

N° 3263.

---

**ALLEMAGNE ET POLOGNE**

Traité concernant les assurances sociales, avec protocole final. Signés à Berlin, le 11 juin 1931.

---

**GERMANY AND POLAND**

Treaty regarding Social Insurance, with Final Protocol. Signed at Berlin, June 11, 1931.

## TEXTE POLONAI. — POLISH TEXT.

No. 3263. — UMOWA<sup>1</sup> POMIĘDZY RZECZĄPOSPOLITĄ POLSKĄ A RZESZĄ NIEMIECKĄ O UBEZPIECZENIU SPOŁECZNEM, PODPISANA W BERLINIE, DNIA 11 CZERWCA 1931 R.

*Textes officiels allemand et polonais communiqués par le chargé d'Affaires a. i. de la délégation polonaise auprès de la Société des Nations. L'enregistrement de ce traité a eu lieu le 9 septembre 1933.*

RZECZPOSPOLITA POLSKA i RZESZA NIEMIECKA doszły do zgodnego porozumienia, aby w drodze umowy uregulować wzajemne stosunki w dziedzinie ubezpieczenia społecznego. W tym celu zamianowali Swymi Pełnomocnikami :

PREZYDENT RZECZYPOSPOLITEJ POLSKIEJ :

Pana D-ra Witolda PRĄDZYŃSKIEGO, Radcę Zwyczajnego Rady Prawniczej i Członka Komisji Kodyfikacyjnej Rzeczypospolitej Polskiej,  
Pana Izidora WYSŁOUCHA, Naczelnika Wydziału w Ministerstwie Pracy i Opieki Społecznej,

PREZYDENT RZESZY NIEMIECKIEJ :

Pana Dr. Adolf SIEDLER, Tajnego Radcę Legacyjnego w Urzędzie dla Spraw Zagranicznych,  
Pana Dr. Johannes KROHN, Radcę Ministerjalnego i Kierownika Oddziału w Ministerstwie Pracy Rzeszy.

Pełnomocnicy po wzajemnem zbadaniu swych pełnomocnictw, które uznali za sporządzone w dobrej i należytej formie, postanowili zgodnie co następuje :

## A. POSTANOWIENIA OGÓLNE.

*Artykuł I.*

(1) Umowa niniejsza ma zastosowanie do następujących działów polskiego i niemieckiego ubezpieczenia społecznego :

1. ubezpieczenia na wypadek choroby,
2. ubezpieczenia od wypadków,
3. ubezpieczenia na wypadek inwalidztwa,
4. ubezpieczenia pracowników umysłowych (ubezpieczenia funkcjonariuszów prywatnych),
5. ubezpieczenia brackiego (górników).

(2) Za ubezpieczenie rentowe w rozumieniu niniejszej umowy uważa się ubezpieczenie od wypadków, ubezpieczenie na wypadek inwalidztwa, ubezpieczenie pracowników umysłowych oraz brackie ubezpieczenie pensyjne.

<sup>1</sup> L'échange des ratifications a eu lieu à Varsovie, le 11 août 1933.

## TEXTE ALLEMAND. — GERMAN TEXT.

N<sup>o</sup> 3263. — VERTRAG<sup>1</sup> ZWISCHEN DEM DEUTSCHEN REICH UND DER REPUBLIK POLEN ÜBER SOZIALVERSICHERUNG, GEZEICHNET IN BERLIN, AM 11. JUNI 1931.

*German and Polish official texts communicated by the Chargé d'Affaires a. i. of the Polish Delegation accredited to the League of Nations. The registration of this Treaty took place September 9, 1933.*

DAS DEUTSCHE REICH UND DIE REPUBLIK POLEN sind übereingekommen, die wechselseitigen Beziehungen auf dem Gebiete der Sozialversicherung vertraglich zu regeln. Zu diesem Zwecke haben zu Bevollmächtigten ernannt :

DER DEUTSCHE REICHSPRÄSIDENT :

Herrn Dr. Adolf SIEDLER, Vortragenden Legationsrat im Auswärtigen Amt ;  
Herrn Dr. Johannes KROHN, Ministerialrat und Abteilungsdirigent im Reichsarbeitsministerium ;

DER PRÄSIDENT DER REPUBLIK POLEN :

Herrn Dr. Witold PRĄDZYŃSKI, Ordentlichen Rat des Rechtsrats und Mitglied der Kodifikations-Kommission der Republik Polen ;  
Herrn Izydor WYSŁOUCH, Abteilungschef im Ministerium für Arbeit und Soziale Fürsorge.

Die Bevollmächtigten haben nach Prüfung ihrer Vollmachten, die sie in guter und gehöriger Form befunden haben, nachstehendes vereinbart :

## A. ALLGEMEINE BESTIMMUNGEN.

*Artikel 1.*

(1) Der Vertrag bezieht sich auf folgende Zweige der deutschen und polnischen Sozialversicherung :

1. die Krankenversicherung,
2. die Unfallversicherung,
3. die Invalidenversicherung,
4. die Angestelltenversicherung,
5. die knappschaftliche Versicherung.

(2) Als Rentenversicherung im Sinne dieses Vertrags gelten die Unfallversicherung, die Invalidenversicherung, die Angestelltenversicherung und die knappschaftliche Pensionsversicherung.

<sup>1</sup> The exchange of ratifications took place at Warsaw, August 11, 1933.

## IV. ANGESTELLTENVERSICHERUNG.

*Artikel 23.*

(1) Auf die Angestelltenversicherung finden die Bestimmungen über die Invalidenversicherung entsprechende Anwendung mit der Massgabe, dass in der polnischen Angestelltenversicherung als Grundbetrag die Hälfte des gesetzlichen Grundbetrags und als Steigerungsbetrag für jedes der ersten zehn Jahre der Versicherung ein Zwanzigstel des gesetzlichen Grundbetrags gilt. Von der polnischen Mindestrente ist nur der Teil zu zahlen, der dem Verhältnis der innerstaatlichen Beitragszeit zur Summe der in den beiden Staaten zurückgelegten Beitragszeiten entspricht.

(2) Auf die Versicherung der Angestellten für den Fall der Arbeitslosigkeit nach der polnischen Gesetzgebung über die Versicherung der Angestellten findet das deutsch-polnische Abkommen über Erwerbslosenfürsorge und Arbeitslosenversicherung vom 14. Juli 1927 Anwendung<sup>1</sup>.

## V. KNAPPSCHAFTLICHE VERSICHERUNG.

*Artikel 24.*

(1) Für die Kranken- und Invalidenversicherung der knappschaftlich Versicherten gelten die allgemeinen Bestimmungen und die Sonderbestimmungen dieses Vertrags für die Kranken- und Invalidenversicherung.

(2) Die Versicherungsträger gewähren die Leistungen der Familienhilfe aus der Krankenversicherung an die im Grenzgebiete (Artikel 15 Abs. 5 und 6) wohnenden Berechtigten. Die Bestimmungen des Artikel 15 Abs. 7 finden entsprechende Anwendung.

*Artikel 25.*

(1) Bezieht ein Berechtigter die Pension von einem knappschaftlichen Versicherungsträger des einen Staates und wohnt er im Bezirk eines knappschaftlichen Versicherungsträgers des anderen Staates, so sind ihm die Pflichtleistungen der Krankenpflege zu gewähren, wenn sein Wohnort im Bezirk einer Knappschaft liegt, die mit dem Bezirk einer Knappschaft des anderen Staates eine gemeinsame Grenze hat.

(2) Der leistungspflichtige Versicherungsträger kann den Versicherungsträger des anderen Staates um die Gewährung der Krankenpflege ersuchen. Der ersuchte Versicherungsträger hat die Leistungen zu den Bedingungen zu gewähren, die für seine eigenen Berechtigten gelten. Dem Versicherungsträger sind die tatsächlich verauslagten Kosten zu erstatten.

(3) Die Versicherungsträger beider Staaten sind berechtigt, Vereinbarungen über die Gewährung der freiwilligen Leistungen der Pensionsversicherung zu treffen.

*Artikel 26.*

(1) Hat ein Versicherter in beiden Staaten Beitragsmonate in der Arbeiterpensionskasse zurückgelegt, so werden die Beitragsmonate für die Erhaltung der Anwartschaft und für die Erfüllung der allgemeinen Wartezeit zusammengerechnet. Bei der Errechnung des Hundertsatzes der Steigerungsbeträge gelten die in beiden Staaten zurückgelegten Beitragszeiten als einheitliche Beitragszeit. Als Beitragsmonate gelten dabei nur die Zeiten, für die Beiträge entrichtet sind.

<sup>1</sup> Volume LXXIII, page 251, of this Series.

*Artikel 31.*

Hat ein Versicherungsträger eine Leistung festgestellt, und sind vorher oder nachher Beiträge entrichtet worden, die bei Feststellung der Leistung nicht berücksichtigt waren, so ist die Leistung auf Grund der Vertragsbestimmungen neu festzustellen, auch wenn die Leistungsvoraussetzungen schon durch die innerstaatlichen Beitragszeiten erfüllt sind. Der frühere Bescheid wird mit der Neufeststellung unwirksam.

*Artikel 32.*

Für den Fall, dass einer der beiden Staaten mit einem dritten Staat einen Sozialversicherungsvertrag abschliesst oder abgeschlossen hat, werden sich die beiden obersten Verwaltungsbehörden über die etwaige Berücksichtigung der in dem dritten Staate zurückgelegten Beitragszeiten für die Aufrechterhaltung der Anwartschaft, die Erfüllung der Wartezeit und die Bemessung der Leistungen verständigen.

## C. ÜBERGANGS- UND SCHLUSSBESTIMMUNGEN.

*Artikel 33.*

(1) Der Artikel 186 des deutsch-polnischen Abkommens über Oberschlesien vom 15. Mai 1922<sup>1</sup> erhält folgenden Abs. 3a :

„Die Bestimmungen des Abs. 3 Satz 1 und 2 gelten auch dann, wenn der Versicherte am Tage des Übergangs der Staatshoheit nicht beschäftigt oder schon gestorben, aber zuletzt vor diesem Tage im polnischen Teile des Abstimmungsgebiets beschäftigt war. Die Bestimmungen des Abs. 3 Satz 3 gelten auch dann, wenn der freiwillig Versicherte am Tage des Übergangs der Staatshoheit schon gestorben war, aber zuletzt vor diesem Tage im polnischen Teile des Abstimmungsgebiets gewohnt hat.“

(2) Die Aufwendungen, die den polnischen Versicherungsträgern aus den Bestimmungen des Abs. 1 erwachsen, werden ihnen zur Hälfte aus der deutschen Invalidenversicherung ersetzt. Ersetzt wird, wenn am Tage des Inkrafttretens dieses Vertrags ein Anspruch auf Rente bestand, die Hälfte des Kapitalwerts der Jahresrente, sonst am Schlusse jedes Kalenderjahres die Hälfte der im Laufe des Jahres fälligen Rentenbeträge. Die Höhe der Rente richtet sich nach den allgemeinen polnischen Vorschriften und die Berechnung des Kapitalwerts nach den Bestimmungen der deutschen Verordnung vom 6. März 1924 (Reichsministerialblatt S. 102). Bei der Berechnung des Kapitalwerts wird von dem Lebensalter ausgegangen, das der Berechtigte am Tage des Inkrafttretens dieses Vertrags hatte. War der Versicherte nach dem 14. Juni 1922 im Gebiete der Republik Polen versichert, so wird für die Berechnung des zu erstattenden Kapitals oder der zu erstattenden Rente nur der Teil der Rente zugrunde gelegt, der dem Verhältnis der vor dem 15. Juni 1922 zurückgelegten Beitragszeit zur gesamten, dem polnischen Versicherungsträger zur Last fallenden Beitragszeit entspricht. Dem polnischen Versicherungsträger gegenüber ist die Landesversicherungsanstalt Schlesien zur Zahlung verpflichtet. Den Ausgleich innerhalb der deutschen Invalidenversicherung regelt die deutsche oberste Verwaltungsbehörde.

(3) Durch diese Vereinbarung werden die Bestimmungen des Artikel 186 Abs. 1 und 2 des obengenannten Abkommens vom 15. Mai 1922 in keinem Falle berührt.

(4) Sind an einen unter Abs. 1 fallenden Berechtigten von einem deutschen Versicherungsträger Leistungen gewährt worden, so kürzt der polnische Versicherungsträger die von ihm für den gleichen Zeitraum zu gewährenden Leistungen entsprechend. Der von der deutschen Invalidenversicherung

<sup>1</sup> Vol. IX, page 465, of this Series.

zu erstattende Kapitalwert mindert sich um den Wert der deutschen Leistungen, soweit sie die polnischen Leistungen nicht übersteigen.

*Artikel 34.*

(1) Der Artikel 12 des deutsch-polnischen Abkommens über die Teilung des Oberschlesischen Knappschaftsvereins vom 26. August 1922<sup>1</sup> erhält folgenden Abs. 4 :

„Abs. 1 gilt entsprechend auch für Anwartschaften der freiwillig versicherten Personen, die niemals knappschaftsversicherungspflichtig waren ; sie werden der Knappschaft zugeteilt, welcher der Betrieb angehört, in dem sie zuletzt beschäftigt waren.“

(2) Der Artikel 13 Abs. 1 des Abkommens vom 26. August 1922 erhält folgenden Zusatz :

„Die Anwartschaften der freiwillig versicherten Personen im Sinne des Artikel 12 Abs. 4 werden nach dem Grundsatz des Artikel 12 Abs. 4 verteilt.“

*Artikel 35.*

(1) Die polnischen Versicherungsträger übernehmen vom 1. Juli 1931 ab die Leistungen der deutschen Unfall-, Invaliden- und Angestelltenversicherung, wenn der Versicherungsfall vor dem 1. Januar 1923 eingetreten war und der Berechtigte am 1. Januar 1931 im Gebiete der Republik Polen wohnte. Das polnische Recht bestimmt den für die Übernahme zuständigen Versicherungsträger. Die Leistungen richten sich vom 1. Juli 1931 ab nach polnischem Rechte.

(2) Die deutschen Versicherungsträger übernehmen vom 1. Juli 1931 ab die Leistungen der polnischen Unfall-, Invaliden- und Angestelltenversicherung, wenn der Versicherungsfall vor dem 1. Januar 1923 eingetreten war und der Berechtigte am 1. Januar 1931 entweder im Gebiete des Deutschen Reiches wohnte oder die deutsche Reichsangehörigkeit besass und ausserhalb des Gebietes der Republik Polen in Europa wohnte. Das deutsche Recht bestimmt den für die Übernahme zuständigen Versicherungsträger. Die Leistungen richten sich vom 1. Juli 1931 ab nach deutschem Rechte.

(3) Der Versicherungsfall, auf Grund dessen ein Versicherter eine Rente bezieht, gilt im Sinne der Abs. 1 und 2 auch als Versicherungsfall für die Hinterbliebenenbezüge. In der Unfallversicherung gilt der Unfall als Versicherungsfall auch für die Hinterbliebenenbezüge. Im übrigen gilt als Versicherungsfall für die Witwen- und Witwerrenten aus der Invalidenversicherung der Eintritt derjenigen Bedingungen in der Person der Witwe (des Witwers), von denen die Gewährung dieser Renten abhängig ist.

(4) Der übernehmende Versicherungsträger erhält von dem bisher zuständigen Versicherungsträger ein dem Werte der Jahresrente entsprechendes Abfindungskapital. Soweit aber Empfänger von Renten der Angestelltenversicherung auf Grund der Bestimmungen der Abs. 1 und 2 übernommen werden, wird ein Abfindungskapital nicht überwiesen. Bei der Berechnung des Kapitalwerts wird von dem Lebensalter ausgegangen, das der Berechtigte am 1. Juli 1931 hatte.

(5) In der Unfallversicherung wird der Betrag der Jahresrente nach einheitlichem Jahresarbeitsverdienst berechnet. Als Jahresarbeitsverdienst gilt in der Gewerbe- und See-Unfallversicherung der Betrag von 1000 Reichsmark, in der landwirtschaftlichen Unfallversicherung der Betrag von 500 Reichsmark. Die Berechnung der Kapitalwerte richtet sich nach der deutschen Verordnung über die Abfindungen für Unfallrenten vom 14. Juni 1926 (Reichsgesetzblatt I. S. 269).

(6) In der Invalidenversicherung gilt als Jahresbetrag für eine Invaliden- oder Altersrente der Betrag von 180 Reichsmark, für eine Witwen- oder Witwerrente der Betrag von 100 Reichsmark,

<sup>1</sup> Vol. XXII, page 63, of this Series.

b) unter welchen Voraussetzungen und in welcher Weise Beitragsrückstände oder andere aus einem Versicherungsverhältnis entstandene Forderungen der Versicherungsträger des einen Staates gegen Schuldner in dem anderen Staate begetrieben werden.

*Artikel 43.*

Die obersten Verwaltungsbehörden beider Staaten werden ermächtigt, die Bestimmungen dieses Vertrags im beiderseitigen Einvernehmen zu ergänzen und abzuändern, insbesondere die Zuständigkeit der Versicherungsgerichte abweichend von den allgemeinen Vorschriften zu regeln.

*Artikel 44.*

Oberste Verwaltungsbehörde im Sinne dieses Vertrags ist auf deutscher Seite der Reichsarbeitsminister, auf polnischer Seite der Minister für Arbeit und Soziale Fürsorge.

*Artikel 45.*

(1) Bei Durchführung dieses Vertrags verkehren die Träger, Behörden und Gerichte der Sozialversicherung beider Staaten miteinander unmittelbar und durch deren Vermittlung die übrigen Verwaltungsbehörden.

(2) Die Träger, Behörden und Gerichte der Sozialversicherung fassen ihre Schreiben in ihrer Amtssprache ab und fügen eine Übersetzung in die Amtssprache des anderen Staates bei.

*Artikel 46.*

(1) Dieser Vertrag findet auch auf die polnischen landwirtschaftlichen Arbeiter und ihre Hinterbliebenen Anwendung. Der deutsch-polnische Vertrag über polnische landwirtschaftliche Arbeiter vom 24. November 1927<sup>1</sup> wird durch diesen Vertrag nicht berührt.

(2) Bei der Anwendung des § 203, des § 586 Nr. 1, der §§ 614, 1302, 1303 der deutschen Reichsversicherungsordnung gilt für einen polnischen landwirtschaftlichen Arbeiter, der nur eine bestimmte Zeit im Gebiete des Deutschen Reichs beschäftigt wird, die häusliche Gemeinschaft, in der er mit seinen Angehörigen im Gebiete der Republik Polen lebt, als nicht unterbrochen, solange sich der Arbeiter im Einklang mit den deutschen Vorschriften im Gebiete des Deutschen Reichs aufhält. Das gleiche gilt bei der Anwendung der entsprechenden polnischen Vorschriften für einen deutschen landwirtschaftlichen Arbeiter, der nur eine bestimmte Zeit im Gebiete der Republik Polen beschäftigt wird.

(3) Die beiden Staaten werden, sobald die Republik Polen für ihr ganzes Gebiet eine Invalidenversicherung für landwirtschaftliche Arbeiter geschaffen haben wird, in Verhandlungen eintreten, um durch Übereinkommen Vorsorge zu treffen, dass auch die polnischen Wanderarbeiter, die keinen Befreiungsschein erhalten, während ihrer Beschäftigung im Gebiete des Deutschen Reichs die Vorteile einer Invalidenversicherung geniessen.

*Artikel 47.*

(1) Meinungsverschiedenheiten, die sich bei der Auslegung oder Anwendung dieses Vertrags, des deutsch-polnischen Abkommens über die Teilung des Oberschlesischen Knappschaftsvereins vom 26. August 1922, des Abschnitts II des deutsch-polnischen Vertrags über polnische landwirtschaftliche Arbeiter vom 24. November 1927 sowie der Artikel 171 bis 206 des deutsch-polnischen Abkommens über Oberschlesien vom 15. Mai 1922 ergeben, werden auf Antrag eines

<sup>1</sup> Vol. XCII, page 19, of this Series.

der beiden Staaten von den obersten Verwaltungsbehörden beider Staaten gemeinsam entschieden. Wenn es nicht möglich ist, auf diesem Wege zu einer Lösung zu kommen, so wird die Streitfrage auf Verlangen auch nur eines der beiden Staaten einem Schiedsgericht unterbreitet.

(2) Das Schiedsgericht entscheidet über die Streitfälle nach den Bestimmungen dieses Vertrags und nötigenfalls in ihrer Ergänzung nach den allgemeinen Grundsätzen von Recht und Billigkeit.

(3) Das Schiedsgericht wird von Fall zu Fall gebildet. Es besteht aus zwei Beisitzern, von denen je einer vom Deutschen Reiche und von der Republik Polen ernannt wird, sowie aus einem Vorsitzenden, der keinem der beiden Staaten angehören darf.

(4) Der Vorsitzende wird von beiden Staaten gemeinschaftlich bestimmt. Falls eine Einigung darüber nicht zustande kommt, werden beide Staaten den Bundespräsidenten der Schweizerischen Eidgenossenschaft bitten, diese Ernennung vorzunehmen.

(5) Jeder Staat bezeichnet einen Stellvertreter des von ihm ernannten Beisitzers.

(6) Ein Stellvertreter des Vorsitzenden wird in derselben Weise ernannt wie der Vorsitzende selbst.

(7) Die Verfahrensordnung wird vom Schiedsgericht festgesetzt. Es wird dabei nach Möglichkeit die Bestimmungen des Haager Abkommens zur friedlichen Erledigung internationaler Streitfälle vom 18. Oktober 1907<sup>1</sup> berücksichtigen.

(8) Die auf Grund dieses Artikels getroffenen Entscheidungen sind endgültig und für die Träger, Behörden und Gerichte der Sozialversicherung beider Staaten sowie für die Beteiligten bindend.

(9) Solange das Verfahren gemäss Abs. 1 bei der obersten Verwaltungsbehörde eines der beiden Staaten oder beim Schiedsgericht anhängig ist, ist ein sonst anhängiges Verfahren auszusetzen. Weicht eine in einem innerstaatlichen Verfahren ergangene Entscheidung von der auf Grund dieses Artikels getroffenen Entscheidung ab, so ist das Verfahren auf Antrag von neuem zu beginnen.

(10) Jeder Staat trägt die Vergütung für die Tätigkeit des von ihm ernannten Beisitzers und seines Stellvertreters sowie die Hälfte der Vergütung für die Tätigkeit des Vorsitzenden und seines Stellvertreters. Die sonstigen Kosten des Verfahrens werden von jedem Staat zur Hälfte getragen.

#### Artikel 48.

(1) Soweit durch diesen Vertrag das Ruhen von Rentenleistungen für die Angehörigen des anderen Staates ausgeschlossen wird, werden die Leistungen gewährt

a) an Berechtigte der knappschaftlichen Pensionsversicherung sowie an Berechtigte, die durch Option die Staatsangehörigkeit des einen Staates verloren und die des anderen Staates erworben haben, mit Wirkung vom 1. Juli 1931,

b) an die übrigen Berechtigten mit Wirkung vom 1. Oktober 1931.

(2) Bei Anwendung der Bestimmungen dieses Vertrags sind auch die Beitragszeiten zu berücksichtigen, die vor dem Inkrafttreten des Vertrags zurückgelegt sind.

(3) Die Bestimmungen des Vertrags gelten auch für Versicherungsfälle, die vor dem Inkrafttreten des Vertrags eingetreten sind.

(4) Soweit nach dem deutsch-polnischen Abkommen über Oberschlesien vom 15. Mai 1922, nach der Entscheidung des Rates des Völkerbundes vom 17. Juli 1922 oder nach dem deutsch-polnischen Abkommen über die Teilung des Oberschlesischen Knappschaftsvereins vom 26. August 1922 unter Berücksichtigung der Bestimmungen des Artikel 40 eine Gesamtversicherungsleistung auf Grund deutscher und polnischer Beitragsleistung festgestellt worden ist, behält es hierbei sein Bewenden; die Bestimmungen dieses Vertrags über die Berechnung der Leistungen für die Fälle der zwischenstaatlichen Wanderversicherung finden insoweit keine Anwendung.

<sup>1</sup> *British and Foreign State Papers*, Vol. 100, page 298.



<sup>1</sup> TRANSLATION.

## No. 3263. — TREATY BETWEEN THE GERMAN REICH AND THE REPUBLIC OF POLAND REGARDING SOCIAL INSURANCE. SIGNED AT BERLIN, JUNE 11, 1931.

THE GERMAN REICH, and THE REPUBLIC OF POLAND have agreed to regulate by treaty their mutual relations in regard to social insurance. For this purpose the following have been appointed as Plenipotentiaries :

By THE PRESIDENT OF THE GERMAN REICH :

Dr. Adolf SIEDLER, Counsellor of Legation at the Ministry of Foreign Affairs ;  
Dr. Johannes KROHN, Ministerial Counsellor and Director of Department at the Ministry of Labour ;

By THE PRESIDENT OF THE POLISH REPUBLIC :

Dr. Witold PRĄDZYŃSKI, Member of the Legal Council and of the Codification Commission of the Polish Republic ;  
M. Izydor WYSŁOUCH, Chief of Section at the Ministry of Labour and Social Welfare.

The Plenipotentiaries, having verified their full powers found in good and due form, have agreed as follows :

## A. GENERAL PROVISIONS.

*Article 1.*

1. This Treaty shall cover the following branches of social insurance in Germany and Poland :

- (1) Sickness insurance,
- (2) Accident insurance,
- (3) Invalidity insurance,
- (4) Salaried employees' insurance,
- (5) Miners' insurance.

2. For the purposes of this Treaty " pension insurance " shall include accident insurance, invalidity insurance, salaried employees' insurance and miners' pension insurance.

*Article 2.*

1. The legislative provisions of the State in whose territory the employment on which insurance is based is carried on shall apply as a rule with respect to the administration of the branches of social insurance specified in Article 1. The following cases shall be exceptions to this rule :

(a) If an employee is sent by an establishment (employer) which (who) has its head office (his domicile) in one State to undertake temporary employment in the territory

<sup>1</sup> Translation of the International Labour Office.

of the other State, the legislative provisions of the State in which the establishment by which he is sent has its head office (the State in which the employer is domiciled) shall apply for a period of one year. The legislative provisions of this State shall also apply to employment which owing to its nature necessitates repeated sojourn in the territory of the other State for periods not exceeding one year on each occasion.

(b) In the case of undertakings in agriculture and forestry which have their head office in the territory of one of the two States but extend into the territory of the other State, the legislative provisions of the State in which the head office of the undertaking is situated shall apply to the insurance of persons employed in the part of the undertaking situated in the other State.

(c) The insurance of employees :

(1) Of public transport undertakings of one State who are employed in the territory of the other State either permanently on junction lines or at frontier stations or temporarily,

(2) Of establishments belonging to the German Federation, the German States, communes or federations of communes, or of establishments belonging to the Republic of Poland or Polish communes or federations of communes, who are employed in the territory of the other State,

shall be governed by the legislative provisions of the State in which is situated the branch of the establishment to which the employee in question is subordinated in respect of questions of employment. In the case of the German Federal Railway Company, the Polish State Railway and the Post Office departments of both States, the situation of their superior administrative department shall be the decisive factor.

A branch office or other permanent organisation set up in one State by an establishment which has its head office in the other State shall also be deemed to be an establishment for the purposes of the provisions under (a) and (c).

(d) In respect of the insurance of employees of the diplomatic services, the regular consular service and other official departments (Customs offices, passport offices, etc.) of one State which have their head offices in the other State, the legislative provisions of the State by which they are employed shall apply, provided that the employees in question are nationals of the State. The same rule shall apply to the insurance of employees of the heads and members or other officials of the departments mentioned above, provided that the employees in question are nationals of the State by which they are employed. Nevertheless, as regards sickness insurance the legislative provisions of the State in which they are employed shall apply if the employer requests this for all the employees mentioned above or for certain categories of them ; such employees shall become members of the sick fund on the date on which it receives the application. In this case membership of the sick fund shall not entail any liability to unemployment insurance.

2. The supreme administrative authorities of the two States may by mutual agreement make other regulations differing from those laid down in No. (1) for individual cases or for a group of cases.

3. If in the case of an establishment which has its head office in one State the legislation of the other State is applicable in accordance with No. (1) or No. (2) to an employment in that State, the employment shall be placed on the same footing as an establishment for the purposes of the said legislation.

4. The application of the legislation provisions of one State in pursuance of No. (1) or No. (2) shall also entail the competence of the social insurance carriers, authorities and courts of that State in connection with the administration of social insurance.

*Article 3.*

1. If a dispute arises in an individual case between social insurance carriers, authorities or courts of the two States as to whether the legislation of one or the other State is applicable, suitable provisional relief shall be granted pending a decision in accordance with Article 47.

2. Relief shall be granted by the following bodies in the order given :

(a) By the insurance carrier with which the claimant has actually been insured ;

(b) By the insurance carrier which was first notified of a claim based on the employment in dispute.

The pension insurance carrier may delegate to a sick fund the administration of the relief for which it is liable.

3. If provisional relief is refused or is not granted to the requisite extent, the supervising authority on receipt of a complaint shall require the insurance carrier to grant provisional relief and shall fix the amount of the benefit ; in case of a dispute between the sick fund and the pension insurance carrier respecting the administration of relief, the supervising authority of the pension insurance carrier shall decide. The supervising authorities shall not have power to require an insurance carrier to grant provisional relief unless it is established that the claim made would be justified under the legislation of both States.

4. The insurance carrier which is ultimately liable shall refund to the insurance carrier which granted provisional relief any expenditure incurred in connection therewith, up to the amount which the debtor insurance carrier is ultimately liable to pay. The debtor insurance carrier may deduct the pecuniary benefit granted from the benefit for which it is liable, up to the whole amount of the arrears (if any) and up to one-half of the sums due for subsequent periods.

*Article 4.*

Each of the two States shall place the nationals of the other State and their surviving dependants on the same footing as its own nationals and their surviving dependants for the purpose of benefits under the branches of social insurance specified in Article 1.

*Article 5.*

1. Subject to the provision laid down in Article 20, claimants who are resident abroad shall receive both the principal benefit and also any bonuses to which they would be entitled if they were living in their own country.

2. The supreme administrative authorities of the two States may agree that the liability for benefit of an insurance carrier in one State shall be taken over by an insurance carrier in the other State in return for payment of an equivalent capital sum.

*Article 6.*

For the purpose of the administration of the legislative provisions of each State respecting the commutation of claims under the pension insurance system, the residence in the other State of a claimant belonging to either of the two States shall not be deemed to be residence abroad. If the consent of the insurance carrier is necessary for residence abroad, such consent shall not be required for residence in the other State.

*Article 7.*

1. In connection with the administration of the branches of social insurance specified in Article 1, the social insurance carriers, authorities and courts, and through them the other administrative authorities of each State, shall give the social insurance carriers, authorities and courts and the other administrative authorities of the other State administrative assistance to the same extent as in connection with the administration of their own social insurance.

2. The insurance carriers of each State shall on request verify the continuance of the right to benefit of persons who receive benefit from an insurance carrier of the other State, and shall also make provision for medical examinations, in the same manner as in connection with the administration of the social insurance system of their own State. Any actual expenses incurred shall be defrayed by the insurance carrier which makes the request.

3. Insurance carriers of either State may conclude an agreement with insurance carriers of the other State to provide that the obligation to give notice in pursuance of the legislation of one State may be fulfilled by the giving of notice to an insurance carrier of the other State. The agreement shall be subject to the approval of the supreme administrative authorities of both States.

4. The social insurance carriers, authorities and courts and the other administrative authorities shall make the enquiries necessary for the elucidation of the facts to the same extent as in connection with the administration of their own social insurance system, even acting *ex officio* in urgent cases.

5. With regard to the amount of the reimbursement for expenditure on administrative assistance, the regulations of the State to which the body giving the assistance belongs shall apply.

6. In connection with the administration of the branches of social insurance specified in Article 1 the courts shall give each other legal assistance in conformity with the provisions in force for civil and commercial cases.

*Article 8.*

Claims for reimbursement under Article 3, No. (4), Article 7, Nos. (2) and (5), Article 15, No. (7), Article 25, No. (2), and Article 26, No. (5), shall mature at the date of the termination of the official proceedings which have given rise to the expenditure, unless an agreement to the contrary has been concluded by the authorities concerned. The said claims shall be paid within a month of their notification, in the currency in which they were incurred. In case of delay, interest at 4 % shall be paid from the date of maturity.

*Article 9.*

If contributions have been paid to an insurance carrier of one State although they should have been paid to an insurance carrier of the other State, they shall be transmitted to the competent insurance carrier. The contributions shall be deemed to have been paid to the competent insurance carrier on the date on which they were actually paid. If there are contribution classes, the contributions transmitted shall be apportioned to the individual classes in the manner which is most favourable to the insured person.

*Article 10.*

For the purpose of the calculation of sums expressed in the currency of the other State, the sum in question shall be converted (subject to the provisions of Article 28) on the basis of the relation between the two currencies as quoted on the Stock Exchange of the capital of the State in whose currency it is expressed.

*Article 11.*

1. The consuls of both States shall have power without any special authorisation to represent claimants belonging to their State before all social insurance carriers, authorities and courts of the other State. They shall be entitled to take part in the proceedings to the same extent as the parties concerned.

2. The result of any enquiry carried out in either State which relates to an accident sustained by a national of the other State shall be communicated forthwith by the authority which conducted the enquiry to the consul of the other State who is competent for the seat of the said authority.

*Article 12.*

1. Applications submitted by nationals of either State to the social insurance carriers, authorities and courts of the other State shall not be disallowed because they are drawn up in the language of the former State.

2. Pension receipts, identity certificates and other official documents requisite for claiming or drawing social insurance benefits of either State shall not be disallowed because they are drawn up in the official language of the other State.

3. Communications from the social insurance carriers, authorities and courts of either State to nationals of the other State shall be drawn up in the official language of the former State. A translation into the official language of the other State shall be attached, unless the communication is a reply to an application sent in the official language of the former State.

*Article 13.*

1. In matters connected with the branches of social insurance specified in Article 1, the statutory time-limits for the lodgment of appeals shall be deemed to have been observed if the appeal has been lodged in due time with an authority or court or an administrative body of a social insurance carrier of the other State. In such cases the document embodying the appeal shall be transmitted at once :

To the German Federal Insurance Office if a German authority is competent to decide respecting the appeal, and

To the Polish Ministry of Labour and Social Welfare if a Polish authority is competent to decide.

2. The document embodying the appeal may also be transmitted directly to the authority competent to decide respecting the appeal.

*Article 14.*

The provisions in force in each State for the administration of its own social insurance system in respect of exemptions or reductions in connection with stamp duty or other fees shall apply in the same manner to the administration of the social insurance system of the other State.

## B. SPECIAL PROVISIONS.

## I. SICKNESS INSURANCE.

*Article 15.*

1. The legislative provisions respecting suspension of benefit and commutation of claims shall not apply in relations between adjacent frontier districts of the two States.

2. If an insured person leaves the insurance system owing to unemployment, he shall retain his right to ordinary benefit from his sick fund even if he is resident in the adjacent frontier district of the other State, provided that he fulfils the other statutory conditions. The period of insurance completed by him with sick funds in the adjacent frontier district of the other State during the twelve months immediately preceding the cessation of insurance shall be included in the insurance period which under the law is a condition of the right to ordinary benefit from the fund.

3. If an insured person in receipt of benefit from a fund is transferred to a sick fund of the adjacent frontier district, the taking-over fund shall pay the subsequent benefit, taking into account the duration of the benefit already paid.

4. If an insured person leaves an employment liable to insurance, he shall be entitled to continue his insurance even if he is resident in the adjacent frontier district of the other State, provided that he fulfils the other statutory conditions. The period of insurance completed by him with sick funds in the adjacent frontier district of one State during the twelve months immediately preceding his leaving the employment shall be included in the period of insurance which under the law of the other State is a condition of the right to continued insurance.

5. For the purposes of this Article the area of the sick fund of the other State which has a common frontier with the area of the sick fund competent for the payment of benefit or for continued insurance shall be deemed to be an adjacent frontier district. In the case of an establishment sick fund of either State, the adjacent frontier district shall mean the area of the local or State sick fund (district sick fund) of the other State which has a common frontier with the area of the local or State sick fund (district sick fund) in which the establishment in question is situated.

6. In addition, the supreme administrative authorities of the two States shall come to an agreement respecting any other territory which must be deemed to be a frontier district for the purposes of this Article. As a rule adjacent districts between which there is a constant movement of labour shall be declared to be frontier districts.

7. In case of residence in a frontier district, the sick fund liable for benefit may pay the benefit itself. In this case, if it grants benefit in kind, it shall be entitled to the same privileges and reductions (with regard to expenditure for treatment in a hospital or curative establishment, cost of medicaments, etc.) as the sick funds of the other State. It may also request a sick fund of the other State to pay the benefit. The sick fund to which the request is made shall pay the benefit in conformity with the rules applicable to the fund making the request. The moneys actually expended by the sick fund to which the request was made shall be refunded to it; expenditure on benefit in kind shall be refunded in conformity with the scales employed with regard to its own claimants by the fund to which the request was made. The sick funds concerned or their federations may arrange further details by agreement.

8. The sick funds shall have power to conclude special agreements fixing the frontier districts within the limits of which family benefit is to be granted.

*Article 16.*

1. If an insured person falls ill in the other State outside the adjacent frontier district (Article 15, Nos (5) and (6)), he shall be entitled to the benefit due to him from his fund so long

as he is unable owing to his condition to return to the territory of the State in which his sick fund has its office.

2. The national regulations of each State shall decide whether the benefit is to be paid directly by the fund or in the first instance through the employer. The funds concerned or their federations may conclude agreements respecting mutual assistance.

## II. ACCIDENT INSURANCE.

### *Article 17.*

If an accident which has occurred in either State is covered by the accident insurance laws of the other State, the provisions of the said laws shall also apply with respect to other claims for compensation made under the laws of the first State on account of the accident ; this rule shall also apply in cases where an establishment is subject to the accident insurance legislation of only one of the two States.

### *Article 18.*

The relief in case of accident which is substituted for accident insurance in the case of public employees shall also be deemed to be accident insurance for the purpose of this Treaty. This rule shall also apply to the relief in case of accident which is substituted for accident insurance in the case of employees of the Polish Railways.

## III. INVALIDITY INSURANCE.

### *Article 19.*

1. If invalidity insurance contributions have been paid in respect of an insured person in both States, the contribution periods (in so far as they are not concurrent) shall be added together for the purposes of the maintenance or revival of the qualification for benefit and for the completion of the qualifying period.

2. Periods of service performed during the World War in combatant, sanitary or similar units of the German Empire or a State allied or friendly to it shall be credited by the German insurance carriers for the purpose of the maintenance of the qualification for benefit or for the completion of the qualifying period, even in the case of qualifications which have been transferred to Polish insurance carriers.

3. Periods during which the person concerned has been in receipt of a pension from either State shall be credited as substitute periods for the maintenance of the qualifying period in the other State also if receipt of an equivalent pension would serve to maintain the qualification for benefit in that State.

4. On the occurrence of an event giving rise to benefit, the insurance carriers of both States shall grant the benefits to which the person concerned is entitled under their respective national provisions, taking into account the provisions of Nos. (1)-(3) of this Article and the provisions of Articles 4, 5 and 6. Nevertheless only that fraction of the basic amount, the children's bonus and the Federal (State) subsidy shall be paid which corresponds to the ratio between the contribution period in the State in question and the total duration of the contribution periods completed in the two States ; this reduction shall not be made :

(a) If the number of contribution weeks completed in one of the two States does not exceed twenty-six ;

(b) If a qualification has been acquired in one State independently of the provisions laid down in Nos. (1)-(3) and a qualification has not been acquired in the other State even taking into consideration the provisions laid down in Nos. (1)-(3).

In the case specified under (a) a claim to a pension shall not lie against the insurance carrier of the State in which not more than twenty-six weeks have been completed.

5. For the purpose of the application of the preceding provisions to the old-age pension within the area of the *Ubezpieczalnia Krajowa* (National Insurance Fund), "increment" shall be deemed to mean the following amounts :

in class	I	1 gr. a week
» »	II	2 gr. »
» »	III	4 gr. »
» »	IV	6 gr. »
» »	V	8 gr. »

" Basic amount " shall mean :

in class	I	58 zloty
» »	II	86 »
» »	III	92 »
» »	IV	108 »
» »	V	124 »

The corresponding average shall apply with respect to contributions in different wage classes.

#### Article 20.

Each of the two States shall have the right to suspend payment of the Federal (State) subsidy to nationals of the other State if such nationals sojourn outside the territory of the State which is paying the pension.

#### Article 21.

If a person insured under the legislation of one State leaves the territory of the States in which he has hitherto been insured, he may continue his insurance as continued insurance with the insurance carrier of either of the two States. The admissibility and administration of voluntary continued insurance shall be governed by the legislation of the State with whose insurance carrier the insurance is voluntarily continued. Contribution periods completed in both States shall be added together in the investigation of the admissibility of voluntary continued insurance. Voluntary continued insurance in one State shall not be precluded because the insured person is liable to insurance in the other State.

#### Article 22.

Invalidity, widows' and widowers' pensions payable in pursuance of Article 19 which are less than 5 Reichsmarks or 5 zloty a month and orphans' pensions which are less than 3 Reichsmarks or 3 zloty a month may be commuted for their capital value. They shall be commuted if the beneficiary so requests.

### IV. SALARIED EMPLOYEES' INSURANCE.

#### Article 23.

1. The provisions respecting invalidity insurance shall apply to salaried employees' insurance, *mutatis mutandis*, provided that under the Polish salaried employees' insurance system the basic amount shall be half the statutory basic amount and the increment for each of the first ten years of insurance shall be one-twentieth of the statutory basic amount. Only that fraction of the Polish



minimum pension shall be paid which corresponds to the ratio between the Polish contribution period and the total duration of the contribution periods completed in both States.

2. The Polish-German Agreement of July 14, 1927, respecting relief for the unemployed and unemployment insurance shall apply to the unemployment insurance of salaried employees, in conformity with Polish legislation respecting the insurance of salaried employees.

#### V. MINERS' INSURANCE.

##### Article 24.

1. The general provisions and the special provisions of this Treaty respecting sickness and invalidity insurance shall apply to the sickness and invalidity insurance of persons insured with miners' benefit societies.

2. Insurance carriers shall grant family benefit under the sickness insurance system to claimants resident in the frontier territory (Article 15, Nos. (5) and (6)). The provisions of Article 15, No. (7), shall apply, *mutatis mutandis*.

##### Article 25.

1. If a beneficiary who is in receipt of a pension from a miners' insurance carrier of one State is resident in the district of a miners' insurance carrier of the other State, the compulsory medical benefit shall be granted to him if he resides in the area of a miners' benefit society which has a common frontier with a miners' benefit society of the other State.

2. The insurance carrier which is liable for benefit may request the insurance carrier of the other State to grant medical benefit. The insurance carrier to which the request is made shall grant benefit under the conditions applicable to its own beneficiaries. The expenses actually incurred shall be refunded to it.

3. The insurance carriers of the two States may conclude agreements respecting the grant of optional benefit under the pension insurance system.

##### Article 26.

1. If an insured person has completed contribution months with a wage-earning employees' pension fund in both States, the said contribution months shall be added together for the maintenance of the qualification for benefit and for the completion of the general qualifying period. For the purpose of calculating the percentage of the increments, the contribution periods completed in both States shall be credited as a single contribution period. Nevertheless, only periods for which contributions have actually been paid shall be reckoned as contribution months. Article 19, No. (2), shall apply, *mutatis mutandis*. The receipt of an invalidity or old-age pension in one State shall be deemed to be a substitute period for the purpose of the maintenance of the qualification for benefit in the other State also.

2. For the purposes of the qualifying period for the old-age pension (sections 36 and 58 of the Federal Miners' Benefit Societies Act) only periods of service completed in the country of which the person concerned is a national shall be taken into account.

3. On the occurrence of an event giving rise to benefit, the pension insurance carriers of both States shall grant the benefit to which the person concerned is entitled under the respective national provisions, taking into consideration the provisions of Nos. (1) and (2) of this Article, and the provisions of Articles 4, 5 and 6. Nevertheless, only that fraction of the basic amount,

the children's bonus, the Polish minimum pension and the Polish orphans' bonus shall be paid which corresponds to the ratio between the contribution period in the State concerned and the total duration of the contribution periods completed in both States.

4. The insurance carrier of either State shall be exempted from liability for benefit if contributions have not been paid in respect of the insured person for at least twelve months in that State.

5. Medical benefit shall be granted by the insurance carrier of the State in which the beneficiary habitually resides. The insurance carrier of the other State shall refund its share of the expenses in the proportion specified in the second sentence of No. (3) to the insurance carrier of the first State. The insurance carriers may conclude more detailed agreements.

6. After the cessation of liability to insurance, the qualification under the insurance system of one State shall not be deemed to be maintained by the payment of recognition fees to the miners' pension insurance carrier of the other State. Nevertheless, during periods of involuntary unemployment, the payment of recognition fees shall not be an obligation towards any insurance carrier but that with which the insured person was last insured. In this case the payment of recognition fees to the insurance carrier of one State shall serve to maintain the qualification for benefit with the insurance carrier of the other State.

7. A qualification for benefit which has lapsed shall be revived in both States if contributions are paid for the insured person for not less than thirty-six months in one of the two States or in both States together in respect of an employment liable to insurance.

8. If contributions have been paid both to the German salaried employees' pension fund and to the Polish wage-earning employees' pension fund, Nos. (1)-(7) shall apply, *mutatis mutandis*. The benefit shall be paid by the German Federal Miners' Benefit Society from the pension fund to which the insured person belonged on the occurrence of the event giving rise to benefit; nevertheless, the basic amount of the salaried employees' pension fund shall not be paid unless the insured person has paid at least thirty-six contributions to the salaried employees' pension fund.

9. If contributions have been paid both to the German salaried employees' pension fund and to the Polish salaried employees' insurance system, Nos. (1)-(7) shall apply, *mutatis mutandis*, provided that two months' contributions to the Polish salaried employees' insurance system shall be deemed to be equivalent to one contribution month in the German salaried employees' pension fund.

10. The provisions of this Article shall also apply to contribution periods completed before January 1, 1924, in German miners' benefit societies (*Knappschaftsvereine*) taken over by the Federal Miners' Benefit Society. The Federal Miners' Benefit Society shall decide respecting the jurisdiction of the district miners' benefit societies.

11. If contribution months have been completed in two or more district miners' benefit societies or in formerly existing German miners' benefit societies taken over by the Federal Miners' Benefit Society, the Federal Miners' Benefit Society shall decide respecting the jurisdiction of the district miners' benefit societies.

12. The provisions of this Treaty respecting miners' insurance shall apply to insurance with Polish miners' benefit societies, *mutatis mutandis*, provided that the whole pension shall be deemed to be the basic amount in insurance with miners' benefit societies.

## VI. GENERAL PROVISIONS CONCERNING INSURANCE VARYING BETWEEN THE TWO STATES.

### Article 27.

1. Contribution periods completed under the Polish invalidity insurance system shall be taken into account for the maintenance of the qualification for benefit under the German salaried

employees' insurance system in the same manner as if the said contribution periods had been completed under the German invalidity insurance system. The contribution periods completed under the German invalidity insurance system shall be taken into account for the maintenance of the qualification for benefit under the Polish salaried employees' insurance system.

2. Contribution periods completed under the Polish salaried employees' insurance system shall be taken into account for the maintenance of the qualification for benefit under the German invalidity insurance system in the same manner as if these contribution periods had been completed under the German salaried employees' insurance system, and *vice versa*.

*Article 28.*

If the total amount of the pensions assessed in conformity with Articles 19-27 — including the Federal or State subsidy — is less than the pension which would be due to the beneficiary in one of the two States alone under its national provisions on the basis of the contribution periods completed in that State, the insurance carrier of that State shall increase the pension payable by it by the amount of the difference. The comparison shall be based on the relation between the two currencies as quoted on the Stock Exchange of the capital of the State to which the insurance carrier belongs; the rate of exchange on the first day of the calendar quarter in which the individual pensions are allocated shall be taken as the standard.

*Article 29.*

If a pension is reduced or suspended in conformity with the legislation of either State on account of another pension, the corresponding German and Polish pensions shall be deemed to be the equivalent.

*Article 30.*

1. The insurance carriers of the two States shall assess the benefits to be granted by them and shall issue an award in the matter. If contributions have been paid in both States, the competent insurance carrier of the other State shall previously be given an opportunity of expressing its opinion.

2. If a claim is justified under the legislation of either State even independently of the provisions of this Treaty, provisional benefit shall be granted; provisional benefit may also be granted in other cases.

3. If contributions have been paid to insurance carriers in both States and the claimant is resident in the territory of the Republic of Poland, the following institutions shall be competent:

(a) For claims under the German invalidity insurance system, the Silesian State Insurance Institution, except in the case of claims against the Federal Miners' Benefit Society;

(b) For claims against the Federal Miners' Benefit Society, the Upper Silesian *Knappschaft* (miners' benefit society).

*Article 31.*

If an insurance carrier has assessed any benefit and contributions have been paid before or after such assessment which have not been taken into account in the assessment of the benefit, the said benefit shall be reassessed on the basis of the provisions of the Treaty, even if the prerequisite conditions for the benefit have already been satisfied by the contribution periods in the State concerned. On such reassessment the earlier award shall become inoperative.

## Article 32.

If either of the two States concludes or has already concluded a Treaty respecting social insurance with a third State, the two supreme administrative authorities shall together examine the question whether contribution periods completed in the third State shall be taken into account for the maintenance of the qualification for benefit, the completion of the qualifying period and the assessment of benefit.

## C. TRANSITIONAL AND FINAL PROVISIONS.

## Article 33.

1. A new number (3 a) to read as follows shall be added to Article 186 of the Germano-Polish Convention of May 15, 1922, relating to Upper Silesia :

“ The provisions of the first and second sentences of No. (3) shall apply even if the insured person was not employed or was already deceased on the date of the transference of national sovereignty, provided that this last employment prior to that date took place in the Polish part of the plebiscite territory. The provisions of the third sentence of No. (3) shall apply if the voluntarily insured person was already deceased on the date of the transference of national sovereignty, but his last domicile before that date had been in the Polish part of the plebiscite territory. ”

2. Half of the expenses incurred by Polish insurance carriers under the provisions of No. (1) of this Article shall be refunded to them by the German invalidity insurance system. Half of the capital value of the annual pension shall be refunded in cases where the right to a pension existed at the date of the coming into operation of this Treaty ; in other cases half of the pension instalments due during each calendar year shall be refunded at the end of the year. The amount of the pensions shall be assessed in conformity with the general Polish provisions, and the capital value calculated in conformity with the provisions of the German Order of March 6, 1924 (*Reichsministerialblatt*, page 102). The calculation of the capital value shall be based on the age of the beneficiary on the date of the coming into operation of this Treaty. If the insured person was insured in the territory of the Republic of Poland after June 14, 1922, only the fraction of the pension corresponding to the ratio between the contribution period completed before June 15, 1922, and the total contribution period for which the Polish insurance carrier is liable shall be taken into account in the calculation of the capital or pension to be paid. The Silesian State Insurance Institution shall be liable for the payment to the Polish insurance carrier. Settlement within the German invalidity insurance system shall be effected by the German supreme administrative authority.

3. This arrangement shall not in any case affect the provisions of Article 186, Nos. (1) and (2), of the above-mentioned Convention of May 15, 1922.

4. If benefit has been granted by a German insurance carrier to a claimant covered by No. (1), the Polish insurance carrier shall reduce proportionately the benefit for which it is liable for the same period. The capital value to be refunded by the German invalidity insurance system shall be reduced by the value of the German benefit, provided that the German benefit does not exceed the Polish benefit.

## Article 34.

1. A new No. (4) to read as follows shall be added to Article 12 of the Germano-Polish Agreement of August 26, 1922, regarding the division of the Upper Silesian Miners' Benefit Society :

“ No. (1) shall apply, *mutatis mutandis*, to the qualification for benefit of voluntarily insured persons who have never been liable to miners' insurance ; such persons shall be

allocated to the miners' benefit society to which the establishment in which they were last employed belongs."

2. The following sentence shall be added to No. (1) of Article 13 of the Agreement of August 26, 1922 :

"The qualification for benefit of voluntarily insured persons within the meaning of Article 12, No. (4), shall be apportioned in conformity with the principle laid down in Article 12, No. (4)."

#### Article 35.

1. As from July 1, 1931, the Polish insurance carriers shall take over the payment of benefit under the German accident, invalidity and salaried employees' insurance systems in cases where the event giving rise to benefit occurred before January 1, 1923, and the beneficiary was resident in the territory of the Republic of Poland on January 1, 1931. The insurance carriers competent to take over the payment shall be selected according to Polish legislation. Benefit shall be assessed as from July 1, 1931, in conformity with Polish legislation.

2. As from July 1, 1931, the German insurance carriers shall take over the payment of benefit under the Polish accident, invalidity and salaried employees' insurance systems in cases where the event giving rise to insurance occurred before January 1, 1923, and the beneficiary on January 1, 1931, either was resident in the territory of the German Federation or possessed German nationality and was resident in Europe outside the territory of the Republic of Poland. The insurance carrier competent to take over the payment shall be selected according to German legislation. Benefit shall be assessed as from July 1, 1931, in conformity with German legislation.

3. For the purposes of Nos. (1) and (2), an event giving rise to benefit in pursuance of which an insured person receives a pension shall be deemed to be an event giving rise to benefit for the purposes of the payment of benefit to surviving dependants. Under the accident insurance system an accident shall be deemed to be an event giving rise to benefit for the purposes of the payment of benefits to surviving dependants also. In other cases the presence of the conditions inherent in the person of a widow or widower which are requisite for the grant of a widow's or widower's pension shall be deemed to be an event giving rise to benefit for the purpose of widows' and widowers' pensions under the invalidity insurance system.

4. The insurance carrier taking over the payment of benefit shall receive from the insurance carrier previously competent a capital sum corresponding to the value of the annual pension. Nevertheless, if recipients of pensions under the salaried employees' insurance system have been taken over in pursuance of the provisions of Nos. (1) and (2), a capital sum shall not be transferred. The calculation of the capital value shall be based on the age of the beneficiary on July 1, 1931.

5. Under the accident insurance system, the amount of the annual pension shall be calculated according to uniform annual earnings. The annual earnings shall be deemed to be one thousand Reichsmarks for the purposes of industrial and seamen's accident insurance and five hundred Reichsmarks for the purposes of agricultural accident insurance. The calculation of the capital value shall be based on the German Order of June 14, 1926, respecting the commutation of accident pensions (*Reichsgesetzblatt*, I, page 269).

6. For the purposes of the invalidity insurance system, the annual amount of the invalidity or old-age pension, widow's or widower's pension and orphan's pension shall be deemed to be one hundred and eighty Reichsmarks, one hundred Reichsmarks and fifty Reichsmarks respectively. The calculation of the capital value shall be based on the German Order of March 6, 1924 (*Reichsministerialblatt*, page 102), respecting the capital value of pensions under the invalidity insurance system.

7. If a pension is reduced or suspended on account of its concurrence with another pension, or if the transference relates only to a fraction of a pension, only half of the capital value shall be repaid.

8. Children's bonuses shall not be taken into account in the commutation.

9. If a German insurance carrier is required to take over claims covered by Article 33, the capital payable by the Polish insurance carrier by way of commutation shall be reduced by the amount which the German insurance carrier would be liable to pay to the Polish insurance carrier in pursuance of Article 33.

10. The benefits taken over shall be subject to the provisions of this Treaty.

11. The following shall be excepted from the transference provided for in No. (1) :

- (1) The claims of beneficiaries who have become Polish citizens by option ;
- (2) The claims of Polish agricultural workers and their surviving dependants against German insurance carriers ;
- (3) Claims against the Silesian State Insurance Institution, if the claimant was resident in the territory of the province of Silesia on January 1, 1931 ;
- (4) Other claims in cases where the pension was actually paid on January 1, 1931, or subsequently.

12. If benefit has been granted by the transferring insurance carrier for the period after June 30, 1931, to a beneficiary covered by No. (1) or No. (2), the taking-over insurance carrier shall reduce the benefit for which it is liable for the same period. The capital value to be repaid by the transferring insurance carrier shall be reduced by the value of the benefit granted by it, provided that such benefit does not exceed the benefit payable by the taking-over insurance carrier.

#### *Article 36.*

The sums to be transferred in conformity with Article 5, No. (2), Article 33 and Article 35 shall be paid not more than six months after notification of the claim, and with interest at four per cent in case of delay.

#### *Article 37.*

If benefit under the pension insurance system is payable in conformity with Article 48, No. (1), for a period prior to the coming into operation of this Treaty and has not yet been paid on the coming into operation of the Treaty, it shall be paid through an insurance carrier of the State of which the beneficiary is a national. The supreme administrative authority of that State shall designate the competent insurance carrier and shall communicate the designation to the supreme administrative authority of the other State. If a relief system has been instituted in the State of which the beneficiary is a national, the supreme administrative authority of that State may decide whether and to what extent the relief shall be replaced by the insurance benefit due to the beneficiary.

#### *Article 38.*

1. If insured persons have allowed their qualifications for benefit under the invalidity, salaried employees' or miners' pension insurance system of one State to lapse during the period subsequent to November 1, 1918, when they were resident in the territory now belonging to the other State, the said qualifications shall be revived on application with effect for the period down to the date of the coming into operation of this Treaty, without the necessity of the payment of contributions or recognition fees for the period which has elapsed. The application shall not be admissible if made more than one year after the coming into operation of this Treaty.

2. No. (1) shall not apply to qualifications for benefit which lapsed before June 15, 1922, while the insured person was resident in the Upper Silesian plebiscite territory.

3. If an application for benefit can be made at the same time as the application for the revival of the qualification for benefit, the decision on both applications shall be taken simultaneously ; if not, a special award shall be issued. In the latter case the following bodies shall decide respecting the application :

In Germany,

The Silesian State Insurance Institution or the Federal Miners' Benefit Society in respect of qualifications for benefit under the German invalidity insurance system, and in other cases the Federal Insurance Institution for Salaried Employees, or the Federal Miners' Benefit Society ;

In Poland,

The *Ubezpieczalnia Krajowa* (National Insurance Fund) in respect of qualifications for benefit under the invalidity insurance system in the provinces of Poznań and Pomorze, the Invalidity Insurance Institution (*Zakład Ubezpieczenia na wypadek inwalidztwa*) in respect of qualifications for benefit under the invalidity insurance system in the province of Silesia, and in other matters the *Spółka Bracka* (Miners' Benefit Society) and the institution designated by the Federation of Insurance Institutions for Intellectual Workers (*Związek Zakładów Ubezpieczeń Pracowników Umysłowych*).

4. The award shall be communicated to the applicant ; for the purposes of appeals it shall be deemed to be equivalent to an assessment award.

5. If more comprehensive agreements have been concluded between the Federal Miners' Benefit Society and the Polish miners' benefit societies in the province of Silesia concerning the maintenance of qualifications for benefit, such agreements shall continue to apply with respect to the past.

6. The supreme administrative authorities of the two States may by mutual agreement order a revival of qualifications for benefit which have lapsed in cases other than those provided for in this Treaty. The supreme administrative authority of either State may order the revival of qualifications for benefit in individual cases.

7. If benefit is granted in pursuance of this Article, arrears shall not be paid in respect of any period prior to the coming into operation of this Treaty.

8. Even if a qualification for benefit is revived or can be revived in conformity with the provisions of this Article, voluntary contributions may be paid retrospectively for the period between January 1, 1924, and the date of the coming into operation of this Treaty, irrespective of the time-limits fixed by the legislation of the State concerned. Such retrospective payment shall not be admissible after the lapse of a year from the date of the coming into operation of the Treaty. The general conditions for the admissibility of voluntarily continued insurance shall remain unaffected.

9. For the purposes of the settlement in pursuance of No. (1), a Polish insurance carrier to be designated by the Polish supreme administrative authority shall transfer to the German supreme administrative authority the sum of 500,000 Reichsmarks. This sum shall be paid without interest in five annual instalments of 100,000 Reichsmarks each. The first annual instalment shall be due at the end of the calendar year in which this Treaty comes into operation. The further annual instalments shall be due at the end of each of the next four calendar years. The insurance carrier designated by the Polish supreme administrative authority shall be liable for payment to the German supreme administrative authority. The settlement within the Polish social insurance system shall be regulated by the Polish supreme administrative authority. The German supreme administrative authority shall issue detailed regulations respecting the utilisation of the sums transferred.

#### Article 39.

If a national of either State who has paid contributions under the German invalidity insurance system removes his residence to a part of the Republic of Poland for which an invalidity insurance

system has not yet been instituted, the qualifications for benefit current at the date of the coming into operation of this Treaty shall be deemed to be maintained until the expiry of one year after the coming into operation of the Treaty, without prejudice to any further rights with respect to the maintenance of qualifications for benefit in pursuance of the legislation of either State.

*Article 40.*

1. The provisions of Article 190, No. (2), and Article 198, No. (2), of the Germano-Polish Convention of May 15, 1922, relating to Upper Silesia are hereby repealed.

2. The provisions of Article 177, Nos (1) and (2), Article 188, Nos. (2) and (3), Article 191 and Article 192 of the Convention mentioned in No. (1) shall be deemed to have been repealed on December 31, 1922, the provisions of Article 184, Nos. (1) and (2), on February 25, 1923, and the provisions of Article 197, No. (2), and Articles 199 and 200 on October 31, 1922.

3. The provisions of Article 179, No. (2), Article 186, No. (4), and Article 196, No. (3), of the Convention mentioned in No. (1) are hereby repealed.

4. The provisions of Article 188, No. (1), and Article 194 of the Convention mentioned in No. (1) shall be deemed to have been repealed on December 31, 1922, and the provisions of Article 197 and Article 202 on October 31, 1922.

5. The thirty-first day of December, 1923, shall be deemed to be the day on and after which the right of transference from a German miners' benefit society to a Polish miners' benefit society and *vice versa*, as specified in Article 27 of the Germano-Polish Agreement of August 26, 1922, regarding the division of the Upper Silesian Miners' Benefit Society, shall be deemed to have expired.

6. Both Parties shall waive the right to any transference of capital sums as provided in Articles 184, 188, 191, 192, 194, 197, 199, 200 and 202 of the Convention specified in No. (1) regarding Upper Silesia.

7. The provisions of Article 15, Nos. (1) and (2), and Article 26, Nos. (2) and (3), of the Germano-Polish Agreement of August 26, 1922, regarding the division of the Upper Silesian Miners' Benefit Society, are hereby repealed.

8. Deductions shall not be made by the insurance carriers of the two States with respect to benefit due for the period before the dates fixed in Article 48, No. (1), for the beginning of the payment of pensions.

*Article 41.*

1. Regulations for the carrying out of this Treaty shall be issued by each of the two States independently in so far as is necessary for its territory, either by the supreme administrative authority or by the authority appointed by it.

2. The regulations thus issued by each State shall be communicated to the supreme administrative authority of the other State.

*Article 42.*

The supreme administrative authorities of the two States shall come to an agreement respecting :

(a) The manner in which communications and payments in connection with the administration of the social insurance system of each State may be effected in the territory of the other State as simply as possible and with the least possible expense ;

(b) The conditions under which and the manner in which arrears of contributions or other claims arising out of insurance which are brought by an insurance carrier of one State against a debtor in the other State may be recovered.



*Article 43.*

The supreme administrative authorities of both States shall have power to supplement and amend the provisions of this Treaty by mutual agreement, and in particular to regulate the competence of the insurance courts otherwise than as laid down in the general provisions.

*Article 44.*

The supreme administrative authority for the purposes of this Treaty shall be in Germany the Federal Minister of Labour and in Poland the Minister of Labour and Social Welfare.

*Article 45.*

1. The social insurance carriers, authorities and courts of the two States shall communicate with one another directly, and the other administrative authorities shall communicate through them, in connection with the carrying out of this Treaty.

2. The social insurance carriers, authorities and courts shall draw up their communications in their own official language, and shall attach a translation into the official language of the other State.

*Article 46.*

1. This Treaty shall apply also to Polish agricultural workers and their surviving dependants. The Germano-Polish Treaty of November 24, 1927, respecting Polish agricultural workers, shall not be affected by this Treaty.

2. For the purposes of sections 203, 586, No. (1), 614, 1302 and 1303 of the German Federal Insurance Code, a Polish agricultural worker who is employed only for a specified period in the territory of the German Federation shall not be deemed to have ceased to live in the same household as the members of his family in the territory of the Republic of Poland so long as the said worker remains in the territory of the German Federation in conformity with the German provisions. The same rule shall apply to the application of the corresponding Polish provisions with respect to a German agricultural worker who is employed only for a specified period in the territory of the Republic of Poland.

3. As soon as the Republic of Poland has instituted a system of invalidity insurance for agricultural workers for the whole of its territory, the two States shall open negotiations with a view to concluding an agreement to provide that Polish migrant workers who are not provided with a certificate of exemption shall enjoy the advantages of invalidity insurance during their employment in the territory of the German Federation.

*Article 47.*

1. Differences of opinion which arise with respect to the interpretation or administration of this Treaty, the Germano-Polish Agreement of August 26, 1922, regarding the division of the Upper Silesian Miners' Benefit Society, Division II of the Germano-Polish Treaty of November 24, 1927, respecting Polish agricultural workers, and Articles 171-206 of the Germano-Polish Convention of May 15, 1922, relating to Upper Silesia, shall be settled at the request of either State by the supreme administrative authorities of both States jointly. If it is impossible to settle the difference in this manner, the question in dispute shall be submitted to an arbitration board even at the request of only one of the two States.

2. The decisions of the arbitration board respecting disputes shall be given in conformity with the provisions of this Treaty, and if necessary by way of supplement thereto in conformity with the general principles of law and equity.

3. The arbitration board shall be constituted for each individual case. It shall consist of two assessors, one of whom shall be appointed by the German Federation and the other by the Republic of Poland, and a chairman who shall not be a national of either of the two States.

4. The chairman shall be appointed jointly by the two States. In case of failure to come to an agreement in the matter, the two States shall request the President of the Swiss Confederation to make the appointment.

5. Each State shall appoint a substitute for the assessor nominated by it.

6. A vice-chairman shall be appointed in the same manner as the chairman.

7. The standing orders shall be drawn up by the arbitration board. In this connection the provisions of the Hague Convention of October 18, 1907, for the peaceful settlement of international disputes shall be observed as far as possible.

8. Awards issued in pursuance of this Article shall be definitive and shall be binding upon the social insurance carriers, authorities and courts of both States and the persons concerned.

9. So long as a case is pending in conformity with No. (1) before the supreme administrative authority of either State or before the arbitration board, any other pending action shall be stayed. If an award issued under national procedure differs from the award issued in pursuance of this Article, the proceedings shall be re-opened on request.

10. Each State shall pay the fees due to the assessor appointed by it and his substitute, and one-half of the fees due to the chairman and vice-chairman. One-half of any other expenses of the proceedings shall be defrayed by one State and one-half by the other.

#### Article 48.

1. In cases in which this Treaty provides that pensions due to nationals of the other State shall not be suspended, the benefit shall be granted :

(a) To claimants under the miners' pension insurance system and to claimants who have lost the nationality of one State and acquired that of the other State by option as from July 1, 1931, and

(b) To other claimants as from October 1, 1931.

2. In the application of the provisions of this Treaty, contribution periods completed before the coming into operation of the Treaty shall also be taken into account.

3. The provisions of the Treaty shall also apply to events giving rise to benefit which occurred before the coming into operation of the Treaty.

4. If an aggregate insurance benefit has been assessed on the basis of both German and Polish contributions in conformity with the Germano-Polish Convention of May 15, 1922, relating to Upper Silesia, the Decision of the Council of the League of Nations dated July 17, 1922, or the Germano-Polish Agreement of August 26, 1922, regarding the division of the Upper Silesian Miners' Benefit Society, with due consideration for the provisions of Article 40 of this Treaty, such assessment shall continue to apply ; the provisions of this Treaty respecting the assessment of benefit in cases of insurance varying between the two States shall not apply in this case.

5. Claims to benefit the assessment proceedings for which are pending at the date of the coming into operation of this Treaty shall be subject to its provisions. Failure to apply the provisions of this Treaty shall be deemed to be a ground for review even if the superior insurance office could not yet have applied the said provisions.

6. The provisions of this Treaty shall also apply to pensions assessed by enforceable decisions before its coming into operation and still current three months after its coming into operation. A new award shall be communicated to the beneficiaries.

7. If an application for a pension was disallowed by an enforceable decision before the coming into operation of this Treaty, the question whether the provisions of this Treaty are more favourable to the beneficiary shall be examined on request, and a new decision shall be issued in the matter. The application for a fresh examination must be made within a year after the coming into operation of the Treaty. Surviving dependants belonging to either contracting State who had no claim to benefit under the accident insurance system of the other State until the coming into operation of this Treaty, because they were not as a rule resident in that State at the date of the accident, shall not receive the benefits due to them under this Treaty unless they make an application for the purpose within a year after the coming into operation of the Treaty.

8. Benefit shall not be granted for the period preceding the dates fixed in this Treaty. In so far as benefit has been granted to beneficiaries for the period before the coming into operation of the Treaty which is higher than that due to them in conformity with the provisions of this Treaty, such beneficiaries shall not be bound to refund the excess.

#### *Article 49.*

1. Either of the two States may denounce the Treaty by giving six months' notice to take effect at the end of a calendar year.

2. In case of denunciation, the provisions of the Treaty shall continue in spite of the denunciation to apply to rights in connection with events giving rise to benefit which occur before the Treaty ceases to be operative; nevertheless, on the expiry of two years from the date when the Treaty ceases to be operative, the national provisions on the basis on which pensions to aliens living abroad are suspended or may be suspended shall apply as to half of the pension due on account of events giving rise to benefit which occurred before the coming into operation of the Treaty.

3. A qualification for benefit which is maintained or revived in conformity with the provisions of this Treaty shall not lapse on account of the denunciation of the Treaty; the further maintenance of such qualifications shall be based on national legislation in respect of the period after the Treaty has ceased to be operative.

#### *Article 50.*

The Treaty shall be ratified as soon as possible. The instruments of ratification shall be exchanged in Warsaw. The Treaty shall come into operation on the first day of the month following the exchange of the instruments of ratification.

In faith whereof, the Plenipotentiaries have signed the present Treaty.

Done in two original copies, in Polish and German.

BERLIN, *June* II, 1931.

(L. S.) Dr. Witold PRĄDZYŃSKI.  
Izydor WYSŁOUCH.

(L. S.) Adolf SIEDLER.  
Dr. Johannes KROHN.

## FINAL PROTOCOL.

On the signature of the Treaty concluded to-day between the German Federation and the Republic of Poland respecting social insurance, the two Governments agreed respecting the following points :

1. *Note to Article 15, No. (8).*

The two Governments will endeavour to bring about as soon as possible the conclusion of the agreements between the sick funds which are provided for in Article 15, No. (8).

2. *Note to Article 20.*

The two Governments reserve the right to open negotiations after the coming into operation of the Treaty for the purpose of fixing the frontier districts in which Federal or State subsidies, as the case may be, will be payable.

3. *Note to Article 26, No. (6).*

In the relations between the Federal Miners' Benefit Society and the Polish miners' benefit societies of the province of Silesia, the maintenance of qualifications for benefit with the insurance carrier of one State shall entail the maintenance of qualifications for benefit with the insurance carrier of the other State after the person concerned has left the miners' pension insurance system.

4. *Note to Article 40.*

Not more than three months after the coming into operation of the Treaty the two Governments will open negotiations for the purpose of deciding which provisions of Articles 171-206 of the Germano-Polish Convention of May 15, 1922, relating to Upper Silesia, and of the Germano-Polish Agreement of August 26, 1922, regarding the division of the Upper Silesian Miners' Benefit Society (other than those which are expressly repealed by this Treaty or the final protocol) have become or shall become inoperative.

5. *Note to Article 48, No. (1).*

The benefits due to claimants resident in the administrative area of the *Spółka Bracka* (Miners' Benefit Society) in pursuance of Nos. (1) and (2) of Article 24 of the Germano-Polish Agreement of August 26, 1922, regarding the division of the Upper Silesian Miners' Benefit Society, which have been taken over by the Upper Silesian *Knappschaft* (miners' benefit society), shall be paid as from January 1, 1930. The same rule shall apply to the benefit assessed by other German miners' benefit societies with respect to variably insured persons, provided that the right to benefit existed on July 1, 1922, that the former Upper Silesian *Knappschaftsverein* (miners' benefit society) was liable for a share of the pension, and that the beneficiary is resident in the administrative area of the *Spółka Bracka* (Miners' Benefit Society).

Similarly, benefit taken over by the *Spółka Bracka* in conformity with the same provision and due to beneficiaries resident in the administrative district of the Upper Silesian *Knappschaft* shall be paid as from January 1, 1930.

In the cases specified in the two preceding numbers, Article 40, No. (8), of the Treaty shall apply, provided that a deduction shall not be made for the period before January 1, 1930.

Benefit shall be paid as from the date specified in Article 48, No. (1) (a), to all other beneficiaries under the miners' pension insurance system of either State who are nationals of the other State.

Benefit shall not be due for any period before that date.

6. (a) The property specified in Articles 2, 5 and 6 of the Decision of the Council of the League of Nations dated January 13, 1930, shall be deemed to have been transferred as from January 13, 1930, to the Federal Miners' Benefit Society in the cases in which the German Federation becomes the owner of the said property according to the Decision, and to the *Spółka Bracka* in the cases in which Poland becomes the owner thereof according to the Decision. The transference shall not be subject to any further legal procedure, and entry in the Land Register or transference of deeds of mortgage shall not be necessary in respect of real estate and rights therein.

(b) The rectifications in the Land Register shall be made at the unilateral request of the party entitled to the property in conformity with (a) ; it shall not be lawful to levy any tax, fee or costs on account of the rectifications. If the application must be made to the Land Registry of the other State, it shall be accompanied by a translation made by a sworn interpreter attached to the courts and authenticated by the competent president of the court of first instance, and by a certificate issued by him to the effect that the signatory of the application is authorised to represent the owner in conformity with the provisions of the legislation of the State concerned.

(c) The second paragraph of Article 7 of the Decision of the Council of the League of Nations of January 13, 1930, shall apply so long as the property in the territory of the other State belongs to the owner specified under (a), but not beyond December 31, 1944.

7. It is agreed that a claim to reimbursement shall not lie in respect of interest and instalments paid during the period from July 1, 1922, to January 13, 1930, for the extinction of loans, mortgages and debts on real estate of the former Upper Silesian *Knappschaftsverein* (miners' benefit society) covered by Articles 5 and 6 of the Decision of the Council of the League of Nations of January 13, 1930.

8. Poland shall not make any claim either on its own account or on behalf of the *Spółka Bracka* under Article 10 of the Decision of the Council of the League of Nations of January 13, 1930.

9. The above agreements are without prejudice to the fundamental juridical principles of the two contracting States. It is therefore understood that the said agreements shall not constitute a legal precedent with respect to matters not governed by them.

10. (a) In Article 12, No. (3), and Article 13, No. (1), of the Germano-Polish Agreement of August 26, 1922, regarding the division of the Upper Silesian miners' benefit society, the words "liable to miners' insurance" shall be deemed to be equivalent to "liable to membership of the miners' pension fund".

(b) The competence of the insurance carrier of either State in so far as it is based on Article 12, Article 13, Nos. (1) and (2), and Article 24, Nos. (1)-(3), of the above-mentioned Agreement shall not be affected by the fact that the beneficiary has become since July 1, 1922, a member of the insurance carrier of the other State or that the claim has lapsed since the said date.

(c) The miners' benefit society which has taken over the payment of benefit with or without restrictions until the coming into operation of the Treaty shall be liable for benefit within the meaning of Article 24, No. 5, of the above-mentioned Agreement ; if the claim has not been taken over by either of the two miners' benefit societies, the provisions of Article 12 and of Article 13, No. (1), of the said Agreement shall apply.

(d) The arbitration authorities as specified in Article 38, Nos. (1) (a) and (b), of the above-mentioned Agreement shall no longer be competent for the matters specified therein.

In cases where awards have been issued prior to the coming into operation of the Treaty which are contrary to the principles laid down under (a)-(c), a new award shall be issued by the insurance carrier competent under the provisions (a)-(c), if the beneficiary so requests. The request must be made within a year reckoned from the coming into operation of the Treaty. The national insurance authorities and courts shall be competent for the subsequent procedure. The provision laid down in Article 48, No. (1) (a), shall apply ; payments shall not be made retrospectively for the period prior to the date fixed therein.

11. (a) The Federal Miners' Benefit Society shall be liable in respect of qualifications to benefit acquired during the period before July 1, 1922, under the miners' pension insurance system in the case of employees of the former Upper Silesian *Knappschaftsverein* (miners' benefit society) who are employed in German miners' benefit societies on the date of the coming into operation of the Treaty, or were last employed by such societies during the period since June 30, 1922.

The *Spółka Bracka* shall be liable in respect of qualifications for benefit acquired during the period before July 1, 1922, under the miners' pension insurance system in the case of employees of the former Upper Silesian *Knappschaftsverein* who at the date of the coming into operation of the Treaty are employed with the *Spółka Bracka* or were last so employed during the period since June 30, 1922.

(b) The Federal Miners' Benefit Society shall be liable in respect of qualifications for benefit acquired during the period before July 1, 1922, under the miners' pension insurance system in the case of employees of the former Upper Silesian *Knappschaftsverein* to whom the provisions under (a) do not apply and who on June 30, 1922, were employed in institutions of the former Upper Silesian *Knappschaftsverein* situated in Germany, or were last so employed before that date.

The *Spółka Bracka* shall be liable in respect of qualifications for benefit acquired during the period before July 1, 1922, under the miners' pension insurance system in the case of employees of the former Upper Silesian *Knappschaftsverein* to whom the provisions under (a) do not apply, and who on June 30, 1922, were employed in institutions of the former Upper Silesian *Knappschaftsverein* situated in Poland or were last so employed before that date.

12. The two Governments are agreed that claims to a retirement pension or qualifications for such claims on the part of officials, medical practitioners and salaried employees of the former Upper Silesian *Knappschaftsverein* are definitively regulated by the Agreement of May 22, 1931, concluded between the Federal Miners' Benefit Society and the *Spółka Bracka*. The persons specified in the first sentence shall not have any claim against either of the two insurance carriers, except in so far as the carrier is liable in conformity with the said agreement. The two Governments are agreed that Articles 34, 35 and 36 of the Germano-Polish Agreement of August 26, 1922, regarding the division of the Upper Silesian miners' benefit society, shall cease to be operative.

The text of the Agreement of May 22, 1931, is as follows :

The following Agreement is hereby concluded between the FEDERAL MINERS' Benefit Society in Berlin represented by :

Dr. Fritz HENSE, Knappschaftsdirektor, and  
M. Kurt BANKWITZ, Knappschaftsdirektor ;

and the SPÓŁKA BRACKA at Tarnowskie Góry, represented by :

Dr. Józef POTYKA, Director, Doctor of Law.

#### Paragraph 1.

The Federal Miners' Benefit Society shall be liable in respect of retirement pensions fixed during the period before July 1, 1922, for such officials and medical practitioners in the service of the former Upper Silesian *Knappschaftsverein* as were resident in Germany on January 1, 1930.

The *Spółka Bracka* shall be liable in respect of retirement pensions fixed during the period before July 1, 1922, for such officials and medical practitioners in the service of the former Upper Silesian *Knappschaftsverein* as were resident in Poland on January 1, 1930.

The provisions of paragraphs 1 and 2 apply, *mutatis mutandis*, to pensions for surviving dependants.

#### Paragraph 2.

The Federal Miners' Benefit Society shall be liable in respect of qualifications for retirement pension acquired during the period before July 1, 1922, in the case of officials and medical practitioners of the former Upper Silesian *Knappschaftsverein* who were in the employment of German *Knappschaftsvereine* on January 1, 1930, or were last so employed during the period since June 30, 1922.

The *Spółka Bracka* shall be liable in respect of qualifications for retired pension acquired during the period before July 1, 1922, in the case of officials and medical practitioners of the former Upper Silesian *Knappschaftsverein* who were in the employment of the *Spółka Bracka* on January 1, 1930, or were last so employed during the period since June 30, 1922.

The Federal Miners' Benefit Society shall be liable in respect of qualifications for retired pension acquired during the period before July 1, 1922, in the case of officials and medical practitioners of the former Upper Silesian *Knappschaftsverein* to whom the preceding paragraphs do not apply and who were living in Germany on January 1, 1930. The *Spółka Bracka* shall be liable in respect

of qualifications for retired pension acquired during the period before July 1, 1922, in the case of officials and medical practitioners of the former Upper Silesian *Knappschaftsverein* to whom the preceding paragraphs do not apply and who were living in Poland on January 1, 1930.

The provisions of paragraphs 1 to 3 apply, *mutatis mutandis*, to qualifications for surviving dependants' benefit.

*Paragraph 3.*

These provisions shall not affect the special agreements with M. Spiller Baurat, and M. Scheibert, Engineer.

*Paragraph 4.*

In cases where the Federal Miners' Benefit Society is liable in respect of the commitments of the former Upper Silesian *Knappschaftsverein* under the terms of paragraphs 1 and 2, German law shall apply, and in cases where the *Spółka Bracka* is liable, Polish law shall apply. In the application of the provisions governing the payment of claims and suspended benefits, the payments made shall be regarded as German or Polish as the case may be, even when paid by an insurance carrier of the other State.

Qualification for benefit lapses in cases where retirement pension or surviving dependants' benefit is accorded in another manner in respect of the period of employment with the Upper Silesian *Knappschaftsverein* now dissolved.

*Paragraph 5.*

The above Agreement shall come into force on the same day as the Treaty between the German Reich and the Republic of Poland respecting social insurance and shall be regarded as finally regulating claims to retirement or other pensions of employees and medical practitioners of the former Upper Silesian *Knappschaftsverein*, as also the claims of surviving dependants.

In faith whereof the Plenipotentiaries of the *Spółka Bracka* and of the Federal Miners' Benefit Society of the Reich have signed the present Agreement in two identical copies in Polish and German. The copy in Polish shall be transmitted to the *Spółka Bracka* and the copy in German to the Federal Miners' Benefit Society.

BERLIN, May 22, 1931.

*For the Federal Miners' Benefit Society :*

Dr. HENSE.

BANKWITZ.

*For the Spółka Bracka :*

Dr. POTYKA.

13. The present Final Protocol shall be ratified at the same time as the Treaty concluded on to-day's date between the German Reich and the Republic of Poland, and shall come into force at the same time as the said Treaty.

BERLIN, June 11, 1931.

(L. S.) Dr. Witold PRĄDZYŃSKI.

(L. S.) Adolf SIEDLER.

(L. S.) Izydor WYSŁOUCH.

(L. S.) Dr. Johannes KROHN.