

N° 447.

ALLEMAGNE
ET TCHÉCOSLOVAQUIE

Traité en vue d'assurer la péréquation des impôts intérieurs et extérieurs et d'éviter surtout la double imposition dans le domaine des impôts directs, et Traité relatif aux garanties légales et à l'assistance juridique en matière d'impôts, signés à Prague le 31 décembre 1921.

GERMANY
AND CZECHOSLOVAKIA

Treaty for the adjustment of taxation at home and abroad in particular for the avoidance of double taxation, in the field of direct taxation, and Treaty concerning legal safeguards and legal assistance in matters of taxation, signed at Prague, December 31, 1921.

TEXTE TCHÈQUE. — CZECH TEXT.

No. 447. — SMLOUVA¹ MEZI CESKOSLOVENSKOU REPUBLIKOU A NĚMECKOU ŘÍŠÍ O UROVNÁNÍ TUZEMSKÉHO A CIZOZEMSKÉHO ZDÁNĚNÍ, ZVLÁŠTĚ O ZAMEZENÍ DVOJÍHO ZDÁNĚNÍ V OBORU PŘÍMÝCH DANÍ A SMLOUVA MEZI CESKOSLOVENSKOU REPUBLIKOU A NĚMECKOU ŘÍŠÍ O PRÁVNÍ OCHRANĚ A PRÁVNÍ POMOCI VE VĚCECH BERNÍCH, PODEPSANÉ V PRAZE, DNE 31. PROSINCE 1921.

Official German and Czech texts communicated by the Permanent Delegate of Czechoslovakia accredited to the League of Nations. The registration of these Treaties took place June 30, 1923.

ČESKOSLOVENSKÁ REPUBLIKA a NĚMECKÁ ŘÍŠE, přejíce si tuzemské a cizozemské zdanění v obou státech pro obor daní přímých urovnati, zvláště zameziti dvojí zdanění, a

upraviti právní ochranu příslušníků Československé republiky v říši Německé a příslušníků Německé říše v Československé republice, jakož i povinnost úřadů obou států k vzájemné úřední a právní pomoci ve věcech berních, sjednaly následující dvě smlouvy.

Za tou příčinou byli jmenováni zmocněnci :

ČESKOSLOVENSKOU REPUBLIKOU :

odborový přednosta v ministerstvu financí Dr. Bohumil VLASÁK,
odborový přednosta v ministerstvu financí Dr. Vladimír VALNÍČEK,
ministrský rada v ministerstvu financí Dr. Richard STRETTI.

NĚMECKOU ŘÍŠÍ .

německý splnomocněnec legační rada Hans Heinrich DIECKHOFF,
tajný vládní rada ministrský rada v říšském ministerstvu financí Ernst PEIFFER,
ministrský rada v říšském ministerstvu financí Dr. Herbert DORN.

Zmocněnci, vyměňivše si své plné moci a shledavše je správnými, dohodli se takto :

¹ The exchange of ratifications took place at Berlin, April 21, 1923.

Článek 5.

Ustanovení článku 17. hospodářské úmluvy z 29. června 1920¹ zůstávají nedotčena.

Článek 6.

Pravidelně se opěťující příjmy nebo podpory, splatné z veřejných pokladen (říšských, státních, zemských, okresních, obecních atd.), jež se poskytují vzhledem na nynější nebo dřívější služební činnost nebo činnost v povolání (platy služební, odpočinkové, čekatelské, zaopatřovací a pod.) podrobeny budou přímým daním jen v tom státě, z něhož se děje výplata.

Článek 7.

Ustanovení článku 2. a článku 3., odst. 1. až 3., platí také pro osoby nefysické.

Článek 8.

Pokud se dle německého zákona o dani z výnosu kapitálu z 29. března 1920 (říšský zákoník strana 345), dle 3. hlavy zákona o osobních daních z 25. října 1896 (ř. z. č. 220) nebo dle uherských zákonných článků 27 : 1875 a 7 : 1883 zdaňují úroky, podíly na zisku a jiné výtěžky z kapitálu u pramene, náleží daň jen tomu státu, v jehož území se koná srážka dle uvedených zákonů. Leželi v jednom státě hlavní závod a ve druhém státě závod pobočný, sráží se daň z úroků, které vznikly v obchodním provozování pobočného závodu, jen ve prospěch toho státu, v němž pobočný závod leží.

U úroků z hypotečních pohledávek jest jen ten stát oprávněn vybírat daně v odstavci 1. uvedené, v jehož území leží zavazený pozemek.

Článek 9.

Ustanovení článků 1., 2., 3., 4. a 6. této smlouvy vztahují se obdobně na ukládání daní dle zákona o dani z držby z 3. července 1913 (říšský zákoník strana 524), podle zákona o dani válečné z 21. června 1916 (říšský zákoník strana 561) a podle zákonů o mimořádné válečné dávce na účetní rok 1918 z 26. července 1918 (říšský zákoník strana 964) a na účetní rok 1919 z 10. září 1919 (říšský zákoník strana 1567), jakož i podle zákonů o válečné dani (dani z válečných zisků) platných v Československé republice.

Při vypočítávání zdanitelného vyššího zisku (vyššího výtěžku) tuzemských společností podle zákonů uvedených v odstavci 1. vypočte se za příčinou zjištění mírového zisku dle par. 17. německého zákona o dani válečné z 21. června 1916, podle § 2. odstavce 2. a § 5. císařského nařízení ze 16. dubna 1916 (ř. z. č. 103) a podle týchž paragrafů zákona ze dne 16. února 1918 (ř. z. č. 66), jakož i podle příslušných ustanovení uherských zákonných článků 29. : 1916 a 9. : 1918 procentová sazba z té části základního, kmenového neb zakládacího kapitálu, která odpovídá poměru celkového zakládacího a provozovacího kapitálu společnosti k základnímu a provozovacímu kapitálu, připadajícímu na druhý stát.

¹ See page 70 of this Volume.

¹ TRANSLATION.

No. 447. — TREATY BETWEEN THE GERMAN REICH AND THE CZECHOSLOVAK REPUBLIC FOR THE ADJUSTMENT OF TAXATION, AT HOME AND ABROAD, IN PARTICULAR FOR THE AVOIDANCE OF DOUBLE TAXATION IN THE FIELD OF DIRECT TAXATION, AND TREATY CONCERNING LEGAL SAFEGUARDS AND LEGAL ASSISTANCE IN MATTERS OF TAXATION, SIGNED AT PRAGUE, DECEMBER 31, 1921.

The GERMAN REICH and the CZECHOSLOVAK REPUBLIC, being desirous of adjusting internal and external taxation in both States in the case of direct taxes, and in particular of preventing double taxation and

of laying down regulations for the legal safeguards afforded to nationals of the German Reich in the Czechoslovak Republic, and to nationals of the Czechoslovak Republic in the German Reich, and the obligation of the authorities of both States in respect of mutual administrative and legal assistance in matters relating to taxation,

have concluded the two following Treaties.

For this purpose they appointed as their Plenipotentiaries :

THE GERMAN REICH :

Hans Heinrich DIECKHOFF, German Chargé d'Affaires, Councillor of Legation ;
Ernst PEIFFER, Privy Councillor and Councillor in the Imperial Ministry of Finance ;

Dr. Herbert DORN, Councillor in the Imperial Ministry of Finance.

THE CZECHOSLOVAK REPUBLIC :

Dr. Bohumil VLASÁK, Head of Department in the Ministry of Finance ;
Dr. Vladimír VALNÍČEK, Head of Department in the Ministry of Finance ;
Dr. Richard STRETTI, Councillor in the Ministry of Finance.

The Plenipotentiaries, having communicated their full powers, found in good and due form, have agreed as follows :

A.

TREATY BETWEEN THE GERMAN REICH AND THE CZECHOSLOVAK REPUBLIC FOR THE ADJUSTMENT OF TAXATION, AT HOME AND ABROAD, IN PARTICULAR FOR THE AVOIDANCE OF DOUBLE TAXATION IN THE FIELD OF DIRECT TAXATION.

Article 1.

Unless otherwise provided in the following articles, German nationals or nationals of the Czechoslovak Republic shall only be called upon to pay direct taxes in the State in which they

¹ Translated by the Secretariat of the League of Nations.

are domiciled, or, failing such domicile, in the State in which they be regarded as being habitually resident.

Persons having a domicile in both States shall only be called upon to pay direct taxes in the State of which they are nationals. As regards persons who are nationals of both or of neither of the States concerned, special arrangements shall be made for individual cases.

A domicile within the meaning of this Treaty shall exist in cases in which any person possesses a dwelling under circumstances which give good grounds for assuming that he intends to retain the same.

Residence within the meaning of this Treaty shall exist in cases in which a person has a residence under circumstances which give good grounds for assuming that he is not merely passing through the place or country in question.

Article 2.

Landed estates and buildings, and income derived therefrom, shall only be subject to direct taxation in the State in which they are situated.

The provision of the preceding paragraph shall not apply to mortgages and income derived therefrom, which shall be regarded as capital and income therefrom.

Article 3.

Industrial undertakings and the income derived therefrom shall only be subject to direct taxation in the country in which a business establishment for carrying on a permanent industry is maintained.

The term "business establishment" shall include : branch establishments, factories, offices where purchases or sales are effected, depots, counting-houses, and all other business establishments maintained for the purpose of carrying on the said industry, either by the owner himself, his partners, managers or any other permanent representatives.

If an industrial enterprise possesses business establishments in both countries, direct taxes shall only be levied in each country on the basis of the business transacted in the establishments situated in that country.

The foregoing provisions shall not apply to the taxes on hawking and other itinerant trades.

Article 4.

In the case of income derived from the practice of science, art, letters, teaching or education or from the exercise of the professions of physician, lawyer, architect or engineer or of any other liberal profession, the provisions of Article 3 shall only apply in so far as the exercise of the profession involves permanent headquarters (business establishment) in the other country.

Article 5.

The provisions contained in Article 17 of the Economic Agreement of June 29, 1920, shall in no way be affected by anything in the present Treaty.

Article 6.

Salaries or allowances granted for services rendered or earned in a profession in which an individual is or was formerly engaged (salaries, pensions, half-pay, maintenance allowances, etc.),

and payable periodically from the public funds (Reich, State, Provincial, District, Communal Funds, etc.), shall only be subject to direct taxation in the country in which the payment is effected.

Article 7.

The provisions of Article 2 and of Article 3, paragraphs 1 to 3, shall also apply to legal persons.

Article 8.

In all cases in which the German law on the tax on profits accruing from capital, dated March 29, 1920 (Reich Legal Gazette, page 345), or the 3rd chapter of the Personal Taxation Law of October 25, 1896 (Reich Legal Gazette, No. 220), or the Hungarian Statutory Articles 22 ex 1875 and 7 ex 1883, provide that the tax on interest, dividends and other profits accruing from capital shall be deducted at the source, the tax shall only be payable to the State in whose territory it is to be deducted at the source in accordance with the above-mentioned laws. If the main establishment is situated in one State and a branch establishment in the other State, the tax on interest accruing from the business transacted by the branch establishment shall only be deducted for the benefit of the State in which such branch establishment is situated.

In the case of interest accruing from mortgages the taxes mentioned in paragraph 1 shall only be payable to the State in whose territory the mortgaged property is situated.

Article 9.

The provisions of Articles 1, 2, 3, 4 and 6 of the present Treaty shall be applicable *mutatis mutandis* to the assessment of taxation as laid down in the Property Tax Law of July 3, 1913 (Reich Legal Gazette, page 524), the War Tax Law of June 21, 1916 (Reich Legal Gazette, page 561), and the laws on a special war levy for the fiscal year 1918 of July 26, 1918 (Reich Legal Gazette, page 964), and for the fiscal year 1919 of September 10, 1919 (Reich Legal Gazette, page 1567), and also in the laws in force in the Czechoslovak Republic on the War Tax (War Profits Tax).

In calculating the excess earnings (excess profits) of companies situated in either country which are subject to taxation under the laws mentioned in paragraph 1, the peace time profits of such companies will be ascertained in accordance with the terms of paragraph 17 of the German War Tax Law of June 21, 1916, paragraph 2, sub-paragraph 2, and paragraph 5 of the Reich Decree of April 16, 1916 (Reich Legal Gazette, No. 103), the same paragraphs in the law of February 16, 1918 (Reich Legal Gazette, No. 66), and also the corresponding provisions in the Hungarian Statutory Articles 29 ex 1916 and 9 ex 1918, by calculating the percentage of the original or founders' share capital which is equivalent to the ratio between the total original and working capital of the company and that part of the original and working capital employed in the other State.

The deduction of excess profits derived from shares or partnerships in accordance with paragraph 18 of the German War Tax Law, paragraph 8 of the Imperial Decree of April 16, 1916, and paragraph 7 of the Law of February 16, 1918, and the corresponding provisions of the Hungarian Statutory Articles 29 ex 1916 and 9 ex 1918, shall also be lawful in respect of affiliated companies which have their registered offices in the territory of the other State.

Article 10.

The provisions of Articles 1 to 3 and of Article 7 shall also apply in particular to the assessment of the Reich Emergency Contribution (Reichsnotopfer) in accordance with the German Law of December 31, 1919 (Reich Legal Gazette, page 2180), and to assessments for the capital levy in accordance with the Czechoslovak Law of April 8, 1920. (Collection No. 309.)

The taxes to be levied under these two laws shall be regarded as equivalent within the meaning of paragraph 4 of the Imperial Emergency Contribution Law and of paragraph 2, section 1, sub-paragraph 2, and paragraph 42, sections 1 and 2, sub-paragraph 2, of the Czechoslovak Law regarding a capital levy, subject to the condition, however, that the capital shall only be taxed in the State which possesses, in accordance with Article 1, an unconditional right of taxation.

For the purposes of paragraph 2, the term "capital" shall not include: mortgages and partnerships in companies, with the exception of mining shares, shares, share certificates and other securities.

Article 11.

Allowance shall be made in the following manner for changes in the personal circumstances of a taxpayer which have occurred between March 1 and December 31, 1919, affecting his liability for payment of taxation and involving double taxation: the amount assessed as capital levy in the Czechoslovak Republic on the basis of the former terminal day of payment shall be deducted from the Imperial Emergency Contribution to an amount not exceeding one half the sum due in respect of the Imperial Emergency Contribution.

Allowance shall be made in the following manner for changes in a taxpayer's investments which have occurred between March 1 and December 31, 1919, affecting his liability for payment of taxes and involving double taxation: the Reich Emergency Contribution levied in Germany in accordance with Articles 2 and 3 shall be deducted from the capital levy collected in the Czechoslovak Republic to an amount not exceeding half the latter levy.

Article 12.

The provisions of Articles 10 and 11 shall not be applicable if they involve exemption from, or reduction of, the Reich Emergency Contribution without at the same time involving liability in respect of the Czechoslovak capital levy.

Article 13.

The provisions of Articles 10 to 11 shall apply in so far as the German laws regarding a war tax on increase of capital, dated September 10, 1919 (Imperial Legal Gazette, page 1579), and the Czechoslovak Law regarding an increase of capital tax, dated April 8, 1920 (Collection of Laws and Decrees, No. 309), may result in double taxation.

Article 14.

In so far as the property of persons, who are not liable to the capital levy in consequence of the provisions of the present Treaty, is subject to an embargo by virtue of the Czechoslovak Law of February 25, 1919 (Collection of Laws and Decrees, No. 84), such embargo shall be raised upon application.

The deposit certificates, which were issued by the Czechoslovak Republic to the persons referred to in paragraph 1 in exchange for bank notes retained in connection with the stamping of bank notes for the purposes of the capital levy, shall be exchanged on application to an amount not exceeding the revenue yielded by the capital levy and the increase of capital tax.

Article 15.

Inhabitants of the territory of Hultschin shall not be subject to the Reich Emergency Contribution and to the war tax on increase of capital, provided that they have had their domicile

or permanent residence in the territory of Hultschin on December 31, 1919, and have lost their German nationality in consequence of the Peace Treaty and of Article 3 of the Nationality Treaty of June 20, 1920, and provided they are not specially liable for taxation in Germany in accordance with Articles 2 and 3 of the present Treaty and do not possess mortgages and partnerships in companies (with the exception of mining shares, share certificates and other securities).

The provisions of paragraph 1 shall not apply to persons who opt for German nationality under the above-mentioned Treaties ; such persons shall not be subject to the general provisions of the present Treaty.

Article 16.

The provisions of the Czechoslovak laws on the taxation of inherited property the title to which has not been established shall not apply if the income or capital accruing to the heir from such inherited property is directly subject to taxation in Germany under the provisions of the present Treaty. Taxes levied on inherited property the title to which is not established shall be repaid as soon as the conditions referred to in paragraph 1 are proved to exist and the heir applies for repayment.

Article 17.

The diplomatic, consular and other representatives of the two countries, provided that they are officials by profession and do not engage in any lucrative occupation outside their office in the State to which they are accredited, and subordinate officials attached to them and persons in their service and in the service of their subordinate officials, shall be exempt from direct taxation in the country to which they are accredited. Such exemption shall only apply in so far as the aforesaid persons are nationals of the country by which they are accredited. It shall not apply to taxes to be levied in accordance with Articles 2, 3 and 6 or to be deducted at the source as specified in Article 8, unless the laws of both countries contain provisions to the contrary in favour of such persons.

Article 18.

The provisions of Article 17 shall also apply to persons in the service of the Customs and railway administrations of the two countries who are employed in a bureau of one of these administrations situated in the territory of the other Party and who only reside there for that reason, and to their relatives and domestic servants living with them, provided that the persons mentioned above are nationals of the country which employs them.

Article 19.

The head revenue officials of both States shall be empowered to conclude further arrangements in conformity with the spirit of the present Treaty. They may in particular agree to provisions regarding an appropriate division of income in accordance with the provisions of Article 3, paragraph 3.

Article 20.

The present Treaty shall apply :

(a) In the German Reich :

to war taxes and war levies as from the beginning of the first year of war (war business year),

to the Reich Emergency Contribution as from the date of the coming into force of the law concerning the Reich Emergency Contribution, and

further, to the Reich taxes and taxes on landed estates and industrial undertakings raised by the States as from the beginning of the fiscal year 1920 ;

(b) In the Czechoslovak Republic :

to the war taxes (war profits taxes) as from the beginning of the first year of war (war business year),

to the capital levy and the tax on increase of capital as from the day of the coming into force of the law referred to,

to all other taxes as from the beginning of the fiscal year 1920.

Unless otherwise provided in paragraph 1, international agreements subsisting from a former date and intended to prevent double taxation shall, in all areas in which they are valid, be applicable *mutatis mutandis* to taxes levied in former fiscal years.

Article 21.

This Treaty which has been drawn up in German and in Czechoslovak shall be ratified and the instruments of ratification shall be exchanged as soon as possible at Berlin. It shall come into force on the day on which it is ratified and shall remain in force until it is denounced by one of the Contracting Parties, such denunciation to take place at least six months before the expiration of any calendar year. If it is duly denounced as described above, the Treaty shall cease to apply after the expiration of the calendar year in which the Treaty was denounced.

Both texts of the Treaty are authentic. When the Treaty has been ratified the two authentic texts shall be published in each country in the official Statute Book.

B.

TREATY BETWEEN THE GERMAN REICH AND THE CZECHOSLOVAK REPUBLIC CONCERNING LEGAL SAFEGUARDS AND LEGAL ASSISTANCE IN MATTERS OF TAXATION.

Article 1.

Public taxes, in so far as they are levied by the German Reich for the Reich and the Confederate States, and by the Czechoslovak Republic for the State, and by both Contracting Parties for other public legal bodies, whether as additional taxes or as supplementary taxes leviable with the public taxes, shall be regarded as taxes within the meaning of the present Treaty. Customs duties and taxes on consumption shall, however, be excluded. The tax on business turnover and the luxury tax shall not be regarded as taxes on consumption for the purposes of this Treaty.

I. LEGAL SAFEGUARDS IN QUESTIONS AFFECTING TAXATION.

Article 2.

The nationals of either of the two States shall be entitled to equality of treatment with the nationals of the other State, so far as taxation is concerned, in the territory of the other State, and more particularly to the same safeguards in their dealings with the revenue authorities, revenue and administrative courts and other tribunals.

Legal persons, including companies and also partnerships, institutions, charitable foundations and all other organisations possessing property set aside for a particular purpose, which are not

legal persons but which are liable to taxation as such, shall, if they are situated or have their registered offices in the territory of one of the two States and if they are legally constituted in accordance with the legislation of the said State, be entitled to the same treatment in matters of taxation (paragraph 1) in the territory of the other State as that which is accorded to similar taxpayers in the other State.

II. LEGAL ASSISTANCE IN MATTERS RELATING TO TAXATION.

Article 3.

The two States undertake to give each other mutual administrative and legal assistance in all questions relating to taxation and in all cases of flight of capital and evasion of taxation, both in regard to the assessment and fixing of (prescriptions for) taxes and sureties, and in regard to the legal procedure for securing redress and to recovery.

Article 4.

In matters affecting taxation, questions regarding the service of legal documents and the action to be taken as a result of applications for administrative and legal assistance shall, unless otherwise provided in the special stipulations with regard to recovery (Articles 11 to 13), be dealt with directly between the authorities of the two States.

The provincial Inland Revenue Offices (Landesfinanzämter) shall be competent to deal direct with the transmission of applications for the forwarding of documents and for other administrative and legal assistance and with the receipt of the same. Should the authority to which application is made be local and not competent to deal with the matter, the application must be officially transmitted to the competent authority, and the authority making the application shall be notified to that effect without delay.

Article 5.

Except in the cases mentioned in Article 6, paragraph 2, applications must be drafted by the authorities of the German Reich in the administrative language and by the authorities of the Czechoslovak Republic in the national language (official language), unless otherwise provided in special regulations contained in treaties or laws. The letter containing the application must specify the authority making application, the name and profession (or status) of the parties concerned, and, in the case of the service of documents, the address of the addressee and the nature of the document to be served.

Article 6.

The competent authority of the State to which application is made shall be responsible for seeing that documents are duly forwarded. Except in the cases specified in paragraph 2, the authority concerned may restrict such action to effecting the service of the document by transmitting it to the addressee provided that the latter is willing to accept it.

If the State making application so desire, the document to be served shall be served in the form prescribed by the internal legislation of the State to which application is made for effecting service in similar cases, provided that it is drafted in the administrative language or in the national language (official language) of the State to which application is made, as the case may be (cf. Art. 5), or is accompanied by a translation in such language. In such cases the application also shall be in the administrative language or in the national language (official language) of the State to which the application is made or else shall be accompanied by a translation.

Pending other arrangements, the translations specified in the foregoing paragraph shall be certified correct by the head official of the authority entrusted with transmitting the application.

Article 7.

Proof that the document has been served shall be furnished either by a dated and duly certified receipt from the addressee or by an affidavit from the State to which application is made, certifying the fact of such service and the manner and time.

Article 8.

The authority to whom an application is addressed must comply with it and must employ the same means of coercion as are applicable for enforcing an application made by the authority of the country to which the application is made or an application by an interested party for the same purpose. The procedure for dealing with applications shall be in conformity with the laws of the State to which application is made ; if, however, the authority making the application so desire, a special mode of procedure may be employed, provided that it does not contravene the legal code of the State to which application is made.

A means of coercion which may be lawful in the territory of the State to which an application is made shall not be employed, unless the State making such application would be in a position to use a similar means of coercion in the case of an analogous application being made to itself.

The authority making an application shall, if it so desire, be notified of the time and place of any action to be taken in respect of such application. The interested parties shall be entitled to be represented or to be present at any such proceedings, subject to the general regulations in force in the State to which the application is made.

Article 9.

No fees or charges of any kind shall be payable for carrying out requests for the service of documents or applications, with the exception, pending further arrangements, of compensation to persons collecting information or to experts and of sums payable to an executive agent for assistance in the cases mentioned in Article 6, paragraph 2, or on account of the employment of a special mode of procedure in accordance with Article 8, paragraph 1.

Article 10.

The provisions of this Treaty shall be applicable to legal assistance in all procedure appertaining to recovery, unless otherwise provided in Articles 11 to 13.

Article 11.

In matters relating to taxation, dispositions (awards, decisions, orders), which are not appealable, shall, upon application, which is to be made by the head revenue authority of one State to the corresponding authority of the other State, be acknowledged and executed free of cost. An explicit statement must be made in regard to acknowledgment.

The dispositions referred to in paragraph 1 shall be put into execution in accordance with the legislation of the State in which execution is effected without the parties concerned being heard.

An application for execution must be accompanied by a statement by the competent authority of the State making application to the effect that there is no appeal against the disposition ; such authority must be certified competent by the head revenue authority of the State making application.

The part of the disposition relating to the decision must be accompanied by a translation, which shall, pending further arrangements, be in the administrative language or in the national language (official language) of the State to which application is made (cf. Art. 5).

The statement and the certificate to be given under the terms of paragraph 3 and the translation to be made in accordance with paragraph 4 shall be certified correct by the head revenue authority of the State making application or by an interpreter — who shall be duly sworn — of the State to which application is made.

Article 12.

Provisional security, in the form of the sequestration of property, may be required from nationals of the State to which an application is made, by virtue of executory dispositions against which an appeal may still be made. The person concerned shall be entitled to have such sequestration removed upon giving security, the nature and value of which must be specified in the application.

Article 13.

If application is made for a specified mode of execution or a specified type of security, the request shall be complied with, provided that such mode of execution or type of security is compatible with the law of the State making application and of the State to which application is made. Otherwise, the mode of execution and the type of security, and the carrying out of the execution and security, shall be in conformity with the law of the State to which application is made.

Article 14.

Administrative and legal assistance will not be granted in proceedings against nationals of the State to which an application is made, if they have their domicile or permanent residence within the territory of that State. This provision shall not apply in the case of administrative and legal assistance for the purpose of giving effect to claims for taxes which were established against a taxpayer at a time when he was a national of the State making application.

Administrative and legal assistance may be refused if the State to which application for assistance is made considers such assistance likely to endanger its sovereign rights or safety.

Applications which involve the obtaining of information, statements or opinions, which are lawful in the territory of the State to which application is made, from persons who are not parties to the case in their capacity as taxpayers, may be refused, if the State making application is unable under the terms of its national legislation to require similar information, statements or opinions. The same condition shall obtain in regard to applications made for the purpose of acquiring information upon material circumstances or legal relations, if the knowledge of such circumstances or relations is obtained in accordance with obligations to furnish information, statements or opinions which are not admissible in the territory of the State making application, and to other applications if they can only be complied with by disregarding the principle of commercial, business or industrial secrecy:

Article 15.

If an application is conceded either wholly or in part, the authority to whom such application is made must promptly notify the authority making application as to the manner in which the application has been dealt with.

If an application is not conceded, the authority to whom such application is made must promptly notify the fact to the authority making application, giving all reasons in support and information as to any circumstances with which he has become acquainted through other channels and which are of importance for any further action which is to be taken in the matter.

Article 16.

As regards all questions, information, statements and opinions and any other communications furnished to a State as the result of measures of legal assistance, the statutory regulations of such State regarding official reticence and secrecy shall be applicable.

III. AUTHENTICATION OF DOCUMENTS.

Article 17.

Documents which are accepted, drawn up or authenticated by the revenue courts in one State may, if furnished with the seal or stamp of the court, be used in the territory of the other State in respect of matters relating to taxation without further authentication (legalisation).

The documents described above shall also include documents which are signed by the clerk to the court (record office of the court), if such signature is valid under the laws by which the court is governed.

Article 18.

Documents which are accepted, drawn up or authenticated by the head revenue official or by one of the senior revenue officials in one State, may if furnished with the seal or stamp of such official, be used in the territory of the other State in matters relating to taxation, without further authentication (legalisation).

The two States shall publish a list of the officials in question ; the list may be modified or supplemented at any time by common agreement between the respective administrations.

IV. FINAL CLAUSES.

Article 19.

The two States undertake to conclude an agreement on mutual legal assistance in regard to offences against the revenue laws. The object of this agreement shall be to lay down regulations for mutual obligations in respect of extradition on account of premeditated defrauding of the revenue and of other premeditated offences against the laws on the flight of capital and the evasion of taxation. Such obligation shall apply both to persons against whom claims are preferred and to effects confiscated or declared escheated by a judgement having the force of law or decision without appeal given by a revenue authority.

Article 20.

The head revenue officials of the two States shall be free to conclude further arrangements in conformity with the present Treaty. They may in particular agree upon provisions regarding the transfer of sums received on account of executory proceedings and the fixing of a mean rate of exchange for the conversion of sums in regard to which executory proceedings are to be taken.

Article 21.

This Treaty, which has been drawn up in German and in Czechoslovak, shall be ratified, and the instruments of ratification shall be exchanged as soon as possible at Berlin. It shall come

into force on the day on which it is ratified and shall continue in force until it is denounced by one of the Contracting Parties, such denunciation to take place at least six months before the expiration of any calendar year. If it is duly denounced as described above, the Treaty shall cease to apply after the expiration of the calendar year in which the Treaty was denounced.

Both texts of the Treaty are authentic. When the Treaty has been ratified, the two authentic texts will be published in each country in the official Statute book.

In faith whereof the Plenipotentiaries of both countries have signed the present Treaty and affixed their seals thereto.

PRAGUE, December 31, 1921.

For the German Reich :

(L. S.) HANS HEINRICH DIECKHOFF.
(L. S.) ERNST PEIFFER.
(L. S.) Dr. HERBERT DORN.

For the Czechoslovak Republic :

(L. S.) Dr. BOHUMIL VLÁSAK.
(L. S.) Dr. VLADIMIR VALNÍČEK.
(L. S.) Dr. RICHARD STRETTI.

FINAL PROTOCOL.

On signing the Treaties concluded this day between the German Reich and the Czechoslovak Republic for the adjustment of internal and external taxation and, in particular, for the avoidance of double taxation in the case of direct taxes A, and concerning legal safeguards and legal assistance in matters relating to taxation B, the undersigned Plenipotentiaries made the following declarations upon which they have agreed and which are to be read as part of the present Treaties.

Ad. A.

(1) Direct taxes within the meaning of Treaty A shall include, in the case of the German Reich, any existing or future taxes levied by the Reich and the Confederate States on income and property inclusive of the tax on profits derived from capital, and all existing or future taxes levied by the Confederate States on landed property and on industrial undertakings ;

in the case of the Czechoslovak Republic, any existing or future taxes levied by the State on profits, together with additional taxes, taxes on income and taxes on capital.

Both Parties are agreed that succession duties shall not be regarded as direct taxes within the meaning of this Treaty. They shall be free to conclude special arrangements in regard to succession duties.

Any question which may arise as to whether a tax comes within the above-mentioned categories of taxes shall be determined by agreement between the head revenue authorities of the two States.

(2) It is agreed that the provisions of this Treaty shall not affect the laws in force in the Contracting States regarding the special taxation of royalties and commissions.

(3) It is agreed that workers who have their domicile in one State and who receive their wages in the other State shall only be subject in the State in which they have their domicile to taxation on income earned by such work, within the limits laid down in Article 1 of Treaty A.

It is further agreed that students who reside in one of the Contracting States solely for the purposes of study shall not be liable, in the State in which they reside as students, to taxation

in respect of money received by them from relatives domiciled in the other State for purposes of maintenance and study, provided that by far the greater part thereof is used for these purposes.

(4) It is agreed that the following provisions shall apply to timber merchants who have industrial establishments in both States.

In the case of timber merchants who have industrial establishments in both States, that part of the business which consists of the exportation to one State of wood purchased through the establishment situated in the other State will only be assessed at half its full value for each of the two establishments.

The taxable profits of the establishment situated in the home territory of either of the two States will then be ascertained by determining the profits, or, as the case may be, the net profits of the transactions in question, but only one-half thereof shall be regarded as profits derived from the establishment situated in the home territory and liable to taxation therein; similarly, the basic figures in accordance with which the profit-earning capacity of a business of this nature is computed will be reckoned at only half their full value.

The remainder of the transactions effected by either establishment will be assessed for the same at its full value.

If the wood is subjected to further treatment in the territory of either State, the indications of such productive business and the profits accruing from such treatment shall be disregarded for the purposes of taxation in the other State.

The list contained in Annex M to Executory Rules I in the Personal Tax Law of October 25, 1896, Reich Legal Gazette 220, shall, as hitherto, include the names of all timber merchants and also the number of cubic metres of wood purchased, this constituting the basic figures for purposes of assessment.

(5) In conformity with a declaration by the Czechoslovak Government to this effect, it is agreed that the law on the assimilation of companies (Nostrifikationsgesetz) of December 11, 1919, No. 12 in the Collection of Laws and Ordinances ex 1920, shall not be applicable in respect of taxation to German undertakings owned by individuals, and in no case to undertakings owned by companies whose accounts must be published, inclusive of limited liability companies.

In other respects the two States shall be free to adopt any measures they may think desirable in regard to the application of the law on the assimilation of companies.

Ad B.

(1) The provisions of Article 2, paragraphs 1 and 2, shall be interpreted as meaning that the taxpayers therein mentioned shall be placed on a footing of equality in respect of taxation, not merely theoretically, but also in practice.

(2) In order to facilitate enquiries into the manner in which they may give each other effective legal assistance, the Contracting Parties will forward to each other explanatory statements on the powers of revenue officials, in regard to which the fundamental principles of German and Czechoslovak law, so far as applications for legal assistance are concerned, may be considered as in agreement. The explanatory statements must more especially give particulars :

(a) as to what information, statements, opinions and evidence can be required from taxpayers or third persons ;

(b) as to what means of coercion and measures of security and execution may lawfully be applied to taxpayers or third persons.

Pending the exchange and acknowledgment by both States of the explanatory statements, there will be attached to each separate application for legal assistance a certificate issued by the senior revenue authorities of the State making the application, to the effect that an analogous application will be conceded in accordance with the law of the latter State. The certificate must be accompanied by a translation in the language of the State to which the request is made (cf. Article 5). Article 6, paragraph 3, of the present Treaty shall be applicable, *mutatis mutandis*, to such translations.

(3) Applications for the transmission of deeds cannot as a rule be accepted. Exceptions to this rule shall be conditional upon agreement between the respective head revenue officials; an application for the forwarding of deeds shall however only be made, if it is urgently required, in the interest of the State making such application. This provision shall not affect the power of either State to attach to its requests any deeds belonging to itself which may be of assistance in the fulfilment of such applications.

(4) If the regulations in force in the State to which an application is made require that the conditions, in accordance with which proceedings are quashed owing to the impossibility of recovering the taxes, must be stated, the authority to whom application is made will return the application to the authority who made it, together with a certificate that such conditions exist and all available documentary evidence thereof.

(5) The measures for legal safeguards and legal assistance which are agreed upon in the present Treaty shall apply to cases in respect of taxation and to acts which relate to an earlier date.

PRAGUE, *December 31, 1921.*

For the German Reich :

HANS HEINRICH DIECKHOFF.
ERNST PEIFFER.
Dr. HERBERT DORN.

For the Czechoslovak Republic :

Dr. BOHUMIL VLASÁK.
Dr. VLADIMIR VALNÍČEK.
Dr. RICHARD STRETTI.