

No. 1163

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**UNITED KINGDOM OF GREAT BRITAIN  
AND NORTHERN IRELAND  
and  
POLAND**

**Exchange of notes (with minute and annex) constituting an agreement concerning compensation for British interests affected by the Polish nationalization law of 3 January 1946. Warsaw, 24 January 1948**

*Official texts: English and Polish.*

*Registered by the United Kingdom of Great Britain and Northern Ireland on 11 April 1951.*

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**ROYAUME-UNI DE GRANDE-BRETAGNE  
ET D'IRLANDE DU NORD  
et  
POLOGNE**

**Échange de notes (avec procès-verbal et annexe) constituant un accord relatif à l'indemnisation des intérêts britanniques touchés par la loi polonaise de nationalisation du 3 janvier 1946. Varsovie, 24 janvier 1948**

*Textes officiels anglais et polonais.*

*Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 11 avril 1951.*

No. 1163. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE POLISH REPUBLIC CONCERNING COMPENSATION FOR BRITISH INTERESTS AFFECTED BY THE POLISH NATIONALIZATION LAW OF 3 JANUARY 1946. WARSAW, 24 JANUARY 1948

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*His Majesty's Ambassador at Warsaw to the Polish Minister for Foreign Affairs*

24th January, 1948

Your Excellency,

In accordance with instructions from His Majesty's Principal Secretary of State for Foreign Affairs, I have the honour to inform you that His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland have examined the Minute concerning compensation for British interests affected by the Polish law of 3rd January, 1946, regarding the taking over by the State of the basic branches of the national economy, and the Annex thereto, which were signed on 31st October, 1947, by representatives of the Governments of the United Kingdom and Poland. Copies of the Minute and Annex thereto are attached to the present Note.

2. His Majesty's Government in the United Kingdom confirm the Minute and the Annex as set forth in the texts attached hereto.

I avail, &c.

(Signed) D. ST. CLAIR GAINER

MINUTE CONCERNING COMPENSATION FOR BRITISH INTERESTS AFFECTED BY THE POLISH LAW OF 3RD JANUARY, 1946, REGARDING THE TAKING OVER BY THE STATE OF THE BASIC BRANCHES OF THE NATIONAL ECONOMY<sup>2</sup>

I.—DEFINITIONS

1. For the purposes of the present Minute, the following definitions shall apply:—

(a) "British subjects" shall mean all British subjects and British-protected persons belonging to the United Kingdom or to any colonies,

<sup>1</sup> Came into force on 24 January 1948, by the exchange of the said notes.

<sup>2</sup> Polish *Journal of Laws*, No. 3, of 5 February 1946, item 17.

overseas territories, or protected or mandated territories of the United Kingdom.

- (b) "British claimants" shall mean all physical persons who were British subjects on 3rd January, 1946 (and their heirs and legal representatives), and all companies and firms constituted before 3rd January, 1946, under the laws of the United Kingdom or any of the territories specified in (a) above, who—
- (i) on 3rd January, 1946, owned or were shareholders in a company which owned an undertaking affected by the Nationalisation Law (hereinafter referred to as "British owners and shareholders");
  - (ii) on 1st September, 1939, had (whether directly or through a nominee) a financial claim against the owner of an undertaking affected by the Nationalisation Law or a financial claim secured on or legally enforceable against any undertaking so affected (hereinafter referred to as "British creditors"); or
  - (iii) on 3rd January, 1946, had any rights, not included in sub-paragraphs (i) and (ii) above, against the owner of an undertaking affected by the Nationalisation Law.

Where provision is made by paragraph 10 of the present Minute for the grant of compensation to British owners and shareholders with respect to interests held indirectly or through the medium of subsidiary companies, the provisions of the present minute will apply to them as though they were included within the definition of "British owners and shareholders" set forth in this sub-paragraph.

- (c) "Poland" shall mean the territories which at the date of signature of the present Minute are under the administration of the Polish Government.

2. The grant of compensation, in accordance with the provisions of the present Minute, to any British claimant who became a British subject after 1st September, 1939, shall in each case be subject to prior study in the United Kingdom-Polish Mixed Commission mentioned in paragraph 25 below (hereinafter referred to as "the Mixed Commission").

## II.—GENERAL PRINCIPLES OF COMPENSATION

3. Compensation to British owners and shareholders under article 7 of the Polish Law of 3rd January, 1946, regarding the taking over by the State of the basic branches of the national economy (herein, both in the present Minute and in the Annex thereto, referred to as "the Nationalisation Law") shall be so assessed as to be adequate and so paid as to be effective. Com-

pensation to other British claimants shall be assessed and paid in accordance with the same principle.

4. Any proposals by individual British claimants for the settlement of compensation claims or for exemption from nationalisation as part of or in connexion with new trading arrangements will be sympathetically considered by the competent Polish authorities.

5. Except in cases where any special arrangement may be agreed between the Polish authorities and any individual British claimant, compensation, operative from the date of nationalisation, shall be payable in compensation securities issued by the Polish Government.

6. Compensation securities shall be divided into two classes :—

- (a) Negotiable sterling securities expressed and payable in sterling to be delivered to the claimant in the United Kingdom; and
- (b) Zloty securities fully negotiable and marketable in Poland, expressed and payable in zloté.

7. The Polish Government undertake to provide sterling at due dates, in accordance with the service plan mentioned in paragraph 8 below, to meet the service of the sterling securities referred to in paragraph 6 (a) above.

8. The Government of the United Kingdom and the Polish Government agree that the provisions of the service plan for compensation securities shall be the subject of later discussion in the Mixed Commission. The Government of the United Kingdom agree for their part that, when the service plan for compensation securities is being drawn up, account shall be taken of the progress of Polish economic recovery and the prospective Polish balance of payments.

9. Compensation securities shall be free of all Polish taxes and duties now existing or imposed hereafter.

### III.—PRINCIPLES OF COMPENSATION TO BRITISH OWNERS AND SHAREHOLDERS

10.—(a) The Polish Government will grant compensation to British owners and shareholders to the extent of their interests as owners of, or as shareholders in companies which owned, any of the following undertakings :—

- (i) Undertakings nationalised under article 3 of the Nationalisation Law; or
- (ii) Undertakings nationalised under article 2 of the Nationalisation Law owned by companies having their legal seat in Poland.

(b) The Polish Government will grant compensation to British owners and shareholders to the extent of their interests as owners of, or as share-

holders in companies which owned, undertakings nationalised under article 2 of the Nationalisation Law owned by companies having their legal seat within the present administrative boundaries of Germany, if—

- (i) the combined shareholders of United Nations nationals, whether held directly or indirectly, including holding through the medium of subsidiary companies, amounts to 90 per cent. or more of the total shareholding in the company; or
  - (ii) although such combined shareholding is less than 90 per cent., substantially the whole assets of the company were, on 1st September, 1939, located in Poland.
- (c) The Polish Government will also grant compensation to British owners and shareholders to the extent of their interests, in companies which owned undertakings mentioned in sub-paragraph (a) of this paragraph, held indirectly through companies having their legal seat within the present administrative boundaries of Germany, if—

- (i) the combined shareholding of United Nations nationals, whether held directly or indirectly, including holding through the medium of subsidiary companies, amounts to 90 per cent. or more of the total shareholding in the company which owned the undertaking; or
  - (ii) although such combined shareholding is less than 90 per cent., substantially the whole assets of the company were, on 1st September, 1939, located in Poland.
- (d) The Polish Government will also grant compensation to British owners and shareholders to the extent of their interests held indirectly through United Nations nationals, whether such nationals are physical or legal persons, including subsidiary companies, unless there is an agreement between the Polish Government and the Government of a country other than the United Kingdom providing compensation for such interests, in which case such agreement will apply.

11. No compensation will be paid by the Polish Government in respect of British interests in an undertaking nationalised under article 2 of the Nationalisation Law if, at any time since 30th January, 1933, the undertaking has been primarily engaged in the production of arms, ammunition, or equipment designed solely for warlike purposes, unless the use of the undertaking for such production was the result of unilateral action by the German authorities.

12. Compensation awarded to British owners and shareholders in accordance with the provisions of paragraph 10 (a) (iii) and (b) above shall be paid to them direct.

13.—(a) Sterling securities will be issued to British owners or shareholders where there has been an investment of capital as defined in this paragraph, by the British owner or shareholder or his predecessor in title, in respect of

an undertaking which has been nationalised, subject to the proviso that where his predecessor in title was a German national the transfer of title took place before 1st September, 1939.

(b) The ratio of compensation payable in sterling securities to that payable in zloty securities will be related to the ratio of capital investment, as defined in this paragraph, to other investments, but due regard will be paid to the circumstances of individual cases.

(c) For the purposes of the present Minute, "investment of capital" shall mean:—

- (i) Investments made by transferring sterling to Poland.
- (ii) Investments made by transferring other currency to Poland at a time when such currency was convertible into sterling.
- (iii) Accumulation or re-investment in Poland of undistributed profits in zloty at a time when the zloty was convertible into sterling.
- (iv) Introduction into the undertaking of any items or property which may be agreed to constitute an investment of capital.
- (v) Rendering, in pursuance of a contractual obligation, of any substantial technical or economic assistance or other services which, after discussion by the Mixed Commission, may be agreed to constitute an investment of capital.

14. So far as compensation to British owners and shareholders is not paid in sterling securities, it will be paid in zloty securities.

#### IV.—PRINCIPLES OF COMPENSATION TO BRITISH CREDITORS

15. Where the financial claims of British creditors lie against the owners of undertakings nationalised under article 3 of the Nationalisation Law, the Polish Government agree that the discharge of such claims shall be a prior charge on the compensation payable to the debtors, due regard being paid to the priorities of creditors as between themselves in accordance with their contractual rights under Polish law. Such prior charge shall entitle the British creditor to receive satisfaction of his debt in the form of compensation securities.

16.—(a) Where the financial claims of British creditors lie against the owners of undertakings nationalised under article 2 of the Nationalisation Law, the Polish Government will grant compensation to British creditors whose claims—

- (i) Are or, immediately prior to nationalisation, were secured on, whether by debenture, bond, mortgage or otherwise, or legally enforceable against such undertakings, provided that no compensation will be granted if the debtor is a company having its legal seat within the

present administrative boundaries of Germany unless substantially the whole assets of the company are located in Poland; or

(ii) are in respect of sums which constituted or resulted in an investment of capital within the meaning of paragraph 13 (c) above.

(b) The Polish Government will take such steps as may be necessary to enable such British creditors to be recognised as having claims against undertakings nationalised under article 2 of the Nationalisation Law and will make arrangements to enable them to secure appropriate satisfaction of their claims. The Polish Government will communicate to the Government of the United Kingdom through the Mixed Commission the arrangements they propose for this purpose.

(c) Compensation for British creditors' claims under this paragraph shall not exceed the sum which would be payable to the British creditors, in accordance with the provisions of the present Minute, if compensation for the nationalised undertaking were payable to the owner of the undertaking.

(d) Compensation awarded to British creditors under this paragraph shall be paid to them direct.

17.—(a) Sterling securities will be issued to British creditors where sums, in respect of which they have financial claims, constituted or resulted in an investment of capital within the meaning of paragraph 13 (c) above.

(b) Zloty securities will be issued to British creditors in respect of financial claims other than those included in sub-paragraph (a) of this paragraph.

18.—(a) Where zloty securities are issued in respect of financial claims repayable by contract in sterling or in other foreign currency which was convertible into sterling at the time when the debt was incurred, the nominal zloty value of the securities at the date of issue will be equivalent to the sum in sterling which would have been payable if compensation had been paid in sterling.

(b) In calculating the nominal value of these securities the rate of exchange applicable shall be the par value of the zloty established under the articles of the International Monetary Fund. In the event of such par value not having been so established at the date of issue of the securities, the rate of exchange applicable shall be the Warsaw official par value in force at that date.

(c) The Polish Government undertake to allow transfer across the exchanges of service payments on the zloty securities mentioned in sub-paragraph (a) of this paragraph as soon as the economic circumstances of Poland permit.

(d) If, after the date of issue of the securities, the par value of the zloty, referred to in sub-paragraph (b) of this paragraph, varies in relation to the pound sterling by more than 10 per cent. in either direction, the Government of the United Kingdom and the Polish Government will consult together with a view to reaching a practical and equitable solution.

(e) Nothing in the above provisions of this paragraph shall prejudice the right of British creditors to submit proposals for the settlement in sterling of the financial claims mentioned in sub-paragraph (a) of this paragraph. Such proposals will be sympathetically considered by the competent Polish authorities.

V.—PRINCIPLES OF COMPENSATION TO BRITISH CLAIMANTS AS DEFINED IN  
PARAGRAPH 1 (b) (iii)

19. The Polish Government will grant compensation to British claimants as defined in paragraph 1 (b) (iii) above in accordance with the principles set forth in Parts II and III of the present Minute, but the application of these principles in the case of such British claimants shall be the subject of discussion in the Mixed Commission.

VI.—GENERAL PROVISIONS

20. In applying the provisions of the Nationalisation Law, in relation to copyright and industrial property, such as patent rights, trade names and trade marks, the Polish Government will observe the international conventions and agreements regarding copyright and industrial property.

21.—(a) If between 1st September, 1939, and 8th May, 1945, the rights or interests of British claimants in nationalised undertakings were affected by unilateral action on the part of German citizens or authorities, they shall have the right, within twelve months after the date of removal of the obstacles to the initiation of such proceedings, to initiate legal proceedings before the appropriate Polish court or other authority for the purpose of obtaining restoration of the position existing before that action.

(b) If the detriment to the rights or interests of a British claimant in a nationalised undertaking has been the result of a formal act in law, executed in circumstances in which the legal consequences of that act can be avoided under Polish law, the British claimant shall have the right, within twelve months after the removal of the obstacles to the initiation of such proceedings, to initiate legal proceedings before the appropriate Polish court or other authority for the purpose of obtaining cancellation of such formal act.

(c) For the purposes of sub-paragraphs (a) and (b) of this paragraph, the "date of removal of the obstacles" shall mean the date of signature of the present Minute.

(d) Notwithstanding the provisions of sub-paragraphs (a) and (b) of this paragraph, the Polish court or other authority may refuse to entertain such



proceedings unless the British claimant can prove that he was in fact unable to initiate such proceedings within the time-limit allowed under Polish law.

22.—(a) So soon as any British owner or shareholder has shown that he is a *bona fide* claimant, such British owner or shareholder, or his authorised representative, will be afforded, through the competent Polish authorities, all necessary facilities to present and prosecute his claim for compensation.

(b) The necessary facilities will include the right—

- (i) To visit nationalised undertakings;
- (ii) To obtain such information regarding the condition and value of nationalised undertakings as may reasonably be required for the presentation and prosecution of claims to compensation; and
- (iii) To participate in preparing detailed inventories of the elements of property of nationalised undertakings and to submit comments and explanations on the relevant protocols of delivery and receipt.

(c) Minority shareholders shall only have such facilities as they would have had by law, contract or custom if the undertaking had not been nationalised. If difficulties should arise regarding the provision of such facilities for minority shareholders, the Polish Government will give favourable consideration to any representations which the Government of the United Kingdom may make in this respect through the medium of the Mixed Commission.

(d) The circumstances in which facilities, similar to those mentioned in sub-paragraphs (a) and (b) of this paragraph, will be afforded to British creditors will be agreed through the medium of the Mixed Commission.

(e) The competent authorities in Poland and the United Kingdom will use their best endeavours to ensure that the facilities mentioned in this paragraph are made available and utilised with the minimum of delay.

23. The Polish Government confirm that they desire to settle questions of compensation to British claimants with the least possible delay and the least possible expense to the claimants and undertake to communicate to His Britannic Majesty's Embassy in Warsaw the provisions to be adopted for this purpose.

24. As set forth in an exchange of letters made on this day's date between the signatories of the present Minute, the Polish Government will make the necessary arrangements for British claims to be concentrated in a Special Panel of the Compensation Commission to be set up in accordance with article 7 of the Nationalisation Law.

25. The Government of the United Kingdom and the Polish Government agree to the establishment of a Mixed Commission with terms of reference as set forth in the annex to the present Minute.

26.—(a) If the Government of the United Kingdom consider that, having regard to all the circumstances of the case, the compensation awarded to any British claimant is inadequate, the question will be reconsidered between the two Governments with a view to a mutually satisfactory settlement. In default of agreement, the question shall, at the request of either Government, be referred for settlement to a Committee of Arbitration consisting of three members. One member shall be appointed by the Government of the United Kingdom, one member shall be appointed by the Polish Government, and the third, who shall not be either a British subject or a Polish citizen, shall be co-opted by agreement between the first two members.

(b) The Committee of Arbitration shall settle any such question, by majority vote, in accordance with the provisions of the present Minute.

27. The provisions contained in the present Minute will come into force on confirmation by the Government of the United Kingdom and the Polish Government.

28. The present Minute is done in duplicate, in English and in Polish, both texts being equally authentic.

For His Majesty's Government in the United Kingdom :  
Philip BROAD

For the Government of the Republic of Poland :  
L. KUROWSKI

Warsaw, 31st October, 1947.

## ANNEX

### TERMS OF REFERENCE OF THE UNITED KINGDOM-POLISH MIXED COMMISSION

#### A.—General Provisions

1. A United Kingdom-Polish Mixed Commission (hereinafter referred to as "the Mixed Commission") is hereby established to perform the functions set forth in Part B of this Annex. The Mixed Commission shall serve as the normal channel of communication between the Government of the United Kingdom and the Polish Government on any matter affecting British claimants arising out of the Nationalisation Law.

2. Within thirty days after the date of confirmation by the Government of the United Kingdom and the Polish Government of the Minute to which the present terms of reference form an annex, each Government shall appoint two permanent commissioners and shall communicate their names to the other Government. Either Government, upon giving notice to the other Government, shall be entitled at any time to appoint additional temporary commissioners.

3. Irrespective of their numbers, the United Kingdom Commissioners shall

together be entitled to one vote and the Polish Commissioners shall together be entitled to one vote.

4. Two United Kingdom Commissioners and two Polish Commissioners shall together constitute a quorum of the Mixed Commission.

5. The Mixed Commission shall meet on such dates and for such periods as may be proposed by the permanent commissioners of either Government. Consent to such proposals shall not unreasonably be withheld.

6. In all respects other than as stated above, the Mixed Commission shall draw up its own rules of procedure.

#### B.—*Functions*

7. The functions of the Mixed Commission shall be :—

- (a) To discuss general questions of compensation to British claimants affected by the Nationalisation Law, including matters of procedure.
- (b) To formulate proposals for standards, rules and formulæ for the assessment of compensation in implementation of article 7 of the Nationalisation Law.
- (c) To discuss the method of payment and questions of transfer of compensation to British claimants with particular reference to the service plan for compensation securities.
- (d) To discuss the application of—
  - (i) the Minute mentioned in paragraph 2 of this annex;
  - (ii) the two letters exchanged on this day's date between the signatories of the Minute mentioned in paragraph 2 of this annex; and
  - (iii) any other letters, minutes or documents agreed between the Government of the United Kingdom and the Polish Government regarding compensation to British claimants affected by the Nationalisation Law.
- (e) At the request of either Government, to endeavour to resolve any differences between the two Governments in respect of the interpretation or application of the Minute mentioned in paragraph 2 of this annex that may arise out of any individual case.
- (f) Such other functions as may from time to time be conferred upon the Mixed Commission by agreement between the Government of the United Kingdom and the Polish Government.

8. The Mixed Commission may make recommendations on any matter within its functions to the Government of the United Kingdom and to the Polish Government. Both Governments will give favourable consideration to and endeavour to give effect to such recommendations.

9. In formulating the order provided for in article 7 (6) of the Nationalisation Law, the Polish Council of Ministers will seek to embody any proposals regarding standards, rules and formulæ for the assessment of compensation drawn up by the Mixed Commission. In promulgating supplementary orders, they will similarly seek to embody any additional proposals regarding standards, rules and formulæ drawn up by the Mixed Commission.

[Initials]

N° 1163

## II

*The Polish Minister for Foreign Affairs to His Majesty's Ambassador  
at Warsaw*

POLISH TEXT — TEXTE POLONAIS

TRANSLATION<sup>1</sup> — TRADUCTION<sup>2</sup>

Warszawa, dnia 24 stycznia 1948

Warsaw, 24th January, 1948

Ekscelencjo,

Zgodnie z instrukcją mego Rządu mam zaszczyt zawiadomić Pana, że Rząd Polski zbadał protokół w sprawie odszkodowań za brytyjskie interesy, dotknięte polską ustawą z dnia 3 stycznia 1946 r. o przejęciu na własność Państwa podstawowych gałęzi gospodarki narodowej jak i aneks do protokołu, który został podpisany dnia 31.10.1947 r. przez przedstawicieli Rządów Polskiego i Zjednoczonego Królestwa.

Odpisy protokołu i aneksu dołączone są do niniejszej noty.

Rząd Polski potwierdza protokół i aneks w brzmieniu ustalonym w tekstach załączonych przy niniejszym.

Z. MODZELEWSKI

Your Excellency,

In accordance with instructions from my Government, I have the honour to inform you that the Polish Government examined the minute concerning compensation for British interests affected by the Polish decree of 3rd January, 1946, on the taking over into State ownership of the basic branches of the national economy, and also the annex to the minute, which was signed on 31st October, 1947, by representatives of the Polish Government and of the Government of the United Kingdom.

Copies of the minute and annex are attached to this Note.

The Polish Government confirm the minute and annex in the form agreed on in the texts attached hereto.

*(Signed)* Z. MODZELEWSKI<sup>1</sup> Translation by the Government of the United Kingdom.<sup>2</sup> Traduction du Gouvernement du Royaume-Uni.