

No. 15973

**AUSTRIA
and
POLAND**

**Treaty for the settlement of certain financial questions
(with exchanges of notes and additional protocol of
25 January 1973). Signed at Vienna on 6 October 1970**

Authentic texts: German and Polish.

Registered by Austria on 1 November 1977.

**AUTRICHE
et
POLOGNE**

**Traité portant règlement de certaines questions financières
(avec échanges de notes et protocole additionnel en
date du 25 janvier 1973). Signé à Vienne le 6 octobre
1970**

Textes authentiques : allemand et polonais.

Enregistré par l'Autriche le 1^{er} novembre 1977.

[TRANSLATION — TRADUCTION]

TREATY¹ BETWEEN THE REPUBLIC OF AUSTRIA AND THE POLISH PEOPLE'S REPUBLIC FOR THE SETTLEMENT OF CERTAIN FINANCIAL QUESTIONS

The Republic of Austria and the Polish People's Republic, desiring to reach an understanding on certain financial and property questions, have agreed as follows:

Article 1. (1) The Polish People's Republic shall pay to the Republic of Austria lump-sum compensation in full and final settlement of the claims of the Republic of Austria and Austrian natural and juridical persons against the Polish People's Republic and Polish natural and juridical persons, which claims arose out of the actual taking of property, rights and interests:

- (a) as a consequence of Polish legislation relating to nationalization, to agrarian and forestry reform or other Polish legislation; or
- (b) pursuant to decisions or resolutions of Polish organs which resulted in deprivation of property rights and other Austrian rights and interests.

(2) Austrian persons within the meaning of this Treaty are persons who, being natural persons, possessed Austrian nationality both on 27 April 1945 and on the date of entry into force of the legislation referred to in paragraph 1 (a) or the effective date of the measures referred to in paragraph 1 (b), and also on the date of signature of this Treaty, or, being juridical persons, had their headquarters in the territory of the Republic of Austria on the dates specified.

(3) The provisions contained in paragraphs 1 and 2 shall apply *mutatis mutandis* to successors of the persons specified in paragraph 2 if, on the date of signature of this Treaty, such successors, being natural persons, possessed Austrian nationality or, being juridical persons, had their headquarters in the territory of the Republic of Austria.

Article 2. The Polish People's Republic shall pay no compensation for property, rights and interests which:

- (a) were acquired by means of transactions deemed to be invalid within the meaning of international agreements;
- (b) were acquired by authorities or institutions of the German Reich or by German persons after 1 September 1939 in the territory of occupied Poland, unless they were so acquired by inheritance or marriage;
- (c) derived from the possession of shares or other participations in companies of any kind or from the possession of enterprises which were newly established in the territory of occupied Poland after 1 September 1939 or, in the case of joint-stock companies already in existence on 1 September 1939, from increases of capital effected after that date, except in cases where a

¹ Came into force on 20 February 1974, i.e., on the sixtieth day after the date on which the Parties had notified each other, through an exchange of notes, of the completion of their constitutional formalities, in accordance with article 10.

conversion of shares, a change in the legal form of enterprises or an exchange of participations was carried out during the period of the occupation of Poland on instructions from German authorities or from administrators appointed by such authorities.

Article 3. The amount of the lump-sum compensation to be paid by the Polish People's Republic for the property, rights and interests specified in article 1 shall be 71,500,000 Austrian schillings.

Article 4. (1) The Polish People's Republic shall pay the lump-sum compensation specified in article 3 to the Republic of Austria in 12 successive annual instalments, as follows: 11 instalments of 6,000,000 Austrian schillings and a twelfth instalment of 5,500,000 Austrian schillings.

The first instalment of 6 million Austrian schillings shall be payable on or before 31 March of the year following the calendar year in which this Treaty enters into force, and the remaining instalments shall be payable on or before 31 May of the succeeding years.

(2) The payments shall be made into an account of the Republic of Austria with the Oesterreichische Nationalbank, to the debit of the *Compte général Pologne* maintained with the Oesterreichische Nationalbank pursuant to article 1 of the Payments Agreement between the Polish People's Republic and the Republic of Austria of 2 September 1954.

(3) In the event of termination of the Payments Agreement before the lump sum specified in article 3 has been paid in full, payment of the remaining amount shall be effected in the manner generally prevailing at that time for payments between the Republic of Austria and the Polish People's Republic.

(4) The Oesterreichische Nationalbank and the Narodowy Bank Polski shall agree on technical arrangements for effecting the payments.

Article 5. (1) Payment in full of the lump sum specified in article 3 shall extinguish the liability of the Polish People's Republic and Polish natural and juridical persons *vis-à-vis* the Republic of Austria and the Austrian natural or juridical persons referred to in article 1 with respect to claims falling within the purview of article 1. Upon the extinction of that liability, the Republic of Austria shall consider all claims by persons specified in article 1 to have been finally settled.

(2) The Republic of Austria shall not hereafter make or support any claims against the Polish People's Republic which are covered by articles 1 and 2 of this Treaty.

Article 6. The Polish People's Republic, for its part, shall consider both claims under public law and claims by Polish natural and juridical persons in connection with the property, rights and interests specified in article 1 to have been finally settled.

Article 7. Distribution of the lump sum specified in article 3 shall be the exclusive responsibility of the Republic of Austria.

Article 8. (1) After payment in full of the lump sum, the Republic of Austria shall deliver to the Polish People's Republic securities and documents of title evidencing the rights referred to in article 1 for which compensation has been effected by the Republic of Austria. Where such securities or documents of

title are not available, the Republic of Austria may, in lieu thereof, deliver other documents substantiating the claim to compensation.

(2) In addition, the Republic of Austria shall, to the extent possible, furnish the Polish People's Republic with the names of the natural and juridical persons whose claims have been recognized as compensable and a description of the property, rights and interests for which compensation has been effected.

Article 9. In order to facilitate distribution of the lump sum, the Polish People's Republic shall, so far as possible, furnish the Republic of Austria with such information as may be necessary for verifying the applications made by Austrian claimants.

Article 10. This Treaty shall enter into force on the sixtieth day following the date on which the Contracting States notify each other by an exchange of notes that the requirements under their laws for the entry into force of the Treaty have been fulfilled.

IN WITNESS WHEREOF the duly authorized plenipotentiaries of the Contracting States have signed this Treaty and have thereto affixed their seals.

DONE at Vienna on 6 October 1970, in duplicate, in the German and Polish languages, both texts being equally authentic.

For the Republic of Austria:

RUDOLF KIRCHSCHLÄGER

For the Polish People's Republic:

WOJTYGA

EXCHANGES OF NOTES

Ia

THE FEDERAL MINISTER FOR FOREIGN AFFAIRS

Vienna, 6 October 1970

Sir,

I have the honour to confirm the understanding reached in connection with the Treaty signed this day to the effect that property, rights and interests falling within the purview of article 1 shall be deemed to include claims arising from deliveries, services or debt-claims of any kind, especially such as are evidenced by securities, where the Polish Party expressly acknowledges that property

directly connected with such deliveries, services or debt-claims was actually taken over by the Polish State.

I would request you to confirm your agreement with the foregoing.

Accept, Sir, etc.

RUDOLF KIRCHSCHLÄGER

His Excellency Mr. Lesław Wojtyga
Ambassador Extraordinary and Plenipotentiary
of the Polish People's Republic to Austria
Vienna

Ia

THE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY
OF THE POLISH PEOPLE'S REPUBLIC TO AUSTRIA

Vienna, 6 October 1970

Sir,

I have the honour to acknowledge receipt of your letter of 6 October 1970, which reads as follows:

[*See note Ia*]

I hereby confirm my agreement with the content of your letter.

Accept, Sir, etc.

WOJTYGA

His Excellency Dr. Rudolf Kirchschräger
Federal Minister for Foreign Affairs
Vienna

Ib

THE FEDERAL MINISTER FOR FOREIGN AFFAIRS

Vienna, 6 October 1970

Sir,

I have the honour to confirm the understanding reached in connection with the Treaty signed this day to the effect that the Treaty does not cover:

- (1) claims of any kind against financial and credit institutions, insurance and reinsurance enterprises in Poland and claims evidenced by securities relating to Polish public internal loans;

- (2) claims arising from hitherto unredeemed external loans issued by the Polish State, Polish public enterprises and financial and credit institutions and from mortgage bonds issued by Polish financial and credit institutions which are expressed in foreign currency and are payable outside Poland;
- (3) claims to rights in or to patents, licences and other industrial property and claims to or arising from rights to explore, extract, process and distribute natural resources which have not already become extinguished through lapse of time or lack of a concession, unless such unextinguished rights were taken over in conjunction with the nationalization of enterprises;
- (4) claims of any kind evidenced by securities relating to public loans by the former German Reich or its territorial authorities;
- (5) claims arising from deliveries, services and debt-claims of any kind against the former German Reich or German juridical persons.

I would request you to confirm your agreement with the foregoing.

Accept, Sir, etc.

RUDOLF KIRCHSCHLÄGER

His Excellency Mr. Lesław Wojtyga
Ambassador Extraordinary and Plenipotentiary
of the Polish People's Republic to Austria
Vienna

Ib

THE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY
OF THE POLISH PEOPLE'S REPUBLIC TO AUSTRIA

Vienna, 6 October 1970

Sir,

I have the honour to acknowledge receipt of your letter of 6 October 1970, which reads as follows:

[*See note Ib*]

I hereby confirm my agreement with the content of your letter.

Accept, Sir, etc.

WOJTYGA

His Excellency Dr. Rudolf Kirchschläger
Federal Minister for Foreign Affairs
Vienna

Ic

THE FEDERAL MINISTER FOR FOREIGN AFFAIRS

Vienna, 6 October 1970

Sir,

With reference to the Treaty signed this day, I have the honour to inform you that the Austrian Federal Government and Austrian administrative authorities have no objection to allowing duly certified Polish persons to dispose, in accordance with Austrian law, of their assets on deposit with Austrian financial institutions.

I would request you to confirm your agreement with the foregoing.

Accept, Sir, etc.

RUDOLF KIRCHSCHLÄGER

His Excellency Mr. Lesław Wojtyga
Ambassador Extraordinary and Plenipotentiary
of the Polish People's Republic to Austria
Vienna

Iic

THE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY
OF THE POLISH PEOPLE'S REPUBLIC TO AUSTRIA

Vienna, 6 October 1970

Sir,

I have the honour to acknowledge receipt of your letter of 6 October 1970, which reads as follows:

[See note Ic]

I hereby confirm my agreement with the content of your letter.

Accept, Sir, etc.

WOJTYGA

His Excellency Dr. Rudolf Kirchschläger
Federal Minister for Foreign Affairs
Vienna

Id

THE FEDERAL MINISTER FOR FOREIGN AFFAIRS

Vienna, 6 October 1970

Sir,

Public custodianships were established over a number of landed properties situated in Austrian territory and owned by Polish absent or missing Polish persons. In connection with the Treaty signed this day, an understanding was reached to the effect that such public custodianships would be officially terminated within 60 days from the date of signature of the Treaty.

I would request you to confirm your agreement with the foregoing.

Accept, Sir, etc.

RUDOLF KIRCHSCHLÄGER

His Excellency Mr. Lesław Wojtyga
Ambassador Extraordinary and Plenipotentiary
of the Polish People's Republic to Austria
Vienna

Id

THE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY
OF THE POLISH PEOPLE'S REPUBLIC TO AUSTRIA

Vienna, 6 October 1970

Sir,

I have the honour to acknowledge receipt of your letter of 6 October 1970, which reads as follows:

[*See note Id*]

I hereby confirm my agreement with the content of your letter.

Accept, Sir, etc.

WOJTYGA

His Excellency Dr. Rudolf Kirchschläger
Federal Minister for Foreign Affairs
Vienna

ADDITIONAL PROTOCOL TO THE TREATY OF 6 OCTOBER 1970 BETWEEN THE REPUBLIC OF AUSTRIA AND THE POLISH PEOPLE'S REPUBLIC FOR THE SETTLEMENT OF CERTAIN FINANCIAL QUESTIONS

Article 1. (1) With a view to the full and final settlement of all claims advanced by the Polish People's Republic in connection with the assets situated in Austria of the estates of Polish nationals who died during the Second World War, or were missing and were later declared dead, the Republic of Austria shall by way of settlement surrender to the Polish People's Republic, in accordance with articles 3 and 4 of this Additional Protocol, such amounts as have actually accrued to it by reason of its reversionary rights in respect of such persons.

(2) If landed property forming part of such an estate was taken over by the Republic of Austria by virtue of its reversionary rights, or should such property be so taken over in the future, the Republic of Austria shall by way of settlement surrender to the Polish People's Republic, in accordance with articles 3 and 4 of this Additional Protocol, an amount in compensation for such property consisting of the valuation of the property as shown in the general inventory of the estate, plus net proceeds, less debts connected with the estate and costs of the proceedings relating to the estate.

Article 2. (1) Missing persons within the meaning of article 1 of this Additional Protocol are natural persons whose whereabouts became unknown during the period from 1 September 1939 to 8 May 1945 and have since remained unknown.

(2) Polish nationals within the meaning of article 1 of this Additional Protocol are natural persons who at the date of their death or the date on which they were declared dead possessed Polish nationality.

Article 3. Amounts to be surrendered in accordance with article 1, paragraph 1, of this Additional Protocol, which are collected by the Republic of Austria in any calendar year, and amounts in compensation for landed property coming into the possession of the Republic of Austria during that calendar year which are to be surrendered in accordance with article 1, paragraph 2, of this Additional Protocol, shall be offset against the instalment falling due on 31 March of the following year under article 4 of the Treaty between the Republic of Austria and the Polish People's Republic for the settlement of certain financial questions.

Article 4. (1) Should the Republic of Austria be required, before the date of offset under article 3 of this Additional Protocol, to relinquish to successors to the estate all or part of the amount referred to in article 1, paragraph 1, of this Additional Protocol or all or part of the landed property taken over, the amount to be offset shall be reduced accordingly.

(2) After the offset has been effected, the Polish People's Republic shall, as regards each estate, hold the Republic of Austria harmless, up to the amount offset plus any additional costs, in respect of all claims which may thereafter be advanced by successor to the estate against the Republic of Austria by reason of the reversion.

Article 5. The Austrian Federal Ministry of Finance and the Ministry of Finance of the Polish People's Republic shall furnish each other with such information as is necessary for the implementation of this Additional Protocol and shall, in particular, reach agreement concerning the circumstances which exist in connection with the proposed alienation or taking over of landed property.

Article 6. This Additional Protocol shall form an integral part of the Treaty of 6 October 1970 between the Republic of Austria and the Polish People's Republic for the settlement of certain financial questions and shall enter into force simultaneously with the Treaty.

IN WITNESS WHEREOF the duly authorized plenipotentiaries of the Contracting States have signed this Additional Protocol and have thereto affixed their seals.

DONE at Vienna on 25 January 1973, in duplicate, in the German and Polish languages, both texts being equally authentic.

For the Republic of Austria:

RUDOLF KIRCHSCHLÄGER

For the Polish People's Republic:

LESŁAW WOJTYGA
