

762

No. 7597

**CZECHOSLOVAKIA
and
POLAND**

Agreement concerning Czechoslovak transit traffic through the territory of the Polish People's Republic on the section of railway line between the stations of Hrádek nad Nisou and Zittau. Signed at Prague, on 16 November 1962

Official texts: Czech and Polish.

Registered by Czechoslovakia on 23 February 1965.

**TCHÉCOSLOVAQUIE
et
POLOGNE**

Accord relatif au trafic tchécoslovaque en transit à travers le territoire de la République populaire de Pologne sur la section de voie ferrée comprise entre les gares de Hrádek nad Nisou et de Zittau. Signé à Prague, le 16 novembre 1962

Textes officiels tchèque et polonais.

Enregistré par la Tchécoslovaquie le 23 février 1965.

[TRANSLATION — TRADUCTION]

No. 7597. AGREEMENT¹ BETWEEN THE CZECHOSLOVAK SOCIALIST REPUBLIC AND THE POLISH PEOPLE'S REPUBLIC CONCERNING CZECHOSLOVAK TRANSIT TRAFFIC THROUGH THE TERRITORY OF THE POLISH PEOPLE'S REPUBLIC ON THE SECTION OF RAILWAY LINE BETWEEN THE STATIONS OF HRÁDEK NAD NISOU AND ZITTAU. SIGNED AT PRAGUE, ON 16 NOVEMBER 1962

The President of the Czechoslovak Socialist Republic and the Council of State of the Polish People's Republic, desiring to regulate Czechoslovak transit traffic through the territory of the Polish People's Republic on the section of railway line between the stations of Hrádek nad Nisou and Zittau, have decided to conclude this Agreement and have for that purpose appointed as their plenipotentiaries :

The President of the Czechoslovak Socialist Republic :

Emil Vrtiak, First Deputy Minister of Transport and Communications;

The Council of State of the Polish People's Republic :

Donat Tarantowicz, Under-Secretary of State in the Ministry of Transport, who, having exchanged their full powers, found in good and due form, have agreed on the following provisions :

PART I

GENERAL PROVISIONS

Article 1

1. The Polish People's Republic shall grant to the Czechoslovak Socialist Republic, under the conditions laid down in this Agreement, the right to carry on privileged transit rail traffic through the territory of the Polish People's Republic on the section of railway line between the stations of Hrádek nad Nisou and Zittau and, in connexion therewith, the right to include the said section in the tariff distances of the Czechoslovak State Railways.

2. The privileged transit rail traffic mentioned in paragraph 1 shall hereafter be referred to in the text of this Agreement as " transit traffic ".

¹ Came into force on 22 September 1964, the date of the exchange of the instruments of ratification at Warsaw in accordance with article 26 (1).

3. In matters not regulated by this Agreement, transit traffic shall be governed by the provisions of the Agreement between the Czechoslovak Republic and the Polish People's Republic concerning rail traffic between the two countries, signed at Prague on 31 January 1958.¹

Article 2

In transit traffic no discrimination shall be exercised in respect of the nationality of passengers, the origin of unaccompanied luggage, express parcels, goods or mails, the nationality of the consignor or consignee, or the ownership of rolling-stock.

Article 3

Transit traffic shall be carried on by the Czechoslovak State Railways with their own trains and train crews.

Article 4

Transit traffic shall be subject, in Polish State territory, to the Polish regulations concerning law and order, public security and health protection.

Article 5

1. In the event that persons travelling on trains in transit traffic commit a criminal offence in Polish State territory, the competent Polish authorities shall be entitled to conduct an investigation on the trains in transit traffic, and Czechoslovak employees serving on such trains shall be required to lend every assistance in apprehending the offenders.

2. The Polish authorities competent to give effect to this Agreement shall, where necessary, afford assistance and protection to the passengers and crews of trains in transit traffic.

Article 6

Passengers' hand luggage, unaccompanied luggage, express parcels, goods, mails and rolling-stock conveyed in transit traffic shall be exempt from seizure by the Polish authorities except in a case connected with the commission of a criminal offence as described in article 5, paragraph 1.

¹ United Nations, *Treaty Series*, Vol. 431, p. 99

PART II

OPERATIONAL PROVISIONS

Article 7

1. Trains in transit traffic shall travel through Polish State territory without stopping, except in cases where a stop is necessary for operational reasons, for reasons of State frontier security or for customs purposes.

2. Trains in transit traffic shall not travel through Polish State territory at a speed less than that specified by the time-table except in cases where, owing to the condition of the track or for operational reasons, a lower speed is ordered.

Article 8

1. Transit traffic may be carried on without restriction day and night, in accordance with the time-table.

2. The time-tables of trains in transit traffic shall be worked out by the Czechoslovak State Railways and transmitted to the Polish State Railways for approval.

3. The Polish State Railways and the Polish State frontier guard authorities shall be given advance notice of the running of any train not provided for in the time-table.

4. The detailed procedure for dealing with the matters referred to in paragraphs 2 and 3 shall be agreed upon by the railway administrations of the Contracting Parties.

Article 9

1. Passengers and consignments shall be accepted for carriage in transit traffic in accordance with the regulations and tariffs in force on the Czechoslovak State Railways.

2. Tariff revenues from carriage in transit traffic shall accrue in their entirety to the Czechoslovak State Railways.

3. Rolling-stock and consignments shall not be subject to handing-over or taking-over in transit traffic.

Article 10

1. The movement of trains in transit traffic through Polish State territory shall be governed by the traffic and signalling regulations of the Polish State Railways, save as otherwise determined by agreement between the railway administrations of the Contracting Parties.

2. For the information of employees of the Czechoslovak State Railways, the Polish State Railways shall supply the Czechoslovak State Railways with the necessary regulations free of charge.

Article 11

1. The Czechoslovak State Railways shall be responsible for ensuring that the rolling-stock used in transit traffic is in working order.

2. The railway administrations of the Contracting Parties shall determine by agreement the procedure to be followed in the event that rolling-stock is damaged in Polish State territory.

Article 12

The exercise of supervision and the maintenance of law and order on trains in transit traffic shall be the responsibility of the Czechoslovak authorities.

Article 13

1. The Polish State Railways shall be required to maintain at their own expense the section of railway line and the railway installations serving transit traffic in such a condition as to ensure punctual and safe service.

2. The details arising out of the provisions of paragraph 1 and the scope of mutual obligations with regard to installations intersected by the State frontiers shall be settled by agreement between the railway administrations of the Contracting Parties.

3. The railway administrations of the Contracting Parties shall settle by agreement matters relating to the construction and maintenance of communications facilities and safety installations on the line used for transit traffic. Telecommunication circuits must not be connected with the domestic network.

Article 14

1. The railway administrations of the Contracting Parties shall notify each other of any obstruction to traffic and of any action taken or incident occurring which might adversely affect transit traffic.

2. The removal of the obstructions referred to in paragraph 1 shall be the responsibility of the railway administration of the Contracting Party on whose section of railway line the obstructions have arisen.

3. In the event of an accident, an interruption of traffic or damage to rolling-stock in Polish State territory, the Czechoslovak State Railways shall, in agreement with the Polish State Railways and, in urgent cases, with the local Polish

State frontier guard authorities, make the necessary arrangements for rescue work and for the removal of damaged rolling-stock.

4. The competent authorities of the Contracting Parties shall, to the extent of their capacity, render each other the necessary assistance, subject to reimbursement at cost, in the cases referred to in paragraphs 2 and 3.

Article 15

The Czechoslovak State Railways shall make lump-sum payments to the Polish State Railways for the operation of the transit traffic referred to in article 1, paragraph 1. The amount of such payments and the method of settlement shall be determined by agreement between the railway administrations of the Contracting Parties.

PART III

PROVISIONS CONCERNING LIABILITY

Article 16

1. Liability to the victims for damage sustained by passengers in transit traffic or by employees serving on trains in such traffic shall be borne by the Czechoslovak State Railways in accordance with the regulations of their own State.

2. The provisions of paragraph 1 shall also apply, *mutatis mutandis*, to consignments carried.

3. Liability to the victims for all other damage shall be borne by the railway administration of the Contracting Party on whose section of railway line the incident causing the damage occurred.

4. Damage sustained by the railway administrations of the Contracting Parties in the operation of transit traffic as a result of accidents caused by *force majeure* shall be covered by each railway administration to the extent that it is affected by such damage.

Article 17

1. The presentation, by the railway administration of either Contracting Party to that of the other Contracting Party, of a claim for recovery arising out of the liability specified in article 16 shall be governed by the following principles :

(a) Liability for damage caused by the fault of employees shall be borne by the employing railway administration. If the damage was caused by the fault of

- employees of both railway administrations, or if it is impossible to determine which railway administration's employees caused the damage, liability shall be borne equally by both administrations;
- (b) Liability for damage resulting from the bad condition of structures and installations designated for transit traffic shall be borne by the railway administration to which the said structures and installations belong;
 - (c) Liability for damage resulting from the bad technical condition of rolling-stock or from improper loading of goods shall be borne by the Czechoslovak State Railways.

2. Each railway administration shall be entitled to recover from the other railway administration if it is required, by a final judicial decision, to pay compensation for damage for which the other administration is wholly or partly liable under the provisions of paragraph 1. The right of recovery shall also be available where the two railway administrations have agreed that one of them shall settle a claim even though the other administration is wholly or partly liable for the damage. A settlement, an admission or a judicial decision delivered in proceedings of which the other railway administration was not notified shall, however, be binding for the purpose of recovery from the other railway administration only if such other administration concurs therein or if it fails to make known its position within a period of three months from the date of dispatch of the first summons even though it was reminded within that period.

3. The railway administrations of the Contracting Parties shall establish by agreement the investigation procedure to determine the causes and extent of damage.

PART IV

POSTAL PROVISIONS

Article 18

1. Mails of all kinds may be conveyed in transit traffic, free of all transit charges, in mail vans, mail compartments or railway wagons.

2. Mail boxes on board mail vans must be kept locked during journeys through Polish State territory.

Article 19

Mails which, in case of necessity, have been trans-shipped in Polish State territory shall be the responsibility of the railway or postal administration which has taken them under its supervision.

PART V

FRONTIER AND CUSTOMS PROVISIONS

Article 20

1. Passengers in transit traffic, railway and postal employees and other persons performing duties on trains in transit traffic shall not be subject to passport and visa formalities in Polish State territory; they must, however, be in possession of a certificate of identity and produce it, on request, to the authorities entitled to exercise control.

2. The persons referred to in paragraph 1 shall not be subject to customs clearance in Polish State territory; the hand luggage of such persons, unaccompanied luggage, express parcels, goods, mails and rolling-stock shall likewise be exempt from customs clearance and from duty and other charges.

3. The crossing of the State frontiers by the crews of Czechoslovak breakdown trains and snow-ploughs and by other railway employees performing official duties on the section of the transit route in Polish State territory shall be governed by the relevant frontier and customs regulations laid down in the Agreement between the Czechoslovak Republic and the Polish People's Republic concerning rail traffic between the two countries, signed at Prague on 31 January 1958.

Article 21

1. The competent authorities of each Contracting Party may escort trains in transit traffic.

2. In cases where trains in transit traffic are escorted by the Polish authorities, the trains shall stop at designated places to enable the escort to board or alight.

Article 22

1. It shall be unlawful to board or leave trains in transit traffic, or to open the carriage doors or windows thereof, in Polish State territory. This prohibition shall not apply to railway employees, or to the escort personnel referred to in article 21, paragraph 1, in the performance of their official duties on the said trains.

2. If, in case of an accident or other unusual event, persons travelling on trains in transit traffic alight in Polish State territory, they shall remain under the supervision of the Polish State frontier guard authorities until their departure.

3. In Polish State territory it shall be unlawful to receive on board trains in transit traffic, or to hand or throw out of such trains, any article whatsoever.

4. Persons travelling on trains in transit traffic shall not be permitted to take photographs or to make films in Polish State territory.

Article 23

1. In transit traffic it shall be unlawful to unload or load any consignment in Polish State territory. If a railway wagon has been damaged, a consignment may be trans-shipped only under the supervision of the Polish customs authorities.

2. The Polish customs authorities shall recognize Czechoslovak customs seals. In the event that consignments are trans-shipped in Polish State territory, the Polish customs authorities shall, where possible, affix their customs seals to the wagons to which the consignments have been transferred.

Article 24

1. Materials and tools required for the construction or maintenance of communications facilities and safety installations may be imported into and exported from Polish State territory without special authorization and free of customs duty and other charges. The tools and any unused materials must be re-exported.

2. The unloading and loading of the articles referred to in paragraph 1 shall be effected under the supervision of the competent Polish authorities.

PART VI

FINAL PROVISIONS

Article 25

The competent authorities of the Contracting Parties shall conclude the arrangement necessary to give effect to this Agreement with regard, in particular, to the questions referred to in article 8, paragraph 4, article 11, paragraph 2, article 13, paragraphs 2 and 3, article 15 and article 17, paragraph 3.

The said arrangement must be concluded before this Agreement enters into force.

Article 26

1. This Agreement shall be ratified and shall enter into force on the date of the exchange of the instruments of ratification, which shall take place at Warsaw.

2. On the date on which this Agreement enters into force, the Agreement between the Czechoslovak Republic and the Polish Republic on privileged rail transit from Czechoslovakia to Czechoslovakia through Polish territory over the section Liberec–Varnsdorf, signed at Prague on 2 July 1949,¹ shall cease to have effect.

3. This Agreement is concluded for an indeterminate period. It may be denounced by either Contracting Party and shall cease to have effect on the expiry of six months from the date on which the other Contracting Party receives notice of the denunciation.

This Agreement was done at Prague, on 16 November 1962, in duplicate in the Czech and Polish languages, both texts being equally authentic.

IN WITNESS WHEREOF the above-mentioned plenipotentiaries have signed this Agreement and have thereto affixed their seals.

For the Czechoslovak
Socialist Republic :
E. VRTIAK

For the Polish
People's Republic :
D. TARANTOWICZ

¹ United Nations, *Treaty Series*, Vol. 260, p. 179.