

N° 663.

ALLEMAGNE ET POLOGNE

Accord au sujet d'une administration commune de la digue dans la dépression de Marienwerder, signé à Posen le 27 janvier 1923.

GERMANY AND POLAND

Agreement regarding a common dyke administration in the Marienwerder Plain, signed at Posen, January 27, 1923.

TEXTE POLONAIS. — POLISH TEXT.

No. 663. — UKŁAD¹ ZAWARTY D. 27. STYCZNIA 1923 R. W POZNANIU POMIĘDZY RZESZĄ NIEMIECKĄ A RZECZPOSPOLITĄ POLSKĄ TYCZĄCY WSPÓLNEJ ADMINISTRACJI WAŁU W DOLINIE KWIEDZYŃSKIEJ.

German and Polish official texts, communicated by the German Consul at Geneva². The registration of this Agreement took place June 18, 1924.

Celem zapewnienia jednolitej ochrony wału dla przeciętej przez granicę niemiecko-polską doliny Kwidzyńskiej niżej podpisani pełnomocnicy, mianowicie :

ZE STRONY NIEMIECKIEJ :

Posel Dr. PAWEŁ ECKARDT ;

ZE STRONY POLSKIEJ :

Komisarz Likwidacyjny Maciej KOCZOROWSKI

w imieniu swych rządów uzgodnili następujące przepisy dla wspólnej administracji wału w dolinie Kwidzyńskiej.

Artykuł 1.

Pomiędzy układającymi się stronami panuje jednomyślność co do tego, by celem ochrony doliny Kwidzyńskiej przed zalewaniami, urządzenia wału w całości poczynawszy od « Bingsbergen » aż do jej końca kolo Białogóry (Weissenberg), były uważane jako jedność, jako takie traktowane i z tego powodu także wspólnie administrowane. Wały te ciągną się na terenie niemieckim na długości mniejwięcej 32 klm, na terenie polskim na długości 13 klm. O ile są dwa wały, wał położony bliżej. Wisły ma być uważany jako wał ochrony dla doliny.

Artykuł 2.

Panuje również jednomyślność co do tego, że, z jednej strony, wskutek pociągnięcia granicy niemieckopolskiej i powstałej stąd faktycznej i prawnej sytuacji nie można utrzymać związku wałowego bez zmiany i w dotychczasowym jego składzie i zakresie interesów, że z drugiej strony, osobne związki obu państw, stosujące się do prawodawstwa każdego poszczególnego państwa nie mogłyby sprostać zadaniom, wyrażonym w art. 1. Dla spełnienia tych zadań ma być, bez względu

¹ The exchange of ratifications took place at Berlin, May 20, 1924.

² See footnote vol. II, page 60 of this Series.

¹ TRANSLATION.

No. 663. — AGREEMENT BETWEEN THE GERMAN REICH AND THE REPUBLIC OF POLAND REGARDING A COMMON DYKE ADMINISTRATION IN THE MARIENWERDER PLAIN, SIGNED AT POSEN, ON JANUARY 27, 1923.

In order to ensure a uniform system of dyke protection for the region of the Marienwerder Plain traversed by the German-Polish frontier, the undersigned German and Polish plenipotentiaries, namely :

On the GERMAN side :

Dr. Paul ECKARDT, Minister Plenipotentiary,

On the POLISH side :

M. Mathias KOCZOROWSKI, Liquidation Commissioner ;

have, in the name of their Governments, agreed upon the following provisions with regard to a common dyke administration in the Marienwerder Plain.

Article 1.

The Contracting Parties are agreed that the whole of the dyke system which has been established for the protection of the Marienwerder Plain against flooding from the Bingsberge to its terminal point near Weisenberg (Bialo-Gora), and which is situated for a distance of about 32 kilometres on German territory and of about 13 kilometres on Polish territory, is to be treated as a single unit as regards the protection against flooding of the tract of land protected by it, which is situated partly in the German Reich and partly in Poland, and is therefore to be administered in a uniform manner, it being understood that, in cases in which there are two dykes, the outer dyke which is nearest to the Vistula is to be regarded as the dyke for protecting the Plain against flooding.

Article 2.

It is, therefore, agreed that on the one hand the continued existence of the present Dyke Association with its statutory composition and competence is not practicable in consequence of the practical and legal situation created by the delimitation of the German-Polish frontier, and on the other hand separate associations for the two countries established in accordance with their national laws could not satisfactorily carry out the duties imposed by the principles laid down in Article 1. In order, therefore, that these duties may be carried out, a local dyke administration for the Marienwerder Plain shall be established, consisting of a mixed commission and an inspector-general, without prejudice to the maintenance of the separate Dyke Associations.

¹ Translated by the Secretariat of the League of Nations.

Article 3.

(1) The Mixed Commission shall consist of three representatives of each of the two Governments. Its duties will be as follows :

- (a) To carry out dyke inspections in spring and autumn and, if necessary, after the summer floods also ;
- (b) To examine and pass the plans and estimates for all work to be carried out in connection with the dyke ;
- (c) To calculate the costs which, under the terms of Article 5, are to be charged to the common dyke administration and to apportion them between the two States in accordance with the Dyke Register of the former Dyke Association ;
- (d) To give an expert opinion with regard to any applications which may be made by the Dyke Associations concerned for alterations in the Dyke Register. No alteration in the Dyke Register itself may be made except by agreement between the two Governments.

(2) The foregoing provisions shall not apply to the drainage work established in the Marienwerder Plain ; expenditure incurred in this connection shall be borne by the separate Dyke Associations.

(3) The Mixed Commission shall in the first administrative year ending March 31, 1924, be presided over by one of the representatives of the German Government, to be designated by the latter. In subsequent administrative years it shall be presided over alternatively by a Polish and a German Government representative. The administrative year shall run from April 1 to March 31. If the votes are equal, the President shall have a casting vote. The members of the Commission who are in the minority in connection with any decision shall have the right, within a week from the date of the decision, to apply for a new decision. For the purpose of this decision, the President of the Arbitration Court which has been established in virtue of the agreement between Germany, Poland and Danzig of April 21, 1921, shall be co-opted, and his vote shall be decisive.

Article 4.

(1) The Inspector-General shall be appointed by the two Governments concerned by common agreement, for a period of one administrative year, on the recommendation of the separate Dyke Associations. The person to be recommended shall be chosen by a majority vote of the separate Dyke Associations through the intermediary of delegates of whom fourteen shall belong to the German Association and five to the Polish Association or Associations. If the recommendation is rejected by one of the two Governments, a new recommendation must be made according to the same procedure. If the person who is then recommended also fails to obtain the approval of the two Governments, the arbitrator mentioned in paragraph 3 of Article 3 shall decide which of the two persons recommended is to be appointed. If neither of the two Governments demands, at latest three months before the expiration of the administrative year, the appointment of a new Inspector-General, the Inspector-General appointed for the current administrative year shall retain office for the following administrative year. Until the first appointment of an Inspector-General has been made, the duties of the office shall be carried out by the President of the Mixed Commission.

(2) The Inspector-General shall carry on the current business of the Mixed Commission according to rules of procedure to be laid down by the Commission. He shall take part in the sittings of the Mixed Commission in an advisory capacity. He will be responsible for seeing that all dyke operations approved by the Mixed Commission are carried out in accordance with the regulations. In the event of danger threatening, he is entitled himself to take measures for the execution of emergency work, whether the operations have to be carried out on German or on Polish territory. The decision as to whether danger has arisen lies with the Inspector-General alone.

(3) If it should be necessary in the interests of uniform dyke protection, the members of the separate Dyke Associations shall render the assistance prescribed by the statutes of the former

single Dyke Association even outside the territory of their State, according to the instructions of the Inspector-General.

Article 5.

(1) The following shall be regarded as costs incurred for the purpose of uniform dyke protection :

- (a) The costs of the local administration, with the exception of such costs as arise in consequence of the appointment and activities of the Government representatives of the two Parties ; such costs shall be borne by the respective States ;
- (b) The costs which arise in making preparations for and in executing the work to be carried out on the dyke for the purpose of uniform dyke protection, including the work of maintenance.

(2) All costs incurred in connection with the administration of the separate Dyke Associations or in connection with the work carried out within these Associations themselves, and solely in their interest, shall be borne by each Party separately.

Article 6.

(1) The Contracting Parties shall take steps to amend the statutes of the separate Dyke Associations and the other regulations which apply to them in accordance with the altered conditions as regards competence and with the foregoing provisions. The laws and regulations, however, which have hitherto been in force for the former single Dyke Association shall remain in force for the separate Dyke Associations in so far as other regulations are not made by agreement between the two Parties.

(2) The Contracting Parties shall, in addition, afford the local administration every facility for the accomplishment of their duties ; in particular, they shall, if it should be necessary for the purpose of uniform dyke protection to import labour and materials into the territory of the one State from the territory of the other, allow this to be done at any time without imposing passport restrictions or levying Customs or other duties. The transport of materials from the territory of the one Party shall subsequently be notified to the Customs authorities of the other Party. The members of the Mixed Commission and the Inspector-General shall at all times be allowed to cross the frontier for the purpose of carrying out their duties without being subjected to passport restrictions or being required to pay Customs or other duties. The same shall apply to the officials and agents of the separate Dyke Associations, who must, if requested, produce a certificate from the authorities whom they represent.

(3) The Contracting Parties shall permit earth and turf, for which compensation will not be payable, and also brushwood, to be taken from the land beyond the dyke, in accordance with the conditions hitherto in force. They shall also permit direct business intercourse in matters relating to the dyke administration between the authorities of the two Parties themselves and between these authorities and the local administration. They will prosecute persons residing in their territory in respect of damage done to the dyke in the territory of the other Party in the same way as in respect of damage done in their own dyke district, and they will take action to prevent all measures which might result in the frustration of the purpose of dyke protection. They will take steps to see that the separate Dyke Associations do not use land which belongs to them, or which they have leased, in such a manner as to prevent the draining off of the high water and the carrying off of the ice. In view of the fact that the separate Dyke Associations are closely interested in the carrying out of the work of the ice-breakers on the Vistula, they shall also arrange that these Associations share in the costs thereof, according to the principles hitherto in force.

Article 7.

Important alterations in the Vistula dyke itself, which serves as a protection against flooding, and in the works connected therewith, shall only be carried out in the territory of the two Contracting Parties by common agreement and after a joint examination of the individual plans. The two Parties shall assist each other in the execution thereof, in particular by granting the fullest facilities to the surveyors and other officials of the one Party in crossing the frontier and carrying out their duties in the territory of the other Party.

Article 8.

The telephone installation alongside the dyke which serves the purposes of river administration and dyke protection, together with subsidiary lines, must be kept in regular working order by the Party in whose territory it is situated. Each Party shall allow the controllers of the other Party to cross the frontier for the purpose of examining the plant, in conjunction with its own officials. The inspectors of the one Party must immediately inform the inspectors of the other Party of any defects which they may discover on the territory of the latter. Such defects must be put right as quickly as possible by both Parties.

Article 9.

(1) This agreement shall be ratified and the instruments of ratification shall be exchanged not later than April 1, 1923.

(2) The agreement shall come into force on the exchange of the instruments of ratification.

(3) The agreement can be denounced by both Parties as from the expiration of any administrative year, subject to six months' notice, and it shall cease to be in force on the expiration of the administrative year in question.

The Contracting Parties shall enter into negotiation immediately after the denouncement with a view to making other regulations for the maintenance of uniform dyke protection.

Done in four copies, in the German and Polish languages, at Posen, on January 27, 1923.

PAUL ECKARDT.
M. KOCZOROWSKI.

FINAL PROTOCOL

TO THE AGREEMENT BETWEEN THE GERMAN EMPIRE AND THE REPUBLIC OF POLAND, REGARDING A COMMON DYKE ADMINISTRATION IN THE MARIENWERDER PLAIN, OF JANUARY 27, 1923.

On signing the German-Polish agreement regarding a common dyke administration in the Marienwerder Plain, the Plenipotentiaries of the two Parties have agreed that the Commission provided for in Article 3 shall meet before the agreement comes into force, in order to make arrangements for executing it without delay, and in order to take such measures as may be urgently necessary for the purpose of uniform dyke protection.

Done at Posen, on January 27, 1923.

PAUL ECKARDT.
MACIEJ KOCZOROWSKI.