

N° 550.

ALLEMAGNE ET POLOGNE

Convention relative à la propriété des mines et forges domaniales dans la partie de la Haute-Silésie attribuée à la Pologne, signée à Oppeln le 15 juin 1922.

GERMANY AND POLAND

Agreement regarding the property of the State Mines and Foundries in the part of Upper-Silesia attributed to Poland, signed at Oppeln, June 15, 1922.

TEXTE ALLEMAND. — GERMAN TEXT.

No. 550. — DEUTSCH-POLNISCHES ABKOMMEN ¹ ÜBER DAS BERG- UND HÜTTENFISKALISCHE EIGENTUM IN DEM POLNISCH WERDENDEN TEILE OBERSCHLESIENS, GEZEICHNET IN OPPELN DEN 15. JUNI 1922.

Textes officiels allemand et polonais communiqués par le Consul d'Allemagne à Genève et par le Délégué de la Pologne auprès de la Société des Nations. L'enregistrement de cette convention a eu lieu le 14 janvier 1924.

DIE DEUTSCHE UND DIE POLNISCHE REGIERUNG, von dem Wunsche geleitet, eine möglichst ungehinderte Fortführung der berg- und hüttenfiskalischen Betriebe in dem polnisch werdenden Teile Oberschlesiens durch ein besonderes Übereinkommen zu sichern, haben zu diesem Zwecke zu ihren Bevollmächtigten ernannt :

DIE DEUTSCHE REGIERUNG :

1. den Gesandten Dr. Paul ECKARDT,
2. den Polizeipräsidenten Dr. Gottfried SCHWENDY.

DIE POLNISCHE REGIERUNG :

den Vizeminister Dr. Zygmunt SEYDA.

Die Bevollmächtigten haben, nachdem sie einander ihre Vollmachten mitgeteilt und diese in guter und gehöriger Form befunden haben, im Namen und Auftrag ihrer Regierungen im Anschluss an die « Bestimmungen vom 15. Juni 1922, betreffend die Übergabe der Deutschland und Polen zuerkannten Gebietsteile durch die Interalliierte Regierungs- und Plebiszitkommission für Oberschlesien auf Grund des in Versailles unterzeichneten Vertrags vom 28. Juni 1919 », die nachstehende Vereinbarung getroffen :

Artikel I.

ALLGEMEINE BESTIMMUNGEN ÜBER DIE ÜBERGABE.

1. Die Übergabe des berg- und hüttenfiskalischen Gutes und Eigentums an Polen findet nach Massgabe der für die Übergabe des Staatseigentums getroffenen allgemeinen Bestimmungen statt.
2. Die Berichtigung der Grundbücher ist Sache des Polnischen Staates.
3. Erzeugnisse, Materialien, Geräte, Maschinen und sonstiges Inventar werden auf Grund von Verzeichnissen und auf Grund der Bücher förmlich übergeben. Die Verzeichnisse sollen in doppelter Ausfertigung angefertigt werden und ein genaues Bild dessen darstellen, was übergeben und übernommen wird. Das Verzeichnis wird mit den erforderlichen Anlagen von den Sonderkommissaren beider Staaten unterzeichnet und anerkannt. Jeder Sonderkommissar erhält eine Ausfertigung.

¹ L'échange des ratifications a eu lieu à Berlin le 20 novembre 1922.

TEXTE POLONAIS. — POLISH TEXT.

No. 550. — UKŁAD¹ NIEMIECKO-POLSKI W PRZEDMIOCIE PAŃSTWOWEJ WŁASNOŚCI GÓRNICZEJ I HUTNICZEJ W POLSKIEJ CZĘŚCI GÓRNEGO ŚLĄSKA, PODPISANY W OPOLU DNIA 15, CZERWCA, 1922, R.

Official German and Polish texts communicated by the German Consul at Geneva and by the Polish Delegate accredited to the League of Nations. The registration of this Convention took place January 14, 1924.

RZĄDY NIEMIECKI I POLSKI, powodowane życzeniem zapewnienia przez osobną umowę możliwie nieprzerwanej ciągłości ruchu w państwowych zakładach górniczych i hutniczych polskiej części Górnego Śląska, zamianowały swymi pełnomocnikami

RZĄD NIEMIECKI :

1. Posła Dr. Paul ECKARDT,
2. Prezydenta Policji Dr. Gottfried SCHWENDY ;

RZĄD POLSKI :

Wiceministra Dr. Zygmunta SEYDĘ.

Pełnomocnicy, po wzajemnem przedłożeniu sobie pełnomocnictw i po uznaniu ich za wystarczające i należyte co do formy, zawarli w imieniu i z polecenia Rządów swoich, nawiązując do » postanowień z 15. czerwca 1922 w sprawie oddania przez Międzysojusznicy Komisję Rządzącą i Plebiscytową dla Górnego Śląska przyznanych Niemcom i Polsce obszarów na podstawie Traktatu Pokojowego podpisanego w Wersalu w dniu 28. czerwca 1919 « następujący układ :

Artykuł I.

OGÓLNE POSTANOWIENIA O ODDANIU.

1. Oddanie Polsce górniczego i hutniczego mienia oraz własności państwowej nastąpi według ogólnych postanowień ustalonych dla oddania własności państwowej.
2. Sprostowanie ksiąg wieczystych jest rzeczą Państwa Polskiego.
3. Wytwory, materiały, narzędzia, maszyny i inny inwentarz winny być oddane w sposób formalny na podstawie spisów i ksiąg. Spisy mają być sporządzone w dwóch egzemplarzach i mają dać wierny obraz tego, co się oddaje i co się przejmuje. Komisarze szczegółowi obu państw podpisują i potwierdzają spis wraz z niezbędnymi załącznikami. Obaj komisarze szczegółowi otrzymują po jednym egzemplarzu.

¹ The exchange of ratifications took place at Berlin, November 20, 1922.

¹ TRANSLATION.

No. 550. — GERMAN-POLISH AGREEMENT REGARDING THE PROPERTY OF THE STATE MINES AND FOUNDRIES IN THE PART OF UPPER SILESIA ATTRIBUTED TO POLAND, SIGNED AT OPPELN ON JUNE 15, 1922.

THE GERMAN and POLISH GOVERNMENTS, being desirous of assuring by a special agreement as far as possible the exploitation unhindered of the State mines and foundries in the part of Upper Silesia assigned to Poland, have, for this purpose, appointed as their Plenipotentiaries :

THE GERMAN GOVERNMENT :

- (1) Dr. Paul ECKARDT, Minister Plenipotentiary ;
- (2) Dr. Gottfried SCHWENDY, Chief of Police ;

THE POLISH GOVERNMENT :

Dr. Zygmunt SEYDA, Deputy Minister.

The Plenipotentiaries, after exchanging their full powers, found in good and due form, have, in the name and on behalf of their Governments, agreed upon the following provisions as an addition to the "Regulations of June 15, 1922, regarding the transfer of the portions of territory assigned to Germany and Poland respectively by the Inter-Allied Governing and Plebiscite Commission of Upper Silesia on the basis of the Treaty signed at Versailles on June 28, 1919".

Article 1.

General Provisions regarding the Transfer.

(1) The transfer of the estate and property of the State mines and foundries to Poland shall be affected in accordance with the general provisions adopted for the transfer of State property.

(2) It shall be the duty of the Polish State to make the necessary alterations in the land registers.

(3) Products, raw materials, implements, machinery generally and other property shall be formally transferred and duly entered in inventories and registers. The inventories shall be drawn up in duplicate and shall contain an exact record of what is handed over and received. The inventories, together with the necessary annexes, shall be signed and certified by the special commissioners of the two States. Each special commissioner shall receive a copy.

Article 2.

Provisions regarding the Mines in Mining Inspection District III (Bielschowitz).

(1) In order that the exploitation of the mines in Mining Inspection District III may be carried on in the usual manner until the frontier has been definitely fixed, the Company leasing the Polish

¹ Translated by the Secretariat of the League of Nations.

State mines shall conclude agreements with the Prussian Mines Administration regarding the continued exploitation of portions of the coalfield where exploitation is already in progress, the joint use of the Dorotka pit, the use of tracts of land for water conduits, for electric cables and pipes for the removal of waste sand and for purposes of transport.

(2) The two Contracting Parties reserve the right, when the frontier has been definitely fixed — in so far as it is modified as compared with the line of demarcation at present established — to make such changes in these Agreements as may be rendered necessary by the altered circumstances in order that the exploitation of the mines established as a result of the change of the frontier line may proceed in a normal manner.

(3) The Polish Government raises no objection to any agreements which have been or may be concluded in accordance with Paragraphs 1 and 2 between the Prussian Mines Administration and the above-mentioned Company.

Article 3.

Settlement of Various Financial Questions arising in Connection with the Transfer.

(1) The task of collecting the amounts of all claims arising out of the deliveries of coal to Poland and the deliveries effected by the Foundries Board (Hüttenamt) up to the date of the transfer of the right of usufruct, arising out of tenancy contracts and leases up to the same date, and out of loans and advances to workers, employees and officials shall be carried out by the Prussian Administration.

(2) The total quantity of coal contained in the pit-heap shall not be less than 50,000 tons. The ordinary quantity of the necessary acids shall be stocked at the Friedrichshütte.

(3) The Prussian Administration declares its willingness to arrange that the plant and equipment should be approximately the same in quantity on the day of the transfer as on April 1, 1922. The Prussian Administration shall not be responsible for such diminution of the quantities as may correspond to normal conditions of exploitation.

(4) The Prussian Administration shall be responsible until the day preceding the date of transfer for :

- (a) the payment of the salaries of the officials and employees, the wages of the workmen and the contributions for social insurance, subject to the condition that, in so far as the amounts have not been exactly fixed up to the day in question, the calculation shall be made in such a way that the total amount of the contributions is apportioned between the two States according to the number of working days ;
- (b) The payment, up to the date of transfer, of the cost of the materials ordered and the work executed on behalf of the Administration ;
- (c) The payment of the taxes, in so far as their payment is not provided for under another general arrangement regarding the settlement of land and industrial taxes.

Article 4.

Subsequent Exploitation of the Mines.

(1) The Mines Administration shall continue, until the transfer, to exploit the mines attributed to Poland with the ordinary means at its disposal and in accordance with the regulations heretofore in force. No orders shall be issued which are contrary to these regulations or to the principles of normal exploitation.

(2) The Prussian Mines Administration further declares its willingness to conclude agreements with Poland regarding the execution of work or the construction of buildings which are not required for the ordinary working of the mines, and with regard to the procuring of additional material and stocks.

Article 5.

Contracts.

(1) Poland declares her willingness to continue to deliver coal on the basis of their contracts to those persons who have hitherto, by virtue of contracts, been customers of the mines assigned to Poland, if they so desire and provided that the contracts heretofore in force between the Prussian Mines Administration and the customers concerned were concluded before January 1, 1922, and are still in force on the date of transfer, and provided that the places where the coal is to be consumed are situated within the new political frontiers of the German Reich.

(2) Poland further declares her willingness, in so far as the conditions of the market allow, to conclude new coal delivery contracts with the German purchasers who, on the basis of the contracts which expired on April 1, 1922, were, by agreement, to be supplied until the date of transfer with coal from the mines assigned to Poland. Poland also takes over the leasing and tenancy contracts and the agreements relating to the delivery of new plant.

(3) Poland is also prepared in principle to take over contracts in respect of the purchase of plant and contracts for work (*e. g.* industrial contracts), but reserves the right to modify these contracts in such a manner as working conditions may require.

Article 6.

Damage caused by Mining Operations.

(1) As regards proceedings which have been or which may be instituted by the persons concerned in respect of damage caused by mining operations, those which were instituted before April 1, 1922, shall be dealt with by the Prussian Mines Administration and those which were instituted or which may be instituted after April 1, 1922, shall be dealt with by Poland. It shall be the duty of the State concerned to arrange for the hearing of the actions and to pay compensation in respect of the damage caused by the mining operations in the event of an unfavourable verdict.

(2) The cost of any measures taken by the Prussian Mines Administration up to the date of transfer in order to repair, or pay compensation for damage caused by mining operations shall be borne by that Administration.

(3) Furthermore, the Polish State takes over the responsibility for all damage caused by mining operations which may be attributed to the past or future exploitation of the mines assigned to Poland; it also undertakes to settle all claims in respect of damage caused by mining operations which have not been disposed of previous to the date of transfer.

Article 7.

Stipulations regarding the Friedrichsgrube.

(1) The right ore extracting lead ore in the Friedrichsfeld section of the Friedrich Lead Mine shall pass to Poland and the right of extracting ore in the Friedrichsfeld-West section which is situated in German territory shall be retained by Prussia.

(2) Poland shall at the same time acquire the legal right to claim from the owners of the zinc mines situated in Friedrichsfeld, delivery of the lead ore which is extracted, together with zinc

ore, in that section of the zinc mines which is situated in Friedrichsfeld-East by the owners of the mines in question, on repayment to such owners of the costs occasioned thereby, in accordance with agreements already concluded or to be concluded in the future. In so far as lead ore is extracted together with zinc ore from the zinc mines, or from sections of the zinc mines situated in Friedrichsfeld-West by the owners of the Friedrichsfeld zinc mines, the claim of Prussia to delivery shall remain unaffected.

(3) If lead ore extracted from a section of the zinc mine in question situated in Friedrichsfeld-West is brought to the surface through the hoisting shaft of a zinc mine situated in Friedrichsfeld-East, Poland undertakes to allow this lead ore to be delivered in a raw or prepared state free of all Customs duties or other charges to the Prussian Administration in accordance with the provisions of agreements concluded with the owner of the zinc mine. Germany undertakes the same obligation towards Poland if lead ore extracted from a section of the zinc mine in question situated in Friedrichsfeld-Ost is brought to the surface through the hoisting shaft of a zinc mine situated in Friedrichsfeld-West.

(4) Germany and Poland agree that, with a view to the execution of the obligation imposed upon the owners of zinc mines by the above stipulations, the following measures are essential:

- (a) Special haulage registers shall be kept with regard to the ore extracted from land situated in the other country.
- (b) Mixed zinc and lead ore extracted from underground mines must be brought to the surface in trolleys specially marked according to whether the ore has been extracted in the territory of the one country or of the other.
- (c) The quantity of the washed lead ore to be delivered to the other State shall be determined by a comparison on the basis of the haulage registers (a) of the total quantity extracted in the one territory with the total quantity extracted in the other.

In order to supervise the proper execution of the measures set forth in paragraphs (a), (b), (c) an agent may be appointed by the State concerned to carry out the necessary control of the zinc mine and the washing of the ore together with all necessary investigations, in conjunction, if it is thought desirable, with a mines surveyor appointed by the country concerned. Both States shall accord the necessary protection to these agents to enable them to do their work without let or hindrance, shall support them in the execution of their duties and in particular allow them to cross the frontier for that purpose on the presentation of a permit, the form of which shall be determined by a subsequent Convention.

(5) Poland shall, in the future also, allow the washing of the zinc and lead ore which is brought to the surface out of the jointly administered zinc mines of Fiedlers-Glück, Jenny-Otto and Wilhelmglück-Ostfeld through the shaft of the Fiedlers-Glück mine situated in Friedrichsfeld-West to take place at an establishment near Scharley in Friedrichsfeld-East, and shall allow the buddled ore to be brought back into German territory by means of the cable railway or otherwise, free of Customs duties or other charges.

Article 8.

Transfer of Officials, Employees and Workmen.

(1) The Prussian officials shall resign their posts on the day after the transfer of the territory to Poland, unless they obtain their discharge from the Prussian service, and voluntarily enter the service of Poland, or obtain the permission of the Prussian Government, in accordance with Article 9, to enter temporarily the service of Poland.

(2) Poland declares her willingness to assume, as from the date of transfer, the rights and obligations of the Prussian Administration in respect of employees and workmen employed in

undertakings or works which are to be transferred to Poland, except when such employees and workers have declared that they desire to relinquish their posts immediately after the transfer.

Article 9.

Granting of Leave of Absence to Officials and Engaging of Officials in Polish Undertakings

The Prussian Government declares its willingness to grant leave of absence for a period of two years to officials who definitely express their desire to remain in the Prussian service, but desire to enter temporarily the service of the undertakings assigned to Poland, including the foundry of Friedrichshütte, insofar as their services are required by these undertakings.

Article 10.

Evacuation of the Official Residences and Lodgings of the Officials.

The official residences and lodgings occupied by the officials who do not enter Polish service in the houses of the Mines Administration or any houses leased by it shall be evacuated within one month of the date of transfer. This time limit may be extended if, in the opinion of Poland, special circumstances so require.

Article 11.

Stipulations regarding the Officials' Houses at Makoschau.

(1) In accordance with the principles laid down in the Protocol of the German-Polish Frontier Delimitation Commission of December 18, 1921, Poland shall grant to the Prussian Mines Administration right of usufruct in respect of the officials' houses in Makoschau and the gardens belonging thereto, until such time as the frontiers as finally delimited by the Frontier Delimitation Commission are definitely occupied. The Prussian Mines Administration shall be responsible during this period for the maintenance of the houses in good condition.

(2) The officials of the Delbrück pit residing in these houses at the time of transfer, together with such members of their families as, *ipso facto*, possess the same nationality as themselves in virtue of Article 31 of the German-Polish Agreement regarding Upper Silesia of May 15, 1922, shall, if they acquire the right to Polish nationality under Article 91 of the Treaty of Versailles of June 28, 1919, be treated by the Polish authorities during the period of option, even before the declaration of option has been made, in the same way as if they had opted for Germany at the date when the rights of sovereignty were transferred to Poland.

(3) The officials, together with members of their household, shall, even if they have no other claim thereto, receive a traffic permit by virtue of Article 270 of the German-Polish Agreement regarding Upper Silesia of May 15, 1922. These officials shall be entitled to move about without hindrance at any hour of the day or night between the officials' houses in Makoschau and the Delbrück pit. This right shall be mentioned in their traffic permits. Until the traffic permits have been issued— at latest until September 1, 1922 — the afore-mentioned right of the officials to move about freely shall be accorded upon production of an identity card (" Legitimationskarte ") which must contain a declaration made by the Prussian Mines Administration in Hindenburg under impress of its seal, to the effect that the bearer is an official of the Delbrück pit and that he resides in the officials' houses at Makoschau.

(4) Newly arrived officials who are being housed by the German Mines Administration in the officials' houses at Makoschau during the period mentioned in paragraph 1 shall be entitled to bring their household effects with them free of Customs duties or other charges.

(5) The officials residing in the houses at Makoschau may bring in, free of Customs duties or other charges, through the Customs office nearest to the houses, such articles as they may require for completing their establishment, together with the necessary foodstuffs for themselves and their families.

(6) The officials of the Delbrück pit residing in the houses at Makoschau during the period mentioned in paragraph 1 shall be exempted from any extraordinary tax on property imposed by Poland. As regards income tax, communal charges, church and school rates as well as taxes on land and industry, they shall not be treated in a less favourable manner than the Polish officials.

(7) Poland shall guarantee to the officials and their families the right, within three months reckoned from the first day of the month following the day on which their employment at the Delbrück pit has come to an end, to transport into the territory of the German Reich the whole of their household effects, unrestricted by any export prohibitions and free of all dues, charges or payments whatsoever. Foodstuffs to the amount of two weeks' requirements, together with live-stock and provisions of food for such live-stock, to an amount corresponding to the conditions of life of the officials concerned, shall be regarded as household effects. An inspection of the articles to be forwarded may only be held at the residence of the official and at the time of removal. No inspection may take place during transport or at the frontier. The articles to be forwarded may not be kept back at the time of removal on account of any claims of the State, the commune or other public bodies or private persons, except in cases in which judgments have been pronounced or orders issued by the regular civil tribunal or the competent revenue authorities.

(8) The time limit for the departure of the officials shall, as a rule, end on the last day of the month following the month in which the period mentioned in paragraph 1 expires.

(9) If the German-Polish frontier as finally determined should again separate the officials' houses at Makoschau from the Delbrück pit, the period mentioned in paragraph 1 shall be extended for five years.

Article 12.

Winding Up, Adjustment of Claims and Handing Over of Stock to the Reparation Commission.

(1) In cases in which, under Article 6, Prussia or Poland have to consider matters concerning damage caused by mining operations, those responsible for settling these questions shall be permitted to carry on their work in the same manner as heretofore; in particular, they shall be guaranteed the right to use all means likely to be of assistance to them, such as the inspection of books, deeds and designs, consultation with engineering and building experts, the collection of all useful information, as well as the right to make necessary investigations and to visit the works and localities concerned.

(2) Each of the two Contracting Parties shall accord on its territory to the agents of the other Party, in particular the geological experts, the right to make investigations for the purpose of determining the value of the State mines and foundries transferred to Poland and to collect the necessary material for that purpose. The two Governments shall grant all necessary facilities for this work to the authorities of the other Party. Matters of detail shall be settled between the Mines Administration and the Polish authorities.

Article 13.

Leasing of Mines to Companies.

In cases in which the Polish State has assumed rights and obligations under the terms of the present Agreement, it shall be entitled — without prejudice to the maintenance of its own responsibility for the fulfilment of the obligations in question — to transfer such rights and obligations to Companies leasing the mines.

*Article 14.**Final Provisions.*

(1) The present Agreement shall be ratified and the instruments of ratification shall be exchanged at Oppeln within six weeks after the date of signature.

(2) The present Agreement shall come into force at the time of signature.

(3) Each of the Contracting Parties shall be entitled, within eight weeks of the date of signature, to announce its withdrawal from the Agreement if the other Party has not, within the above-mentioned period of six weeks, complied with the request to exchange the instruments of ratification.

(4) In the event of withdrawal, the Agreement shall cease to have effect.

In witness whereof the Plenipotentiaries have signed the present Agreement and have affixed their seals thereto.

Done in duplicate at Oppeln on June 15, 1922, in the German and Polish languages.

DR. ECKARDT.

DR. GOTTFRIED SCHWENDY.

DR. ZYGMUNT SEYDA.