

No. 4395

POLAND
and
GERMAN DEMOCRATIC REPUBLIC

**Agreement (with Final Protocol and Additional Protocol)
concerning navigation in frontier waters and the use
and maintenance of frontier waters. Signed at Berlin,
on 6 February 1952**

Official texts: Polish and German.

Registered by Poland on 1 July 1958.

POLOGNE
et
RÉPUBLIQUE DÉMOCRATIQUE ALLEMANDE

**Accord (avec Protocole final et Protocole additionnel) con-
cernant la navigation sur les eaux frontières ainsi que
l'utilisation et la conservation de ces eaux. Signé à
Berlin, le 6 février 1952**

Textes officiels polonais et allemand.

Enregistré par la Pologne le 1^{er} juillet 1958.

[TRANSLATION — TRADUCTION]

No. 4395. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE POLISH REPUBLIC AND THE GOVERNMENT OF THE GERMAN DEMOCRATIC REPUBLIC CONCERNING NAVIGATION IN FRONTIER WATERS AND THE USE AND MAINTENANCE OF FRONTIER WATERS. SIGNED AT BERLIN, ON 6 FEBRUARY 1952

The Government of the Polish Republic, on the one hand, and the Government of the German Democratic Republic, on the other hand, have decided to conclude an Agreement concerning navigation in frontier waters and the use and maintenance of frontier waters, and have for this purpose appointed as their plenipotentiaries :

The Government of the Polish Republic :

Mr. Jan Izydorzyc, Ambassador Extraordinary and Plenipotentiary, Head of the Polish Diplomatic Mission to the Government of the German Democratic Republic;

The Government of the German Democratic Republic :

Professor Hans Reingruber, Minister of Communications,

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

CHAPTER I

NAVIGATION AND FLOATING ON FRONTIER WATERS

Article 1

The two Contracting Parties grant each other, on a basis of complete equality, the right to navigation and floating on frontier waters.

Vessels and rafts authorized for navigation by either Contracting Party and persons and cargo thereon may use the full width of the frontier waters of the Oder and the navigable part of the Nysa Łużycka (Lausitzer Neisse).

Such vessels, rafts, persons and cargo shall be exempt from all customs and passport formalities, unless they tie up to the other Party's bank or otherwise make contact with the bank or with vessels or rafts of the other Party.

¹ Came into force on 2 August 1952 by the exchange of the instruments of ratification at Warsaw, in accordance with article 31.

In the event of their being obliged to tie up to the other Party's bank or otherwise to make contact therewith, the vessels and rafts referred to in the second paragraph shall be subject to all provisions and regulations in force in the territory concerned.

Contact with vessels and rafts of the other Contracting Party may be treated by the competent authorities as contact with the other Contracting Party's bank.

The vessels and rafts referred to in the second paragraph shall be exempt from navigation and other charges.

Article 2

Vessels of the competent authorities of either Contracting Party shall be entitled to navigate over the full width of the frontier waters. They may likewise tie up to the bank of the other Contracting Party, with the latter's consent and subject to the provisions of the fourth paragraph of article 1.

Article 3

Every vessel and raft shall carry the documents and distinctive marks required for navigation or floating.

Article 4

Every vessel and raft shall be in the charge of a responsible person and carry the necessary crew.

The person in charge of a vessel or raft shall be responsible for ensuring that it is properly manned and controlled.

The charge of a vessel or raft shall be entrusted only to persons holding a certificate of competence (e.g. a master's or raftsmen's certificate) issued or recognized by the competent offices of one of the Contracting Parties.

The said documents shall be honoured by the authorities and offices of the other Party. The office which has issued or recognized such a document shall be bound to withdraw it from the holder at the other Party's request in the event of his serious or repeated contravention of the navigation, customs or currency regulations, or if he is guilty of contraband or any other frontier offence.

The two Contracting Parties shall prescribe a uniform model seaman's book for the crew of vessels or rafts.

Article 5

Vessels may tie up to and remain alongside their own Party's bank only at the places designated for the purpose by the competent authorities and marked by clearly visible signs of which the other party has been notified. This provision

shall not apply to official vessels of the water security service or to engineering appliances or vessels of the waterways administration.

Article 6

Each Contracting Party shall issue appropriate regulations authorizing persons in charge of vessels or rafts to tie up to the other Party's bank outside the designated mooring places if the vessel or raft is in danger of sinking or for other good and sufficient reasons, and if necessary to land the crew and unload the cargo, subject to immediate notification of the frontier authorities of the said Party. Timber from a broken raft may likewise be landed.

Both Contracting Parties shall grant the victims of shipwreck every assistance, subject to reimbursement of the expenses incurred, and shall also if necessary carry out aid or rescue operations.

If as a result of such aid or rescue operations third persons suffer damage, each Contracting Party shall enable the said persons to claim in its territory compensation under the law in force in the territory of the Party in which the damage was sustained.

Article 7

If any navigation installations, water engineering works, vessels or rafts of one Party are destroyed or damaged through the culpable act or negligence of the person in charge of a vessel or raft belonging to the other Party, the person having the ownership or possession of the said vessel or raft shall be liable for the damage in accordance with the law applicable to the injured Party.

The competent authorities of the two Parties shall determine by agreement the amount of any compensation claimed under articles 6 and 7. Where serious damage in excess of 1,000 roubles is sustained, the liability for compensation and the amount thereof shall be examined by a Mixed Commission convened for the purpose and composed of representatives of both Parties.

Article 8

The two Contracting Parties shall issue, on the basis of proposals prepared by the Mixed Commission provided for in article 30 and in the Final Protocol,¹ rules of navigation applicable to the frontier waters.

Article 9

No water-borne traffic whatsoever shall be permitted on unnavigable frontier rivers or on lakes outside the hours of daylight or beyond the frontier line.

¹ See p. 178 of this volume.

Article 10

On the sector of the waterway near Nowe Warpno-Altwarpo, on which the frontier line is not indicated by auxiliary frontier marks, vessels of both Parties may use the full width of the fairway. Navigation in this sector shall be governed by the principles laid down in articles 1 to 8.

On the remaining waters of the Zalew Szczeciński (Stettiner Haff) and the Zatoka Nowowarpieńska (Neuwarper Bucht) vessels may navigate up to the frontier line. Navigation in those waters may take place at any hour of the day or night.

Article 11

The procedure for maintaining the waterway near Nowo Warpno-Altwarpo in accordance with the principles laid down by the Commission provided for in article 30 and the procedure for maintaining the navigation marks in the sector of the waterway in joint use shall be determined and co-ordinated by agreement between the competent authorities of the two Contracting Parties.

Article 12

The Parties undertake to assist each other in measures connected with the enforcement of the rules concerning navigation in frontier waters.

CHAPTER II

PRINCIPLES OF ADMINISTRATION AND MAINTENANCE OF FRONTIER WATERS

Article 13

The two Contracting Parties agree that, on the frontier sector of the river Oder, on the Nysa Łużycka (Lausitzer Neisse) and on other frontier waters, the riparian works and the riparian markings of the navigable channel shall be restored and maintained :

On the right bank—by the Polish authorities;

On the left bank—by the German authorities.

Article 14

In order to ensure the normal conformation of the river bed and to permit the removal of obstructions likely to cause ice barriers, damage and accidents, each Contracting Party shall, save as may be otherwise determined by special agreement between the competent authorities of the two Parties, carry out the following works in its own frontier sector : the installation of kilometre marks; the removal of destroyed bridging and other water installations, piles and miscellaneous remnants of rebuilt and temporary bridges, up to halfway across the

bridge; the raising of sunken vessels and the removal of other obstructions above or below the water-line; and the restoration, on its own bank, of any dams, flood-dikes, navigation marks and other water installations destroyed or damaged during the period of navigation by ice-floes, flooding or any other cause.

Article 15

In order to ensure the safety of navigation and floating on navigable frontier waters, the two Contracting Parties shall bear joint responsibility for the detection, marking and removal of obstructions in the fairway, and for the marking of the fairway. Both Parties shall dredge the navigable channel and employ other suitable means to maintain the necessary depths in the sectors designated by the Mixed Commission in accordance with article 30.

With a view to the correct siting of riparian navigation marks and buoys and the planning of regulation works, longitudinal and transverse soundings shall be carried out jointly and simultaneously.

Article 16

Each Contracting Party undertakes to enter, on scale plans of the bank which it maintains of the navigable rivers, the position of riparian navigation marks, buoys, boards indicating the navigable openings of bridges, and obstructions in the fairway, and to transmit the said plans to the other Party.

Each Party shall immediately inform the other of the installation of any new navigation marks and of the removal or re-siting of any existing navigation marks.

Article 17

In order to maintain the frontier waters in proper condition, each Contracting Party undertakes :

- (1) Not to alter or obstruct to the detriment of the other Party the natural flow of water in frontier watercourses or on the adjoining land through the erection or reconstruction of any works in the water or on the banks;
- (2) Not to take, on the land adjoining the frontier sector of the river Oder, any action likely to result in a fall in the water level necessary for navigation;
- (3) To clean out frontier watercourses regularly in the sectors where such cleaning is considered necessary by the competent authorities of the two Contracting Parties;
- (4) To prevent, by appropriate means and installations, any waters entering the frontier sector of the rivers Oder and Nysa Łużycka (Lausitzer Neisse)

and any effluents from towns, settlements or industrial plant from introducing into the said rivers physical, chemical or bacteriological impurities of such nature and in such quantities as :

- (a) To affect adversely the use of the water of the said rivers for domestic requirements, water supply, industry and agriculture;
- (b) To cause bridges, dams, other water engineering works and installations, and vessels to become corroded and overgrown with slime and aquatic flora and fauna;
- (c) To cause the excessive accumulation of slime on the bed and banks;
- (d) To affect adversely the normal development of the typical aquatic flora and fauna of the said rivers.

Article 18

Existing water engineering works, bridges, dams, sluices, embankments etc. on frontier watercourses shall be preserved. If they are in use, each of the two Contracting Parties shall at its own expense keep them in good condition and in repair up to the frontier line unless the two Contracting Parties conclude a separate agreement on the subject.

If need arises to reconstruct or remove any of the objects referred to in the first paragraph and such reconstruction or removal may cause a change in the water level in the territory of the other Party or impair the navigability of the river, the other Party's consent to the execution of the necessary works must be obtained.

Such consent shall likewise be required for the construction of new bridges, dams, sluices, embankments etc.

If the projected works may serve common purposes, the competent authorities shall agree upon the general and detailed plans thereof, the construction costs, the apportionment of costs and the acceptance.

The use, operation and repair of existing power installations, the restoration of destroyed power installations and the construction of new power installations on frontier waters shall be regulated by agreement between the competent authorities of the two Parties.

CHAPTER III

PRINCIPLES OF CO-OPERATION IN PRECAUTIONARY MEASURES AGAINST FLOODING AND ICE-FLOES

Article 19

The two Contracting Parties undertake to exercise joint vigilance and to co-operate with each other to prevent the formation of potentially dangerous ice barriers. The technical direction of works for protection against ice shall be undertaken by the Polish Party.

The Polish Party shall inform the German Party in good time of the place and time of ice clearance operations on the frontier sector of the river Oder, the middle and lower reaches of the Oder, and the Nysa Łużycka (Lausitzer Neisse).

Ice-breaking operations shall proceed upriver from the mouth of the Oder. Where necessary, and provided that no danger to the lower reaches of the river is entailed, local ice barriers may be demolished by blasting.

The Polish Party shall take into account, in carrying out ice-breaking operations, the wishes and requirements of the German Party, with a view to preventing any danger to German territory. The German Party shall provide the Polish Party at its request with appropriate technical facilities (ice-breakers and blasting operatives) for the ice clearance operations. The competent authorities of the two Contracting Parties shall agree on the extent of the technical facilities which each Party shall be required to provide for ice-breaking purposes.

Article 20

In the event of damage or accident during blasting operations, each Party undertakes to come to the other's assistance, subject to reimbursement of the expenses entailed in the provision of such assistance.

Article 21

Each Contracting Party shall take precautions against flooding on its own territory in accordance with its applicable provisions and shall where necessary inform the other Party of the danger of a burst in any dike.

If a dike bursts, the two Parties shall immediately combine their efforts to repair the damage, furnishing technical facilities and the necessary labour.

The Party which asks for assistance shall bear the cost involved.

Article 22

The labour costs involved in operating the ice-breakers used shall be borne by the Party to which the ice-breakers belong.

Where labour is employed in blasting operations carried out by one Party at the other Party's request, the two Parties shall divide the cost of such works equally between them.

Article 23

The Parties hereby determine that the division of the waters in the sector of the river below the village of Zatoń Górna (Hohensaaten) shall be carried out by the competent Polish authorities in agreement with the competent German authorities.

CHAPTER IV

USE OF FRONTIER WATERS

Article 24

The inhabitants of each Contracting Party shall be permitted, in accordance with the provisions in force in its territory, to fish in frontier waters up to the frontier line subject to the following conditions :

- (a) That no explosive, poisonous or narcotic substances that result in the large-scale destruction or mutilation of fish shall be used;
- (b) That fish may be caught in frontier waters, rivers and lakes only during the hours of daylight;
- (c) That fishing shall in no way interfere with navigation.

Article 25

Permission for the extraction of gravel, sand, stone, ice etc. from the river bed in the frontier sector of the rivers Oder and Nysa Łużycka (Lausitzer Neisse) shall be granted by the competent authorities of the Contracting Parties after consultation with each other.

The mowing of hay and the cutting of reeds shall be subject to the provisions in force in the territory of the Party concerned and may be carried on only up to the frontier line.

CHAPTER V

FINAL PROVISIONS

Article 26

In this Agreement, the expression "frontier waters" means :

- (a) Sectors of rivers, canals and streams over which the frontier line passes;
- (b) Lakes and other standing waters intersected by the frontier line;
- (c) The Zatoka Nowowarpińska (Neuwarper Bucht) and the Zalew Szczeciński (Stettiner Haff).

Article 27

The following are navigable frontier waters :

- (a) The sector of the Oder extending from frontier mark No. 433 to frontier mark No. 755;
- (b) The sector of the Nysa Łużycka (Lausitzer Neisse) extending from frontier mark No. 391 to frontier mark No. 432.

Article 28

In this Agreement, the term "vessels" means water-borne objects, with or without mechanical means of propulsion, used on inland waterways for the transport of persons, livestock, goods and mail, for engineering works, for fishing and for sport.

The term "rafts" means logs of wood suitably bound and attached lengthwise and crosswise for the purpose of floating.

Article 29

The Governments of the two Contracting Parties shall notify each other of the offices which are to be regarded as "competent authorities" or "frontier authorities" for the purposes of the individual provisions of this Agreement.

Article 30

The determination of the procedure for dealing with special questions shall be entrusted to a Mixed Polish-German Commission sitting at Frankfurt on the Oder, to which each Party shall appoint three representatives. The Mixed Commission may co-opt experts.

The Commission referred to in the first paragraph shall meet not later than fifteen days after the entry into force of this Agreement and shall within six months prepare and submit to both Parties for approval a code of provisions concerning navigation in frontier waters and the maintenance and use of frontier waters.

Article 31

This Agreement shall be ratified or confirmed by each of the Parties.

The Agreement shall enter into force on the date of the exchange of the relevant documents.

The exchange of the documents shall take place at Warsaw.

Article 32

This Agreement is concluded for a term of five years.

Unless notice of termination of the Agreement is given six months before the expiry of the said five-year term, the Agreement shall be deemed to be extended automatically for successive terms of five years, subject to termination under the same conditions.

Article 33

This Agreement is done in duplicate in the Polish and German languages, both texts being equally authentic.

IN WITNESS WHEREOF the above-named plenipotentiaries of the two Contracting Parties have signed this Agreement and have thereto affixed their seals.

DONE at Berlin, on 6 February 1952.

For the Government of the Polish Republic :

Jan IZYDORCZYK

[L.S.]

For the Government of the German Democratic Republic :

Hans REINGRUBER

[L.S.]

FINAL PROTOCOL

On signing the Agreement between the Polish Republic and the German Democratic Republic concerning navigation in frontier waters and the use and maintenance of frontier waters,¹ the Contracting Parties have agreed as follows :

I

The functions of the Mixed Polish-German Commission provided for in article 30 of the Agreement shall include the preparation of a code of provisions governing all matters arising out of this Agreement, in particular : the tying up of vessels of the navigation authorities to the other Party's banks (article 2), the types and distinctive markings of particular vessels and rafts (article 3), model seamen's books (article 4), damage to vessels and rafts (article 6), compensation (article 7), navigation (article 8), the safety of navigation and floating (articles 14 and 15), co-ordination between the competent authorities (article 16), the maintenance of frontier waters in proper condition (article 17), the protection of frontier waters against flooding and ice-barriers (article 19), co-ordination between the waterways administrations in taking precautions against ice and flooding, and the division of the waters (articles 21 and 23).

II

On completion of the code of provisions referred to in paragraph I, the Mixed Polish-German Commission shall be dissolved.

¹ See p. 160 of this volume.

III

At the request of either Contracting Party and in agreement with the other Party, a Mixed Polish-German Commission may be established to make such amendments as may in the future prove necessary to the code of provisions referred to in paragraph I.

IV

This Protocol is done in duplicate in the Polish and German languages, both texts being equally authentic.

DONE at Berlin, on 6 February 1952.

For the Government of the Polish Republic :

Jan IZYDORCZYK

For the Government of the German Democratic Republic :

Hans REINGRUBER

ADDITIONAL PROTOCOL TO THE AGREEMENT BETWEEN THE
POLISH REPUBLIC AND THE GERMAN DEMOCRATIC REPUBLIC
CONCERNING NAVIGATION IN FRONTIER WATERS AND THE
USE AND MAINTENANCE OF FRONTIER WATERS¹

The plenipotentiaries of the two Contracting Parties agree on the following provisions to supplement the Agreement between the Polish Republic and the German Democratic Republic concerning navigation in frontier waters and the use and maintenance of frontier waters :¹

Section 1

The dam at Widuchów shall be administered by the Polish Party through its authorities.

Section 2

The Polish Party shall issue regulations concerning the times of opening and closing of the dam in accordance with the following provisions.

¹ See p. 160 of this volume.

Section 3

It is hereby determined that the closing of the dam shall take place within the period 15 March to 15 April and that the dam shall remain closed throughout the summer and autumn. During this period the dam may not be opened save under the conditions and in accordance with the provisions laid down in sections 7 and 8.

Section 4

It is hereby determined that, water conditions permitting, the opening of the dam shall take place within the period 15 November to 15 December.

Section 5

If special weather conditions arise, the two Parties shall agree whether or not to give effect to the provisions of sections 3 and 4.

Section 6

The Polish Party shall give the German Party forty-eight hours' advance notice of the opening of the dam in the autumn and the closing thereof in the spring, in order to permit the opening or closing of related appliances (sluices, siphons, culverts etc.) on polders belonging to the German Party.

Section 7

If the approach of a high water in excess of 1,600 cu.m/second is signalled from the upper sector of the frontier waters, the Polish Party shall inform the German Party of the need to prepare the Crieven, Schwedt and Widuchów polders to receive the high water.

If the water level approaches plus 6.80 m on the water-gauge at Zaton Górna (Hohensaaten), the German Party shall immediately open the inlet appliances on the said polders.

Section 8

When the flow of water in the Oder reaches approximately 520 cu.m/second (plus 1.63 m on the water-gauge at Widuchów), water shall be released through the dam at Widuchów to the West-Oder at a rate of not less than 45 cu.m/second.

In the event of a rise in the water level which is not caused by wind pressure, the said volume shall be steadily increased by gradually opening the dam in such manner that, at a rate of flow of 1,600 cu.m/second, approximately 40 per cent passes into the West-Oder and approximately 60 per cent into the East-Oder.

If the rate of flow exceeds 1,600 cu.m/second (plus 2.75 m on the water-gauge at Widuchów), all outlets of the dam shall be opened.

Section 9

Each Party shall be responsible for regulating the water on the inner and outer polders in its own territory and shall issue its own instructions.

The Parties shall communicate to each other, for information, detailed regulations embodying the said instructions.

Section 10

Workers of the Polish administration permanently employed in the operation, preservation and maintenance of the dam at Widuchów shall be entitled to cross the frontier and to move about on the German bank within a radius of sixty metres of the abutment of the dam on the German side.

Section 11

This Additional Protocol is done in duplicate in the Polish and German languages, both texts being equally authentic.

IN WITNESS WHEREOF the plenipotentiaries of the two Parties have signed this Protocol, which shall constitute an integral part of the Agreement.

DONE at Berlin, on 6 February 1952.

For the Government of the Polish Republic :

Jan IZYDORCZYK

For the Government of the German Democratic Republic :

Hans REINGRUBER
