

N° 322.

POLOGNE ET SUISSE

**Convention commerciale, signée à
Varsovie le 26 juin 1922.**

POLAND AND SWITZERLAND

**Commercial Convention, signed at
Warsaw, June 26, 1922.**

TRADUCTION. — TRANSLATION¹.No. 322. — COMMERCIAL CONVENTION² BETWEEN POLAND AND SWITZERLAND, SIGNED AT WARSAW, JUNE 26, 1922.

French official text, communicated by the Swiss Federal Council. The registration of this Convention took place September 13, 1922.

THE FEDERAL COUNCIL OF THE SWISS CONFEDERATION, of the one part, THE HEAD OF THE POLISH STATE of the other part, being equally desirous of encouraging and developing commercial relations between the two countries, have decided to conclude a Commercial Convention, and have appointed as their plenipotentiaries for this purpose :

FOR THE FEDERAL COUNCIL OF THE SWISS CONFEDERATION :

Monsieur Hans PFYFFER D'ALTISHOFEN, Envoy Extraordinary and Minister Plenipotentiary of the Swiss Confederation at Warsaw ;

FOR THE HEAD OF THE POLISH STATE :

Monsieur Etienne OSSOWSKI, Minister for Industry and Commerce,

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

Article 1.

The nationals of one of the Contracting Parties, established in the territory of the other Party, or residing there temporarily, shall enjoy, as regards establishing and carrying on trade and industry in the territory of the other Contracting Party, the same rights, privileges, immunities, facilities and exemptions as the nationals of the most favoured nation.

Article 2.

The nationals of each Contracting Party shall receive, in the territory of the other Contracting Party, as regards their legal status, real estate and other property, rights and interests, the same treatment as that accorded to the nationals of the most favoured nation.

They shall be free to transact their business in the territory of the other Contracting Party, either in person or by such intermediaries, as they themselves may select, and provided they conform to the laws of the country, they shall have the right to appear in Courts of Justice, and to have

¹ Traduit par le Secrétariat de la Société des Nations.

¹ Translated by the Secretariat of the League of Nations.

² The Ratifications were exchanged at Warsaw, on August 5, 1922. In accordance with Article 13, the Convention came into force on the fifteenth day after the exchange of ratifications, namely on August 19, 1922.

free access to the authorities. They shall enjoy all the same rights and immunities as nationals and like these latter shall be free to employ counsel or attorneys of their own selection, in order to safeguard their interests.

Article 3.

Civil and commercial companies legally constituted in accordance with the laws of that Contracting Party in the territory of which their headquarters are situated, shall be recognised by the other Party as legally existing, provided their transactions be neither illicit nor contrary to public morals. If they conform to the laws and regulations, they shall have liberty and facility of access to the Courts, either for the purpose of bringing actions or of defending them.

Civil and commercial companies thus recognised by each of the Contracting Parties may, if they agree to be bound by the laws of the other Contracting Party, establish themselves in the territory of the latter, set up branches and affiliated establishments and carry on their industry there. Exceptions shall be made of those branches of trade and industry which, being in the nature of public utility services, would be subjected to special restrictions applicable to all countries.

Once they have been admitted, in accordance with the laws and regulations which are, or may subsequently be in force in the territory of the respective countries, such companies shall enjoy liberty and facility of access to the Courts and shall not be subjected to any taxes, rates or any kind of fiscal dues other or higher than those claimed from companies belonging to the country.

Article 4.

It is nevertheless understood that the stipulations laid down in the foregoing articles shall not, so far as they guarantee the most favoured nation treatment, affect in any way the validity of the laws, statutes and special regulations with regard to commerce, industry, the police, public security and the exercise of certain trades and professions which are, or may subsequently be, in force in each of the countries and which apply to all foreigners.

Article 5.

Duties and internal taxes collected by the State, Cantons, Communes or Corporations which are imposed, or may subsequently be imposed, on the production, preparation or consumption of any goods in the territory of one of the Contracting Parties, shall not affect the produce, goods or articles of the other Party in a higher or more vexatious degree than the native produce, goods or articles of the same kind, or those of the most favoured nation.

Article 6.

In no case shall the nationals or civil and commercial companies of each of the Contracting Parties in the exercise of their trade or industry in the territory of the other Contracting Party, be subjected to any duties, taxes, dues or charges, under whatever denomination, other or higher than those exacted from its own nationals.

They shall be exempt from payment of loans, forced national levies and any other contribution of any kind whatsoever which may be imposed for war requirements or as a result of exceptional circumstances.

The nationals of each of the Contracting Parties in the territory of the other Party shall be exempt from any military service and compulsory official duties, either judicial, administrative or municipal. They shall only be liable in time of peace and of war to such forced labour or payments and military requisitions as are imposed on the native population, to the same extent and on the same principles as the latter, and shall always receive a proper indemnity in return.

Article 7.

All products of the soil or of industry imported into Switzerland which originate in and come from Poland and products of the soil or of industry imported into Poland, which originate in and come from Switzerland and are intended for consumption, warehousing, re-export, or transit, shall, as long as this Convention remains in force, be subject to the treatment accorded to the most favoured nation and shall not in any case be subjected to other or higher duties than those imposed on the produce or goods of the most favoured nation.

Exports to one of the Contracting Parties shall not be subjected by the other Party to other or higher duties or taxes than the export of the same goods to the country most favoured in this respect.

Each of the Contracting Parties undertakes immediately and without any further conditions to give the other Party the benefit of any facilities, privileges or reductions of duties or taxes which it has accorded or may subsequently accord in such respects either temporarily or permanently, to a third nation.

The Contracting Parties have agreed that the restrictions or prohibitions of import and export of certain goods shall be maintained only for such time and in such measure as the existing economic conditions render indispensable.

Article 8.

The provisions laid down in Article 7 shall not apply:

- (1) to privileges granted, or which may subsequently be granted, by each of the Contracting Parties in frontier traffic with neighbouring countries;
- (2) to special facilities resulting from a customs' union;
- (3) to the provisional customs régime between the Polish and German parts of Upper Silesia.

Article 9.

Subject to the goods being re-exported or re-imported within one year and to proof of identity, reciprocal exemption from all kinds of import and export duties is stipulated by both Parties in respect of:

- (1) samples liable to customs duties, including those of commercial travellers
- (2) articles intended for experiments, trials, exhibitions and competitions

Article 10.

The two Contracting Parties undertake to grant to each other liberty of transit by the means most appropriate for international transit, for persons, luggage, goods and articles of all kinds, postal consignments, vessels, boats, carriages, waggons, or other means of transport, guaranteeing to each other the most favoured nation treatment in respect of such transit.

Goods of all kinds in transit through either of the two countries shall be exempt from duties of all kinds in both countries.

Neither of the Contracting Parties shall however be obliged to permit the transit of travellers; to whom its territory has previously been prohibited. Transit of goods may be prohibited:

- (a) for reasons of public safety;

- (b) for reasons of health or as a precaution against animal and vegetable diseases ;
- (c) for infringement of patents and in the case of goods which are a State monopoly in one of the States.

Article II.

Merchants, manufacturers and other producers of either country, as well as commercial travellers who are nationals of either country, shall upon presentation of their industrial identity card in the form annexed, delivered by the competent authorities of their country, certifying that they are authorised to carry on their trade or industry and that they pay the duties and taxes prescribed by the law of the country, be entitled without payment of any trading licence, to make purchases in the other country for the purposes of their trade or manufacture, and to solicit orders from persons or firms carrying on the re-sale of such articles or making use of such articles for their professional requirements. They shall be permitted to take patterns or samples with them, but they shall not be allowed to sell goods without an authorisation given in accordance with the legislation of the country in which they are travelling.

The samples or patterns imported by such manufacturers and commercial travellers shall be admitted by both Parties free of import and export duties. The re-exportation of these samples and patterns within a year shall be guaranteed by a cash deposit, at the Customs Office of entry, of the amount of duty to which they are liable, or by satisfactory security.

The above provisions shall not apply to travelling manufacturers or to peddlars or to the soliciting of orders in the case of persons who are not carrying on an industry or trade ; in this respect both the Contracting Parties reserve to themselves entire liberty of legislation.

Article 12.

The two Contracting Parties guarantee to each other in their respective territory the most favoured nation treatment as regards the various formalities, administrative or otherwise, rendered necessary by the application of the provisions of this Convention.

Article 13.

The present Convention shall be ratified, and the ratifications exchanged at Warsaw as soon as possible.

It shall come into force on the 15th day after ratifications have been exchanged.

The present Convention shall be concluded for the duration of one year. If however, it is not denounced at the expiration of that period, it shall ipso facto continue to remain in force for an indefinite period, with the option of denouncing it at any time.

In the event of the present Convention being denounced, it shall remain in force for a further period of three months from the date on which one of the Contracting Parties shall have notified the other of its intention of discontinuing the application of the Convention.

In witness whereof, the plenipotentiaries have signed the present Convention.

Done in duplicate at Warsaw, June the twenty-sixth, Nineteen hundred and twenty-two.

(Signed) H. PFYFFER D'ALTISHOFEN

(Signed) STEFAN OSSOWSKI.

ANNEX
(Model)

IDENTITY CARD FOR COMMERCIAL TRAVELLERS.

For the year 19..... Coat of arms No. of card.....

VALID IN SWITZERLAND AND POLAND.

Holder :

.....

(Christian name and surname)

(place) 19..... L. S.

(authority issuing the card)

SIGNATURE.

Certified that the holder of this card travels for the firm(s)

1. at

2. at

3. at

and that this firm(s) pay(s) its legal taxes.
these their

Description of the holder :

Age

Height

Hair

Distinctive marks

Signature of the holder :

.....

FINAL PROTOCOL

At Warsaw, June the twenty-sixth, nineteen hundred and twenty-two were present :

FOR SWITZERLAND :

M. Hans PFYFFER D'ALTISHOFEN, Envoy Extraordinary and Minister Plenipotentiary of the Swiss Confederation at Warsaw,

FOR POLAND :

M. Etienne OSSOWSKI, Minister for Industry and Commerce.

Before proceeding to the signature of the Commercial Convention between Switzerland and the Polish Republic, the undersigned plenipotentiaries have agreed as follows :

(1) Regarding Article 3, second paragraph :
Insurance and Financial Companies shall be included among those branches of trade and industry which being of public utility, would be subject to special restrictions.

(2) The Contracting Parties undertake to submit to a Conciliation, any disputes which might arise between them, regarding the interpretation and execution of the present Convention, and which they were unable to settle by means of diplomatic negotiations.

In case of failure of the conciliation procedure, the dispute shall be submitted to the Permanent Court of International Justice at the request of either of the Parties. The constitution and procedure of the Conciliation Commission shall be settled in each individual case in accordance with the provisions of these regulations.

SETTLEMENT OF DISPUTES.

Paragraph 1.

In the event of a dispute in the sense of the preceding paragraph 2 arising between the Contracting Parties, the latter shall each appoint a member of their own choice and shall appoint by mutual agreement three other members who shall not be nationals of the Contracting Parties, nor be domiciled in their territory nor be employed by them. The Contracting Parties shall appoint by mutual agreement, a President selected from among these three members.

These appointments shall be made with the least possible delay.

If the appointment of the members to be nominated in common has not been made within two months from the date on which one of the Contracting Parties has notified the other of the name of the member to be appointed of its own choice, the stipulations of Article 45, paragraphs 4, 5 and 6 of the Hague Convention¹ for the pacific settlement of international disputes shall by analogy, be applicable as regards the appointment of the members.

For the actual period of duration of the proceedings the members of the Commission shall be paid an allowance, the amount of which shall be fixed by the parties concerned. The cost of the Commission shall be borne equally by the Parties. The Commission shall meet at the place named by its President.

¹ British and Foreign State Papers, vol. 100, page 298.

Paragraph 2.

The Conciliation Commission shall draw up a report establishing the facts of the case and containing proposals for the settlement of the dispute. The report shall be presented within three months from the date on which the dispute was referred to the Commission, unless the Parties concerned agree to curtail or extend this period.

A copy of the report shall be sent to each of the interested Parties.

As regards the establishment of the facts and the legal considerations, the report shall not be considered as in the nature of a final compulsory award. Each Party must however state, within a time limit to be fixed by the report, whether, and to what extent, it recognises the accuracy of the statements in the report and accepts the proposals contained therein. This time-limit shall not exceed three months.

Paragraph 3.

The Contracting Parties shall undertake in every case, and in all respects, to facilitate the work of the Commission, and especially to use all means at their disposal in accordance with their national laws to invest the Commission with the same powers as their own supreme courts as regards the summoning and hearing of witnesses or experts, as well as the taking of evidence on the spot.

Paragraph 4.

The decisions of the Commission shall be taken by a simple majority of votes. Its discussions shall only be valid if all the members appointed by common agreement are present at the sitting.

(Signed) H. PFYFFER D'ALTISHOFEN.

(Signed) STEFAN OSSOWSKI.