concerning the resumption of through railway communications.

It is also understood that, for as long as the restriction provided in Article 15 holds good, Poland may not claim in regard to rates the treatment that Austria has granted or may subsequently grant to a neighbouring State in virtue of the Treaty of Saint-Germain.

Henryk STRASBURGER.  
POST.