

No. 486

**NORWAY
and
FINLAND**

Provisional Convention concerning measures to be taken in order to prevent reindeer from crossing the frontier between the two countries. Signed at Helsinki, on 10 September 1948

Norwegian and Finnish official texts communicated by the Permanent Representative of Norway to the United Nations. The registration took place on 1 July 1949.

**NORVEGE
et
FINLANDE**

Convention provisoire concernant les mesures à prendre pour empêcher les rennes de franchir la frontière entre les deux pays. Signée à Helsinki, le 10 septembre 1948

Textes officiels norvégien et finnois communiqués par le représentant permanent de la Norvège auprès de l'Organisation des Nations Unies. L'enregistrement a eu lieu le 1er juillet 1949.

TRANSLATION — TRADUCTION

No. 486. PROVISIONAL CONVENTION¹ BETWEEN NORWAY AND FINLAND CONCERNING MEASURES TO BE TAKEN IN ORDER TO PREVENT REINDEER FROM CROSSING THE FRONTIER BETWEEN THE TWO COUNTRIES. SIGNED AT HELSINKI, ON 10 SEPTEMBER 1948

Chapter I

MEASURES TO PREVENT REINDEER FROM CROSSING THE FRONTIER

Article 1

It shall be the duty of Norwegian and Finnish reindeer owners to exercise such supervision over their reindeer as to prevent them, as far as possible, from crossing the frontier.

Article 2

Each country shall be free to erect fences along the frontier for the purpose of protecting its own territory or in order to prevent its own reindeer from crossing the frontier into the other country. Where the nature of the country makes this expedient, it shall be permissible to erect the fence in the territory of the other country provided that the said fence does not penetrate to a distance of more than 100 metres from the frontier.

When it is planned to erect fences in the territory of the other country, within a distance not exceeding 100 metres from the frontier, the competent authorities in such other country (in Norway, the *fylkesmann* [prefect] and in Finland the *lääninhallitus* [provincial government]) shall be notified thereof in advance, details being given of the manner in which it is proposed to execute the work.

When the nature of the country makes this unavoidable, the *fylkesmann* in Norway and the *lääninhallitus* in Finland may consent to the proposed fence penetrating into the territory of the other country for a distance of more than 100 metres from the frontier.

The aforesaid fences shall be erected in accordance with specifications of work agreed upon between the *fylkesmann* and the *lääninhallitus*.

¹ Came into force on 13 June 1949, upon the exchange of the instruments of ratification at Oslo, in accordance with article 24.

When a fence has been erected and approved as a frontier fence by the aforementioned authorities, the line of the fence shall replace the frontier for all questions to which the present convention refers.

Article 3

The two countries declare themselves willing, each for its own territory, to erect separating fences wherever the competent authorities, i.e., the *fylkesmann* in Norway and the *lääninhallitus* in Finland, agree, after preliminary enquiry, that such separating fences are especially necessary for rounding up and separating the reindeer. Each country will maintain its own separating fences.

From the triple frontier stone near Krokfjell (Muotkavaara) as far as the river Pasvik (Paatsjoki) each of the two countries shall erect and maintain a fence on its own territory. The construction of this fence shall be completed by the end of the year 1949.

Article 4

The *lensmenn* (rural mayors) in both countries shall be responsible during their journeys to the frontier for the inspection of the fences. Any defects which may be discovered shall be reported to the competent *lensmann* in the other country.

Chapter II

CROSSING OF THE FRONTIER BY REINDEER, ETC.

Article 5

If Norwegian reindeer enter Finnish territory, or Finnish reindeer enter Norwegian territory, the competent *lensmann* of the country in which the reindeer are trespassing, after having personally ascertained the facts, *de visu*, shall, together with two expert and trustworthy witnesses, ascertain as exactly as possible the number of animals. This count shall not include reindeer less than one year old.

In the course of the count the earmarks borne by the reindeer counted shall be determined as exactly as possible. This shall, if possible, be done by throwing one or several reindeer, or by causing the marks to be observed by the witnesses at close quarters or through a field-glass. If it is impossible by this means to ascertain satisfactorily the earmarks on a reasonable number of the reindeer counted, one or more animals may be shot. Bull reindeer over four years old shall not be shot.

If damage has been caused for which compensation is payable under article 12, the *lensmann* and the witnesses referred to in the first paragraph

shall together investigate the damage and fix the amount of such compensation. In this connexion, due consideration shall be given to the question whether reindeer belonging to the country have contributed to the damage.

An official statement shall be drawn up on the spot recording the result of the count and as exact particulars as possible of the time when and the place where reindeer were discovered and of the marks on the ears and hide in so far as these have been ascertained. If any animals have been shot, the parts of the ears bearing the marks shall be attached to the official statement. If damage for which compensation can be claimed has been done, an exact description of the nature and extent of the damage, together with the estimate of its value, shall be included in the official statement. The official statement shall also indicate whether reindeer belonging to the inhabitants of the country itself have contributed to the damage and, if so, to what extent.

The official statement shall be signed by the *lensmann* and the witnesses.

Article 6

The competent *lensmann* may, if circumstances make it expedient to do so, drive the reindeer back across the frontier to the nearest reindeer owner or herdsman with reindeer in his charge. Such owner or herdsman shall be bound to receive the reindeer and to give a written acknowledgment of receipt of them.

If the reindeer are accompanied by their owner or herdsman, the latter shall be compelled to assist in driving them back.

If the reindeer have been driven back, the fact shall be mentioned in the official statement referred to in article 5.

Article 7

When it has been ascertained in the manner indicated in article 5 that reindeer belonging to one of the countries have entered the territory of the other country, the *lensmann* shall as soon as possible notify the competent *lensmann* of the country to which the reindeer belong. The notification shall contain the particulars recorded in the official statement in accordance with articles 5 and 6. It shall be transmitted by telegram or telephone or, if this is impossible, by letter. If the notification is made by telephone, it shall be confirmed in writing as soon as possible.

If the reindeer are herding with reindeer belonging to the inhabitants of the country in circumstances such that the *lensmann* considers that they should be separated, he shall say so in the notification and shall at the same time, or in a special notification as soon as possible thereafter, appoint a time and place for such separation.

Article 8

If the reindeer have not been driven back to the country to which they belong, in accordance with article 6, the competent *lensmann* of that country shall see that they are fetched back without delay as soon as he has received the notification mentioned in article 7.

If they are to be separated, the reindeer shall be fetched back on the date appointed for such separation.

Article 9

The *lensmann* of the place where the separation is to take place must see that it is carried out at the appointed time. The owner of the reindeer with which the foreign reindeer are herding must assist in such separation, either personally or through a representative.

Following on the separation an official statement shall be drawn up, indicating, *inter alia*, the exact number of foreign reindeer and, as far as possible, all marks on their ears or hides.

Article 10

The *fylkesmann* in Norway and the *lääninhallitus* in Finland may authorize one or more qualified, reputable and trustworthy persons who are not engaged in reindeer-breeding as their main business to carry out the operations for which the *lensmann* is responsible under articles 5-9.

The *fylkesmann* and the *lääninhallitus* shall notify each other of the names and addresses of the persons so authorized.

Article 11

When a notification has been sent in accordance with article 7, the country which the reindeer have entered is entitled to claim payment for the illicit stay amounting to 10 per cent of the value of the animals counted. If any animals have been shot, their value shall be deducted from the payment.

If the reindeer are found in the country more than twenty days after the notification referred to in article 7 or, if the animals are to be separated, after the date appointed for such separation, the case shall be treated as a fresh crossing of the frontier, even if the reindeer have not been driven or fetched back.

Article 12

Compensation shall be payable for damage caused to the inhabitants of one country by reindeer belonging to the other country or by the owners or herdsmen of the reindeer, and damage caused to the State through the fact

that the owners or herdsmen have taken timber from State forests. Compensation cannot, however, be claimed for damage caused in State forests by persons who have come into the country, after receipt of the notification, to drive or fetch the reindeer back, if the damage caused is unavoidable.

Article 13

The costs of journeys of officials or of the witnesses and authorized persons referred to in articles 5 and 10, and costs of rounding up, counting, driving back, supervision and separation of reindeer, despatch of notifications (article 7), and other measures taken on account of the fact that reindeer have crossed the frontier, shall be refunded; the amount shall be fixed in Norway by the *fylkesmann* and in Finland by the *lääninhallitus*, but shall not exceed 5 per cent of the value of the reindeer counted.

Article 14

If the number of reindeer counted on the same day does not exceed ten, the provisions of articles 8, 11 and 13 shall not be applicable.

In this case animals may be shot only if they have caused damage for which compensation is payable under article 12.

Article 15

The value according to which the payments fixed in article 11 and the compensation referred to in article 13 are to be calculated shall be fixed for each calendar year before the beginning of the year by the *fylkesmann* in Norway and the *lääninhallitus* in Finland on the basis of current prices of reindeer during the first half of December. If the prices fixed by the *fylkesmann* and the *lääninhallitus* differ, the value shall be the mean between those prices.

Article 16

At least three months after the receipt of the extract mentioned in the first provision of article 8, the *fylkesmann* in Norway and the *lääninhallitus* in Finland shall fix the amounts payable under article 11. These amounts, together with the compensation payable under articles 12 and 13, shall be paid out of the public funds of the country to which the reindeer belong.

At the end of each half year the *fylkesmann* and the *lääninhallitus* shall communicate to each other the amounts claimed, and these amounts shall thereupon be paid.

Amounts received in respect of payments under article 11 shall be set aside for a fund which shall primarily be used, as far as possible by instalments,

for the erection of frontier fences between the two countries, or for the maintenance of such fences.

Payments (article 11), compensation (article 12) and costs (article 13) disbursed by the State shall be refunded by those reindeer owners having reindeer out to graze in the territory from which the frontier was crossed. Any division among the various reindeer owners shall be carried out in Norway by the *fylkesmann* either under a general regulation or in each specific case. In Finland the State shall claim these payments, compensations and costs from the commune which has the grazing rights (*paliskunta*) in accordance with detailed rules laid down by the *lääninhallitus*. The *paliskunta* shall be entitled to divide the cost among the various reindeer owners.

The same authorities may waive, wholly or partly, the claim for repayment in the case of a particular reindeer-owner if it appears that such claim may have a manifestly inequitable effect.

Article 17

The competent *lensmann* or the persons authorized under article 10 to act on his behalf shall be responsible for keeping a register approved by the competent *fylkesmann* or *lääninhallitus*, in which all matters relating to the crossing of the frontier by reindeer shall be entered in chronological order. It shall include in particular:

1. Duplicates of notifications sent in accordance with article 7, with an exact statement as to when and in what manner they are sent;
2. Notifications received to the effect that reindeer of the country have entered the other country, with an exact reproduction of the contents of the notification and a statement as to when and how it was received;
3. A statement of the measures taken as a result of the notification mentioned under 2;
4. A specification of the costs, the refund of which may be claimed, wholly or partly, from the other country under article 13.

Article 18

An extract of the official statement mentioned in article 5 shall be sent to the competent *fylkesmann* in Norway and to the competent *lääninhallitus* in Finland as soon as possible after the proceedings are completed. Similarly an extract from the register mentioned in article 17 shall be sent every six months. The *fylkesmann* and the *lääninhallitus* shall send each other immediately a copy of the extracts received.

Chapter III

MISCELLANEOUS PROVISIONS

Article 19

The provisions of the present convention shall not apply to pack or draught reindeer used by inhabitants of Norway or Finland on journeys in the other country. Such reindeer, however, may not graze in such areas as lie in the vicinity of dwelling places and are designated by the authorities of the country in question.

The provisions of the first paragraph shall also apply to pack and draught reindeer used by the inhabitants of either country when travelling along the frontier between the confluence of the Njuolasjokka with the Skietsamjokka and frontier stone No. 343.

The reindeer shall be tethered while grazing in the territory of the other country.

Norwegian reindeer owners migrating in spring and autumn may use roads crossing Finnish territory at places and times appointed by the competent Finnish authorities, provided that they do not allow the reindeer to graze on Finnish land.

Similarly, Finnish reindeer owners may, when migrating, use roads crossing Norwegian territory in accordance with detailed rules to be laid down by the competent Norwegian authorities, provided that they do not allow the reindeer to graze on Norwegian land.

The present convention shall not be applicable to reindeer intended for slaughter which have been lawfully brought into the country under proper guard.

Article 20

The *fylkesmann* in Norway and the *lääninhallitus* in Finland shall, at the request of either of them, furnish each other with a list of the registered reindeer marks employed in the frontier districts of each country.

New marks shall not be registered in one of the countries if they may easily be mistaken for marks previously registered in the other country.

New marks to be submitted for registration shall first be sent to the registration authorities in the other country, which shall reply by return whether it is necessary to make any comments require to be made before registration is effected.

Article 21

Any person who deliberately damages any of the fences or dividing fences mentioned in articles 2 and 3, or opens gates in such fences or pens without taking care to close them securely, shall be liable to imprisonment for a term not exceeding six months. If the act has been committed through negligence, it shall be punishable by a fine.

The offender shall be obliged to pay compensation for the damage caused.

Penal proceedings or proceedings for compensation shall be taken in the country in which the offender is domiciled.

Article 22

Any dispute regarding the interpretation or application of the present convention may be submitted by either of the countries for final decision to an arbitral commission consisting of three members, one of whom shall be appointed by each country, while the president, who shall not be either a Norwegian or a Finnish national, shall be appointed jointly by the two countries or, if they do not agree, by the Swedish Government.

The arbitral commission shall appoint the time and place of its meetings and shall draw up its rules of procedure after the president has obtained the opinion of the two countries. It shall itself fix the amount of its remuneration and the manner in which this amount and the other costs for the proceedings shall be divided between the two countries.

Article 23

The present convention, drawn up in the Norwegian and Finnish languages, both of which are equally authentic for purposes of interpretation, is signed subject to ratification.

It shall be ratified as soon as possible, and the instruments of ratification shall be exchanged at Oslo.

Article 24

The convention of 5 November 1935¹ regarding measures to be taken in order to prevent reindeer from crossing the frontier between the two countries is hereby suspended until further notice. The convention shall be deemed, in accordance with the second paragraph of article 34, to have entered into force

¹ League of Nations, *Treaty Series*, Volume CLXIX, page 33, and Volume CXCVII, page 361.

on 1 January 1945. The suspension shall not affect the determination of the period of validity of the convention in accordance with the third paragraph of article 34.

The present convention shall enter into force on the day of the exchange of ratifications, and shall remain in force during the suspension of the convention of 5 November 1935. If within five years no agreement has been reached to cancel the suspension, the present convention may be denounced with one year's notice.

Helsinki, 10 September 1948.

N. Chr. DITLEFF

Uuno TAKKI