

N° 1073.

FRANCE ET POLOGNE

Convention relative aux biens, droits
et intérêts privés, signée à Paris,
le 6 février 1922.

FRANCE AND POLAND

Convention concerning Private Pro-
perty, Rights and Interests, signed
at Paris, February 6, 1922.

¹ TRADUCTION. — TRANSLATION.No. 1073. — CONVENTION ² BETWEEN FRANCE AND POLAND CONCERNING PRIVATE PROPERTY, RIGHTS AND INTERESTS, SIGNED AT PARIS, FEBRUARY 6, 1922.

French official text communicated by the Prime Minister, Minister for Foreign Affairs of the French Republic. The registration of this Convention took place February 6, 1926.

THE PRESIDENT OF THE FRENCH REPUBLIC and THE PRESIDENT OF THE POLISH REPUBLIC, being equally desirous of reaching a settlement in the matter of property rights and interests, have decided to conclude a Convention for this purpose, and have appointed as their Plenipotentiaries :

M. Raymond POINCARÉ, Prime Minister and Minister for Foreign Affairs of the French Republic ;

M. Maurice ZAMOYSKI, Minister Plenipotentiary, and M. DOLEZAL, Commercial Adviser to the Polish Republic,

Who, having exchanged their full powers, found in good and due form, have agreed upon the following provisions :

Article 1.

Poland shall take all the necessary steps to carry out restitution, of the kind provided for in paragraphs (a) and (f) of Article 297 and in Article 233 of the Treaty of Versailles, concluded with Germany on June 28, 1919, and in the corresponding Articles of the other Treaties of Peace, in so far as the property, rights and interests which have to be restored to French nationals, including companies and associations in which they are interested, are situated in Polish territory. France shall undertake the same obligations towards Poland.

The compensation provided for in the above Articles shall continue to be a charge upon the enemy countries.

Nevertheless, the restitution referred to above, effected in pursuance of Article 238 of the Treaty of Versailles and of the corresponding Articles in the other Treaties of Peace, may, in the case of machinery or objects taken away from the North of France, be delayed at the request of Poland until such time as the procedure for the restitution to Polish nationals of machinery or objects taken away by Germany from Poland shall have been determined.

The restitution provided for in the present Article shall similarly be delayed at the request of Poland and subject to the payment of just compensation by the latter Power, so long as such restitution might prejudice Polish security and national defence.

¹ Traduit par le Secrétariat de la Société des Nations.

¹ Translated by the Secretariat of the League of Nations.

² The exchange of ratifications took place at Paris, August 2, 1923.

Article 2.

French nationals in Poland and Poles in France shall benefit, in the same way as the nationals of Poland and of France, respectively, by the laws of these countries concerning the cancellation of the acts of enemy authorities in enemy country or in territory occupied by the enemy.

Article 3.

The exceptional war measures and measures of transfer, as defined in paragraph 3 of the Annex to Section IV of Part X of the Treaty of Versailles and in the corresponding clauses of the other Treaties of Peace, which were applied in France to the property, rights and interests of Polish subjects, including companies and associations in which they were interested, shall, if liquidation has not been completed, be discontinued or stayed, and the property, rights or interests concerned shall be restored to their owners unless they have been otherwise assigned under measures already taken.

Nevertheless, as an exceptional measure, liquidations which are in progress may be completed when, owing to the circumstances of the case, a suspension or stay of the liquidation might prejudice the interests concerned.

Polish subjects, whose property, rights or interests, including industrial, literary or artistic property, may have been the subject in France of measures of liquidation, cession (licence), lease or any other measures of total or partial transfer which were applied to the property, rights and interests of ex-enemy subjects, shall receive directly their due share of the yield of the said liquidation, cession (licence), lease or other measures of partial or total transfer.

Article 4.

Poland undertakes, on condition of receiving reciprocal treatment, that property, rights and interests restored to French subjects, in execution of Article 1 of the present Convention, shall receive the same treatment as is accorded to the property, rights and interests of the same nature belonging to her own subjects ; and that, after the coming into force of the present Convention, she will not subject the said property, rights and interests to any measures affecting their ownership which is not applied equally to the property, rights and interests of her own subjects ; and, further, that she will pay proper compensation in cases where such measures may be adopted.

Article 5.

Poland recognises the validity in the territories transferred to Poland, of all the rights acquired by French subjects or by companies in which the greater part of the share capital belongs to French nationals, under the laws in force in those territories at the time when the said rights were acquired.

In particular, Poland recognises the validity of concessions, or leases of concessions granted before August 1, 1914, for the carrying on of public services ; of mining concessions, or the sub-letting of mining concessions and rights acquired with a view to prospecting or obtaining mining concessions ; and especially of concessions for the exploitation of petroleum and other bituminous products, coal, iron or other minerals, as granted, either by the former States, provinces or municipalities, or by the owners of the land or of the concessions. Such concessions shall remain valid under the terms, and until the expiration of the periods, laid down in the deeds of concession or lease.

Holders or lessees of concessions, no matter what the nature of the concession may be, whose interests have been affected by special war legislation, or by measures of transfer, or who have been temporarily deprived of the enjoyment of their rights, may obtain a prolongation of the

period of their concessions. The extent of this prolongation shall be determined with due regard to the time during which the rights have been withheld and may not be less than six years.

Such prolongations shall be granted by friendly agreement between the parties concerned; in case such an agreement cannot be arrived at, the question shall be submitted to an arbitrator selected by agreement between the High Contracting Parties.

If prolongations granted as above should involve any serious injury to the interests of one of the Parties, as a result of alterations in the commercial situation, proper compensation may be awarded to the injured Party by an arbitrator who shall be selected by agreement between the High Contracting Parties.

Article 6.

In cases where the greater part of the share capital of a company or enterprise, constituted under German, Austro-Hungarian, Bulgarian or Turkish law, in the territory of the High Contracting Parties, belonged to the nationals of the other Contracting Party or to a company in which the nationals of the said Party owned the greater part of the share capital, the right to liquidate the said company or enterprise, as provided in Article 297 (b) of the Treaty of Versailles and in the corresponding articles of the other Treaties of Peace, may not be exercised except after an agreement between the High Contracting Parties.

If a company or enterprise is liquidated by one of the High Contracting Parties in virtue of the rights provided by the Treaties of Peace, and if nationals of the other Party are interested, the said nationals shall, in all cases, receive shares of the proceeds of liquidation proportionate to their claims.

If a national of either of the two countries proves before the Mixed Arbitral Tribunal, provided for in Section VI of Part X (economic clauses) of the Treaty of Versailles, or before an arbitrator designated by the said tribunal, that the conditions of sale or measures adopted, apart from its general legislation, by the Government of the State in question, have reacted unfairly and unfavourably on the price, the tribunal or the arbitrator shall be empowered to award the claimant just compensation, which shall be paid by the State in question.

Article 7.

Companies constituted under German, Austro-Hungarian or Russian law, whose chief works or head offices were situated, before August 1, 1914, in the territories transferred to Poland, and in which the greater part of the share capital belonged to French nationals, or to companies in which the nationals of the latter country owned the greater part of the share capital, shall be entitled to transfer their property, rights and interests to another company constituted either under the laws of Poland or of France, as the French nationals may prefer, and authorised in conformity with Polish law.

Companies constituted under the French law, whose chief works or administrative offices were situated, before August 1, 1914, in territories transferred to Poland, and in which the greater part of the share capital belonged to French nationals, or to companies in which the nationals of the latter country owned the greater part of the share capital, shall be entitled freely to carry on their business as laid down in Article 16 of the Franco-Polish Economic Agreement.

Any authorisations which may be necessary to give effect to the two preceding paragraphs shall be granted as of right, except in the case of industries which, in view of their general utility, may be subjected to special restrictions by a law or by a decision of the Cabinet.

No special charge or fee shall be payable by newly-formed companies by reason of the transfer.

Article 8.

Without prejudice to the right of Polish nationals to claim proper compensation, Poland undertakes not to invalidate decisions which may have been taken, between the date of the beginning of the war and a date three months after the signature of the present Convention, by the general meetings of companies whose head offices were situated in any territories now incorporated in Poland, on the grounds that these general meetings were held in a foreign country.

Article 9.

The High Contracting Parties shall accord to each other's nationals who have suffered war-damages the same respites in regard to the payment of debts as are granted to their own nationals.

Article 10.

Except as provided in any special agreements which may be concluded, account shall only be taken, in the application of Articles 5, 6 and 7 and of Articles 11, 12, 13, 14, 15 and 16, of the interests which were held before August 1, 1914, by French and Polish nationals in the said companies or enterprises.

CONTRACTS AND TIME-LIMITS.

Article 11.

(a) Contracts concluded between persons who are now under Polish jurisdiction and persons under French jurisdiction who have become "separated parties" (*i.e.* "parties between whom intercourse is prohibited" — *parties séparées*), in the sense of the first paragraph of the attached Annex, shall be considered as annulled as from the time at which any two of the parties became "separated parties", except as regards debts and other pecuniary obligations arising out of the execution of an act or the effecting or a payment provided for in the said contracts, and subject to the exceptions and the rules applying specially to certain contracts, as laid down below or in the attached Annex.

(b) Contracts the execution of which is demanded within six months, dating from the coming into force of the present Convention, in the general interest and in pursuance of agreements between the High Contracting Parties, shall be exempted from annulment under the terms of the present Convention.

When the execution of the contracts thus maintained in force involves serious injury to the interests of one of the parties as a result of alterations in the commercial situation, proper compensation may be awarded to the injured party by an arbitrator chosen by agreement between the High Contracting Parties.

(c) None of the provisions of the present Article or of the attached Annex shall be regarded as invalidating any operation which has been legally carried out under the terms of a contract concluded with the authorisation of one of the belligerent Powers by parties between whom intercourse has been prohibited (*parties séparées*).

(d) In the case of contracts for licences to exploit industrial, literary or artistic property rights concluded by persons between whom intercourse has been prohibited, the original holder of a licence of this kind shall be entitled, six months after the coming into force of the present Convention to claim from the owner of the rights a new licence, the terms of which may, in the absence of an agreement, be fixed by a competent tribunal in the country in which the rights exist.

Annex to Article II.

I. GENERAL PROVISIONS.

(1) For the purposes of Articles II, 12 and 13, persons who are parties to a contract shall be considered as "separated" (*séparées*) when commercial intercourse between them has been prohibited by the laws, decrees or regulations of a State of which one of these parties is a national, or if such intercourse has become illegal in any manner whatever. Intercourse between them shall be considered as having ceased as from the date on which commercial dealings were prohibited or became illegal in any manner whatever. The expression "period of prohibited intercourse" (*période de séparation*) refers to the period during which such intercourse is illicit.

(2) The following instruments shall be exempt from the annulment provided for in Article II, and shall remain in force, subject, however, to the provisions of the laws, decrees and internal regulations issued during the war prior to November 11, 1918, and subject also to the terms of the contracts :

- (a) contracts for the transfer of the ownership of movable or immovable property or of the titles thereto when such ownership was transferred or the object was handed over before commercial intercourse between the parties was prohibited ;
- (b) contracts relating to long and short-term leases and *promesses de location* ;
- (c) deeds relating to mortgages, pledges or security ;
- (d) contracts for mining, mineral and quarrying concessions ;
- (e) contracts concluded between private persons or companies and States, provinces and municipalities or other and similar legal or administrative persons ;
- (f) Articles of Association ;
- (g) contracts referring to family relations ;
- (h) contracts, with or without valuable consideration, for charitable purposes or in connection with the support of parents or other relatives ;
- (i) contracts establishing donations of any kind.

(3) If part of the provisions of a contract are cancelled under Article II, the other provisions of such contract shall remain in force, subject to the provisions of the domestic laws, as laid down in paragraph 2, always provided that it is possible to make such differentiation. Otherwise the whole of the contract shall be considered as cancelled.

II. SPECIAL PROVISIONS WITH REGARD TO CERTAIN CLASSES OF CONTRACTS

Obligations undertaken in Stock and Commercial Exchanges.

4. (a) The regulations made during the war by recognised Stock Exchanges or Commercial Exchanges, providing for the settlement of obligations in Stock Exchanges undertaken before the war by persons with whom intercourse has been prohibited, are hereby confirmed by the High Contracting Parties together with the measures taken in pursuance of these regulations, provided, however, that :

- (1) it has been expressly laid down that the regulations of the Exchange should be applicable to the operation ;
- (2) such regulations are binding upon all the parties concerned ;
- (3) the terms of liquidation are fair and reasonable ;

(b) The preceding paragraph shall not apply to measures taken on the Exchanges in regions occupied by the enemy during the period of occupation.

Pledges.

5. The sale of a pledge deposited as security for a debt due from one of the parties with whom intercourse has been prohibited shall be considered as valid in the event of non-payment, even when it has not been possible for the owner to be notified, provided that the creditor has acted in good faith and has taken reasonable care and precaution ; in this case the owner has no claim in respect of the sale of the security.

Commercial Bills.

6. If a person has assumed an obligation either before or during the period of prohibited intercourse, to pay a commercial bill as the result of an undertaking given to him before the war by another person, with whom intercourse has been prohibited, the latter shall still be bound to guarantee the former in respect of the consequences of his obligation, despite the fact that intercourse between the parties has been prohibited.

7. The treatment to be given to insurance and reinsurance contracts concluded before the war between two parties prohibited from holding intercourse shall be dealt with in a subsequent agreement.

Article 12.

(a) In the territory of the High Contracting Parties, and in the relations of parties between whom intercourse has been prohibited, all periods for prescription, pre-emption or the barring of proceedings shall cease to run during the period of prohibited intercourse, whether such periods began to run before the period of prohibition or after ; these periods will resume currency three months at earliest after the coming into force of the present Convention. This provision shall apply to the periods for the presentation of interest or dividend coupons, and also for the presentation for payment of securities drawn by lot or repayable on any other grounds.

(b) As regards bills, the period of three months provided for in the preceding paragraph shall run as from the date on which the exceptional measures with regard to bills, applied in the territories of the Power concerned, shall have been finally withdrawn.

Article 13.

In the relations between parties prohibited from holding intercourse, no bill shall be considered as invalidated merely for the reason that it has not been presented for acceptance or payment within the prescribed period, that notice of non-acceptance or non-payment has not been given to the drawers or endorsers, that it has not been protested or that some formality has not been complied with during the period of prohibited intercourse.

If the period during which a bill should have been presented for acceptance or payment, or during which notice of non-acceptance or non-payment should have been given to the drawers or endorsers, or during which the bill should have been protested, has expired during the period of prohibited intercourse, and if the party who should have presented or protested the bill or notified its non-acceptance or non-payment did not do so during that period, he shall be granted a term of at least three months after the coming into force of the present Convention in order to present the bill, notify its non-acceptance or non-payment or protest it.

Article 14.

The High Contracting Parties agree to consider as final the decisions of the Mixed Arbitration Tribunal provided for in Section VI, Part X of the Treaty of Peace with Germany, and the corresponding sections of the other Treaties of Peace and to make them binding in their own territory.

Article 15.

No action may be brought, nor may any claim be advanced, by Poland or Polish nationals, of the one part, or by France or French nationals, of the other part, arising out of the utilisation, during the war by the French or Polish Governments or by any person acting on their behalf or under their instructions, of industrial, literary or artistic property rights which belonged to persons between whom intercourse has been prohibited, nor may any such action be taken on account of the sale, offering for sale, or utilisation of products, articles or plant of any kind to which such rights apply.

No action may be taken, nor may any claim be advanced, by persons residing in or carrying on their industry in the territory of Poland, of the one part, or of France, of the other part, or by the nationals of these Powers, or by third parties to whom such persons may have ceded their rights during the war, on account of such rights having been utilised in the territory of the other Party during the war in a manner which might be considered as infringing industrial property rights or literary or artistic property rights which belonged to persons between whom intercourse was prohibited and existed at any time during the war and which have to be restored under the provisions of Articles 307 and 308 of the Treaty of Versailles or the corresponding Articles of the other Treaties.

Article 16.

Any disputes with regard to the interpretation of the present Convention shall be submitted to an arbitrator appointed by agreement between the High Contracting Parties.

In faith whereof the Plenipotentiaries have signed the present Convention.

Done in duplicate at Paris this 6th day of February, 1922.

(L. S.) (Signed) R. POINCARÉ.

(L. S.) (Signed) MAURICE ZAMOYSKI.

(L. S.) (Signed) FRANÇOIS DOLEZAL.