

No. 1172

DENMARK
and
POLAND

**Protocol No. I on Danish interests and assets in Poland
(with exchange of letters). Signed at Warsaw, on
12 May 1949**

Official text: French.

Registered by Denmark on 16 April 1951.

DANEMARK
et
POLOGNE

**Protocole n° I relatif aux intérêts et avoirs danois en
Pologne (avec échange de lettres). Signé à Varsovie,
le 12 mai 1949**

Texte officiel français.

Enregistré par le Danemark le 16 avril 1951.

TRANSLATION — TRADUCTION

No. 1172. PROTOCOL No. 1¹ BETWEEN DENMARK AND
POLAND ON DANISH INTERESTS AND ASSETS IN
POLAND. SIGNED AT WARSAW, ON 12 MAY 1949

The representatives of the Danish Government and of the Finance Minister of Poland met at Warsaw from 18 November to 16 December 1948 and, after studying the question at issue, agreed on the following :

Article 1

The Polish Government acknowledges its responsibility for the payment of interest and all pre-war debts contracted by the Polish State and by State enterprises towards Danish natural or legal persons and to indemnify, in accordance with Polish law, any Danish parties whose interests within the present territory of Poland have been affected by the Nationalization Act of 3 January 1946. The Polish Government likewise confirms all existing guarantees given by the Polish State on behalf of Polish public communities.

Article 2

Danish natural or legal persons owning wholly or in part enterprises which were nationalized under article 3 of the Act of 3 January 1946, shall be granted an indemnity in accordance with the principles of article 7 of that Act.

The same principles of indemnity shall be applied to Danish participations in enterprises which were nationalized under article 2 of the Act of 3 January 1946 provided the registered offices or nearly the whole assets of the aforesaid enterprises are in Poland or that 90 per cent of their capital is owned by nationals of the United Nations.

An indemnity shall not, however, be granted to enterprises nationalized under article 2 of the above Act of 3 January 1946 which were mainly engaged, after 30 January 1933 in the production of arms, ammunition or implements of war unless such an enterprise was converted to war production by unilateral action on the part of the German authorities.

Article 3

Claims of Danish natural or legal persons against enterprises which were nationalized under article 3 of the Act of 3 January 1946 shall enjoy priority

¹ Came into force on 12 May 1949, as from the date of signature, in accordance with article 14.

of settlement over indemnities paid to the proprietors of the said enterprises owning them by virtue of their contractual rights under Polish law.

In cases where the claims of the aforesaid Danish parties should relate to enterprises nationalized under article 2 of the Act of 3 January 1946, an indemnity shall be granted provided the registered offices or nearly the whole of the assets of the aforesaid enterprises are in Poland or that 90 per cent of their capital is owned by nationals of the United Nations, and that the aforesaid claims are guaranteed by bonds issued for that purpose or registered mortgages or that the claims give a direct right of distraint over property situated in Poland.

Indemnity for the claims mentioned in the preceding paragraph shall not exceed the amount which would have been paid if the owner of the nationalized enterprise had been indemnified. Such indemnity shall be paid directly to the Danish parties concerned.

Article 4

If Danish natural or legal persons did not become owners, part-owners or creditors of nationalized enterprises until after 1 September 1939, the aforesaid indemnity shall be granted provided that persons who were owners, part-owners or creditors between that date and the date of the acquisition would have been entitled to compensation.

Article 5

It is understood that nationalization applies exclusively to property, and in no way affects the existence of the legal persons to which the property belonged, as stipulated in the Act of 3 January 1946.

Nevertheless, the Polish Government will be prepared to open negotiations for direct settlement of indemnity claims with the Danish parties affected by the Act of 3 January 1946.

Article 6

In applying the provisions of the Nationalization Act to industrial property rights such as patents, licences, trade names, trade-marks or designs, the Polish Government will comply with the provisions of the relevant international conventions in force of which Poland is a signatory.

Article 7

In order to facilitate the fulfilment by the Danish parties concerned of all the requirements for safeguarding their rights and interests in connexion

with nationalized enterprises, the Polish Government undertakes to grant the said parties the following privileges :

(a) Declaration of rights and interests in respect of nationalized enterprises may be made in the protocol of transfer and acceptance directly by the parties concerned or through the Danish Legation in Warsaw.

(b) In case the Danish parties concerned do not know where and when the protocol of transfer and acceptance will be drawn up, they may make a declaration of their rights and interests, directly or through the Danish Legation in Warsaw, to the Foreign Section of the Executive Committee of the Nationalization Commission in Warsaw, which shall take all the necessary steps to include the above declarations in the protocols of transfer and acceptance.

The declarations of rights and interests must, however, be accompanied by documents showing the amount, the date of constitution and the manner of acquisition of the rights and interests mentioned above.

Article 8

Movable or immovable property which is under the management of the Polish authorities by virtue of the Decree of 8 March 1946 and to which the Polish provisions referred to in article 1 do not apply shall be restored without delay to its Danish owners upon request.

If the Danish parties concerned are only part-owners of property otherwise considered to be German they shall likewise receive restitution of their share in such property.

In order to facilitate the procedure of restoring the said property to private ownership, the Polish Government agrees that Danish owners or part-owners may, directly or through the Danish Legation in Warsaw, request the competent liquidation committee to restore their private ownership rights in accordance with the procedure laid down in chapter III of the Decree of 8 March 1946 on abandoned and ex-German property.

If required to prove their right to the above property, the Danish parties concerned must personally or through a representative with full powers apply to the court in conformity with the provisions of Polish law.

The settlement of mortgage claims existing on ex-German immovable property situated within the present boundaries of Poland other than the immovable property of nationalized enterprises will be the subject of negotiations between the two Governments in accordance with the principles to be laid down by the treaty of peace with Germany.

Article 9

Danish natural or legal persons shall enjoy most-favoured-nation treatment with regard to their interests and assets covered by the present protocol.

Article 10

A Danish-Polish Mixed Commission shall be established, composed of a representative of each of the Governments of the two countries.

It shall be its duty, with a view to reaching a solution in each individual case, to discuss the questions raised regarding the amount of the indemnity due to the Danish parties concerned, as well as questions relating to Danish interests and assets in Poland, including the determination of cases in which a Danish claimant may be regarded as in distressed circumstances.

Article 11

The compensation payable to a Danish owner or part-owner under article 7 of the Act of 3 January 1946 shall be fixed at an adequate figure and shall be effectively paid.

The same principles shall be applied in the determination and payment of compensation to other Danish nationals affected by the Act of 3 January 1946.

If the Danish Government considers an indemnity determined by the Polish authorities to be inadequate, the case shall be settled by negotiation between the Governments of the two countries with a view to finding a solution satisfactory to both parties.

If the Governments are unable to reach an agreement, the question shall, at the request of one of the Governments, be submitted to a Commission to be composed of a representative of each of the two Governments and of a third member chosen by them who is not a national of either of the two States.

Article 12

Negotiations between the Danish Government and the Polish Finance Minister regarding payment and transfer of the debts covered by the present protocol and regarding indemnities fixed in virtue of the same protocol shall begin towards the middle of 1950, except in individual cases in which the said payments and transfers are effected by special agreement between the Danish parties concerned and the Polish authorities.

Simultaneously with the said negotiations, conversations shall be opened regarding transfers of Danish assets acquired before 1 September 1939 which are not covered by the foregoing provisions.

The Polish Government declares that cases of debts and indemnities due to distressed Danish individuals shall be accorded especially favourable consideration as regards possibilities of transfer.

Article 13

In view of the nature of the relief debt incurred after the world war, which was designed to assist the newly constituted States devastated by the war, and in view of the devastation of Poland during the last world war and the economic relations as a whole between the two countries, the Danish Government agrees to the Polish Government's proposal to cancel the unpaid balance of the Polish debt to the amount of 110,725 (one hundred and ten thousand seven hundred and twenty-five) Danish crowns.

Article 14

The present Protocol shall enter into force at the moment of signature.

SIGNED in duplicate at Warsaw, 12 May 1949.

For the Danish Government
(Signed) Wilhelm EICKHOFF
Danish Minister at Warsaw

For the Finance Minister of Poland
(Signed) Dr. L. KUROWSKI
Under-Secretary of State

EXCHANGE OF LETTERS

I

Warsaw, 12 May 1949

Sir,

After considering the questions raised by the Danish delegation in the course of our negotiations, in particular as regards various debts in arrears, I have the honour to inform you of the following :

1. The service of the bonds of domestic State loans, including the bonds of the 1933 Railroad Conversion Loan, has been suspended since the first day of the war and has not yet been resumed.

The terms and the method of settlement of these bonds have not yet been established, but the Danish holders of the above bonds are assured that they will be treated not less favourably than those receiving most favoured treatment. Nevertheless, the owners of the bonds of the 1933 Railroad Conversion Loan will have to prove that the bonds were not in the hands of natura

or legal persons considered to be nationals of enemy countries after 31 August 1939, in which case the holdings would have been confiscated under Polish law.

2. The Danish holders of bonds of the Stabilization Loan are also assured that they will be treated not less favourably than other holders of the bonds of the same issue (*tranche*) enjoying most favoured treatment.

3. Since the winding-up of credit institutions has been provided for by the decrees of 25 October 1948 (*Legal Gazette*, No. 52, pp. 410 and 411) the settlement of the bonds issued by those institutions will be governed by the provisions of the said decrees.

Should the debts or bonds have been guaranteed by the State, and should the liquidated assets not be sufficient to cover their repayment, the Finance Ministry undertakes to make up the deficit in accordance with the provisions of the Polish law.

4. In view of their character, the settlement of debts of private companies or individuals does not fall within the scope of our negotiations and the Danish nationals concerned must approach their debtors directly.

5. The question of the settlement of State bonds issued for the road work carried out by the Højgaard & Schultz Company as well as of the other claims and interests of that company in Poland may be decided by direct negotiation between the said company and the Ministry of Finance in accordance with Protocol No. I, article 12, concerning Danish interests and assets in Poland.

6. The questions of war reparations and the settlement of German debts including mortgage rights to ex-German property established at the date of the signature of this letter are matters to be settled in the future treaties of peace with Germany and could be dealt with in future negotiations between the Danish and Polish Governments under the appropriate international arrangements.

7. The restitution of property seized by the Germans may be effected by the two parties in conformity with the Inter-Allied Declaration of 5 January 1943.

I have the honour, etc.

For the Finance Minister of Poland
(Signed) Dr. St. SEMBRAT

Mr. Einar Blechingberg
Chairman of the Danish Delegation
Warsaw

II

Warsaw, 12 May 1949

Sir,

I have the honour to acknowledge receipt of your letter of to-day's date which reads as follows :

[See letter I]

I have the honour, etc.

(Signed) E. BLECHINGBERG
Chairman of the Danish Delegation

Mr. Stanisław Sembrat
Chairman of the Polish Delegation
Warsaw

III

Warsaw, 12 May 1949

Sir,

With reference to the negotiations held from 18 November to 16 December 1948 concerning Danish interests and assets in Poland, I have the honour to inform you that the Danish Delegation wishes to make reservation as to the view it expressed during the said negotiations that adequate compensation should be afforded to Danish citizens whose interests in Poland had been or would be affected by the Decree of 6 September 1944 on agrarian reform or by the Decree of 12 December 1944 on forest reform or by any similar measures taken by the Polish authorities. The said compensation should be paid in an effective form.

I have the honour, etc.

(Signed) E. BLECHINGBERG
Chairman of the Danish Delegation

Mr. Stanisław Sembrat
Chairman of the Polish Delegation
Warsaw

IV

Warsaw, 12 May 1949

Sir,

I have the honour to acknowledge receipt of your letter of today's date which reads as follows :

[See letter III]

On behalf of the Finance Minister, I have the honour to state that the compensation for Danish interests mentioned in your letter quoted above will be settled in accordance with the Polish legislation in force.

I have the honour, etc.

For the Finance Minister of Poland
(Signed) Dr. Stanisław SEMBRAT

Mr. Einar Blechingberg
Chairman of the Danish Delegation
Warsaw