

N° 865.

PAYS-BAS ET POLOGNE

Traité de commerce et de navigation,
avec Protocole de clôture,
signé à Varsovie, le 30 mai 1924.

**THE NETHERLANDS
AND POLAND**

Treaty of Commerce and navigation,
with Final Protocol, signed at
Warsaw, May 30, 1924.

¹ TRADUCTION. — TRANSLATION.No. 865. — TREATY² OF COMMERCE AND NAVIGATION BETWEEN THE NETHERLANDS AND POLAND, SIGNED AT WARSAW, MAY 30, 1924.

French official text communicated by the Netherlands Minister at Berne and by the Permanent Delegate of the Polish Republic accredited to the League of Nations. The registration of this Treaty took place May 20, 1925.

THE PRESIDENT OF THE POLISH REPUBLIC, of the one part, and Her MAJESTY THE QUEEN OF THE NETHERLANDS, of the other part, being equally desirous of promoting and developing commercial relations between the two countries, have determined to conclude a Treaty of Commerce and Navigation, and have for that purpose appointed as their Plenipotentiaries:

THE PRESIDENT OF THE POLISH REPUBLIC :

M. MAURZYCY ZAMOYSKI, Minister for Foreign Affairs ;
M. JÓZEF KIEDRÓN, Minister of Industry and Commerce ;

HER MAJESTY THE QUEEN OF THE NETHERLANDS :

Baron D. D'ASBECK, Her Envoy Extraordinary and Minister Plenipotentiary to the Polish Republic,

who having communicated their full powers, which were found in good and due form, have agreed upon the following provisions :

Article I.

The nationals of either of the High Contracting Parties, established or temporarily resident in the territory of the other Contracting Party, shall enjoy, as regards the establishment and carrying on of trade and industry in the territory of the other Contracting Party, the same rights, privileges, immunities, benefits and exemptions as the nationals of the most favoured nation.

Article II.

(1) The nationals of each Contracting Party shall receive in the territory of the other Party, as regards their legal status, their movable and immovable property and their rights and interests, the same treatment as that accorded or to be accorded to the nationals of the most favoured nation.

(2) They shall be at liberty to transact their business in the territory of the other Contracting Party either in person or through some agent of their own choice and, provided that they conform to the laws of the country, they shall have the right to plead in court and shall have free access to

¹ Traduit par le Secrétariat de la Société des Nations.

¹ Translated by the Secretariat of the League of Nations.

² The exchange of ratifications took place at Warsaw, May 5, 1925.

the authorities. They shall enjoy all the rights and immunities possessed by the nationals of the country itself and, like the latter, they shall be entitled to employ counsel or agents of their own choice to safeguard their interests.

(3) They shall not be subject in respect of the commerce and industry carried on by them in the territory of the other Party to any imposts, taxes, duties or charges of any kind whatever, other or higher than those which are or may hereafter be imposed upon nationals.

(4) They shall be exempt from the payment of forced loans or compulsory national levies which may be imposed for war requirements or as a result of exceptional circumstances.

(5) The nationals of each of the Contracting Parties shall be exempted in the territories of the other from all compulsory personal military service and from all compulsory official, administrative or judicial duties other than the duty of guardianship, as well as from all contributions, whether pecuniary or in kind, imposed in lieu of compulsory personal service. They shall not be subjected in peace or war to any exactions or requisitions for military purposes other than those to which nationals are liable, and such exactions and requisitions shall only be made to the same extent and in accordance with the same principles as are applicable to nationals. They shall be subject to the same regulations as regards compensation as the nationals of the other Party.

Article III.

(1) Registered joint stock companies and other associations legally constituted in accordance with the laws of one of the Contracting Parties and having their headquarters within its territory, shall be recognised as legal entities in the territory of the other Contracting Party, provided that they are engaged in no illegal or immoral pursuits, and they shall have free and unimpeded access to the courts of justice either as plaintiffs or defendants, provided that they conform to the laws and regulations of the country.

(2) Any joint stock companies and other associations of each of the Contracting Party thus recognised may, provided that they conform to the laws of the other country, establish themselves in the territory of the latter, set up offices and agencies and carry on their trade and industry there.

This stipulation does not, however, apply to those associations, such as insurance companies and financial houses, which by reason of their public character would be subjected to special restrictions applicable to all countries.

(3) When these bodies or corporations have been recognised in accordance with the laws and regulations which are or may be in force in the territory of the country concerned, they shall not be subject to any charges, taxes or fiscal dues of any kind other or higher than those which are imposed on the bodies or corporations of any third State.

(4) They shall be exempt from the payment of forced loans or compulsory national levies which may be imposed to meet war requirements or as a result of exceptional circumstances.

(5) They shall only be taxed in respect of such part of their assets as is actually situated in the country in which the imposts, taxes and contributions are levied, and in respect of the business which they transact therein.

Article IV.

Internal duties and taxes levied for the benefit of the State, provinces, communes or public institutions which affect or may affect the production and manufacture of goods or the consumption of any article in the territory of one of the High Contracting Parties shall not for any reason constitute a higher or more burdensome charge on products, goods or articles of the other Party than on similar products, goods or articles of the most favoured nation.

Article V.

(1) All products of the soil or of industry, originating in the Customs territory of either Contracting Party, which are imported into the Customs territory of the other Party with a view to their being consumed, warehoused, re-exported, or carried in transit, shall be subject, so long as the present Treaty is in force, to the treatment accorded or to be accorded to the most favoured nation. In particular, they cannot, in any case, be subjected to other or higher duties, coefficients, surcharges, increases or other taxes than those which are applied or may be applied in the future to the products or goods of the most favoured nation.

(2) Exports which are consigned to countries of one of the Parties shall not be subjected by the other Party to any duties or taxes other or higher than are imposed on the same articles when exported to the country which is most favoured in this respect.

(3) Each Party accordingly undertakes to grant the other Party, immediately and without further conditions, the benefit of any favour, privilege, or reduction of duties or taxes which it has already conceded or may hereafter concede, whether permanently or temporarily, to any third nation in regard to the matters referred to above.

(4) The provisions of the present article shall not apply :

- (a) to privileges which are or may subsequently be granted by one of the Parties in respect of frontier traffic with neighbouring countries ;
- (b) to special concessions made in consequence of a Customs Union ;
- (c) to the provisional Customs régime in force between the Polish and German parts of Upper Silesia.

Article VI.

(1) In order to reserve the benefits of the above provisions for products originating in their respective countries, the Contracting Parties may require that the products and goods imported into their territories should be accompanied by certificates of origin.

(2) Certificates of origin shall be issued either by the Chambers of Commerce to which the consignor is responsible or by any other body or corporation approved by the country of destination. They must be endorsed by a diplomatic or consular representative in the country of destination.

Article VII.

(1) Temporary free admission shall be granted by both Parties in respect of samples of articles liable to duty, prohibited goods excepted, subject to the application of such Customs regulations as may be necessary to ensure their total re-exportation within a period of twelve months.

(2) The marks of identification placed upon samples by the authorities of one of the Contracting Parties shall be accepted for the purpose of establishing their identity by the authorities of the other Party, it being understood, however, that the latter may also affix their own identification marks in all cases where they think this measure necessary.

(3) The benefits of temporary free admission may be withdrawn from commercial travellers or firms failing to comply with the conditions laid down.

Article VIII.

(1) Merchants, manufacturers and other producers of either Contracting Party who produce special identity cards issued by the competent authorities of their country, showing that they are authorised to carry on their trade or industry in that country, shall be entitled, without paying licence taxes, to effect purchases, either personally or through travellers employed by them, from

merchants or producers or in the public market in the territory of the other Party. Similarly, they may also solicit orders from merchants or other persons who make use, for their own trade or industry, of goods in question.

(2) The Parties shall communicate to each other the names of the authorities responsible for the issue of identity certificates and the regulations which commercial travellers, must observe when conducting their business.

(3) The above provisions shall not be applicable to itinerant merchants, nor to hawking or the soliciting of orders from persons who are not engaged in trade or industry, each Party reserving full legislative freedom in this respect.

Article IX.

The Contracting Parties undertake that Polish workers employed in the Netherlands and Dutch workers employed in Poland shall be treated on a footing of perfect equality with national workers as regards the exercise of their trade, and also as regards social insurance.

Article X.

(1) The Contracting Parties undertake to grant each other freedom of international transit, for persons, luggage, goods and articles of every description, mails, ships, boats, wagons, carriages and other means of transport, and to accord each other most-favoured-nation treatment in regard to such matters.

(2) Goods of every description crossing the territory of either of the Parties shall be exempted by that Party from all Customs duties with the exception of administrative and statistical duties.

(3) Neither of the Parties shall, however, be bound to allow passage in transit to travellers whose entry into its territory is prohibited. The passage in transit of goods may be prohibited :

- (a) For considerations of national security or of public and national safety ;
- (b) On grounds of health, or as a precaution against diseases of animals or plants.

(4) The passage in transit of goods which are the subject of a State monopoly in one of the contracting countries may be subjected to control in virtue of the national laws relating thereto.

Article XI.

(1) Persons, baggage and goods despatched in the territory of one of the Contracting Parties to the territory of the other Party or through the latter territory to a third State shall not, in so far as forwarding cost of transport, and public charges on consignment are concerned, be treated less favourably than persons, baggage and goods of the other Party or of any other country whatever which have been despatched in the territory of the other Party or of any other country, under the same conditions to the same destination and by the same route.

(2) The above provisions shall not apply to reductions in tariffs granted for the benefit of charitable or educational institutions, or in cases of public disasters, or to public officials when travelling in their private capacity, or for railway service transports.

(3) The Parties shall endeavour to promote communication between their respective countries by establishing through transport by rail or sea or by concluding Conventions relating to through communication by rail.

Article XII.

(1) Vessels flying the flag of one of the Contracting Parties and their cargoes shall enjoy in the waters of the other Party the same treatment in all respects as is accorded to national vessels and their cargoes, irrespective of the place of departure or destination of the said vessels and irrespective of the place of origin or the destination of their cargoes. It follows that the vessels of either Party and their cargoes cannot be subjected, when in the territory of the other Party, to any taxes or charges of any sort or kind whatsoever, whether levied, or to be levied, on behalf of the State or on behalf of provinces, municipalities, or institutions duly empowered by the Government to collect taxes, other or higher than are applicable to national vessels and to their cargoes.

(2) With regard to the stationing, loading and unloading of vessels in ports, roadsteads, harbours and docks, and in general with regard to all formalities and regulations to which merchant vessels and their crews and cargoes may be subject, it is agreed that all privileges or facilities accorded by one of the Contracting Parties to its own vessels shall also be accorded to the vessels of the other Party, the desire of both Parties being that in this respect also their vessels shall be treated on terms of absolute equality.

(3) Any privileges or exemptions which either Contracting Party may accord to a third Power in regard to any of the above-mentioned matters shall also be accorded simultaneously and unconditionally to the other Contracting Party. Exceptions, however, shall be made to the provisions of the present article, in respect of any special privileges which are granted, or may hereafter be granted, in either country to its own fishing industries.

(4) In respect of navigation on inland navigable waterways, whether natural or artificial in regard to which the vessels of the Parties and their cargoes shall be subject to the same conditions as the vessels and cargoes of the most favoured nation, provided, however, that the duties which may be levied on the vessels and their cargoes shall not be at a higher rate than is applicable to national vessels and their cargoes.

(5) Without prejudice to the other provisions of the present article, and subject to the provisions of the first paragraph, so far as they concern pilotage dues, it is understood that the laws and regulations in force in either country regarding the obligation to employ pilots shall apply to the vessels of the other Party to the same extent as to national vessels.

Article XIII.

(1) The documents and certificates issued for the purpose in conformity with the laws and regulations of the respective countries by the competent authorities of the said countries shall be recognised as establishing the nationality of the vessels.

(2) Tonnage certificates issued on the Moorsom system for vessels of either of the two countries shall be recognised by the other Party under conditions which shall be specified after the two Parties have communicated to each other the regulations applicable to the subject.

Article XIV.

Vessels of one of the Contracting Parties entering ports of the other with the sole object of completing their cargoes or of unloading some portion of their cargoes, shall be entitled, provided

that they conform to the laws and regulations of the respective State, to retain on board any portion of the cargo which is consigned to another port and to another country, and to re-export such portion of the cargo without being liable to pay any duties or charges on it, excepting those for supervision ; the latter dues shall not, however, be charged at a higher rate than the lowest payable by national vessels or by those of the most favoured nation.

Article XV.

(1) The following vessels shall be exempt from all dues which are levied on ships and shipping in the ports of the respective countries :

- (a) Vessels, arriving from any port whatsoever, which both enter and leave the harbour in ballast ;
- (b) Vessels which arrive from a port in either country and subsequently call at one or more ports of the same country, and which can show that they have already paid the duties in question, during the same voyage, in another port of the same country ;
- (c) Vessels which enter a port with their cargo, either voluntarily or by force of, circumstances, and which sail without having conducted any trading operations.

(2) The exemption in question referred to in the above paragraph shall not apply to pilotage harbour, towage or quarantine dues, nor to any other dues on shipping which national vessels of the most favoured nation are liable to pay, in the same circumstances, for services rendered or for measures taken in the interests of shipping.

(3) In the case of vessels compelled to put into harbour by force of circumstances, the following acts shall not be held to constitute trading operations : embarking and landing of passengers and their luggage as well as unloading or re-loading goods with a view to repairing the vessel ; transshipment of goods from a vessel which is unseaworthy to another vessel ; the purchase of the necessary stores for revictualling the crew and the passengers, and the sale of damaged goods, provided that the sanction of the Customs authorities has been obtained.

Article XVI.

(1) If a vessel belonging to either Contracting Party should be stranded or wrecked in the waters of the other State, the vessel, her passengers and her cargo shall enjoy the same privileges and immunities as are accorded or to be accorded by the laws and regulations of the country in question, in similar circumstances, to national vessels or to those of the most favoured nation. Assistance and relief shall be afforded to the master and crew, both for themselves and for the vessel, her passengers and her cargo, to the same extent as would be afforded to nationals of the country in question.

(2) As regards salvage charges, the laws of the country in which the salvage takes place shall be applicable.

(3) Goods salvaged from a stranded or shipwrecked vessel shall not be subject to any Customs duties, unless they are admitted into the country as articles of consumption.

Article XVII.

(1) The Contracting Parties undertake to accord to each other in their respective territories most-favoured-nation treatment as regards the various administrative or other formalities necessitated by the application of the present Treaty.

(2) It is nevertheless understood that nothing in the stipulations laid down in the previous articles guaranteeing most-favoured-nation treatment shall in any way affect the laws, decrees or regulations relating to public security, or the exercise of certain trades and professions which are or may hereafter be in force in either of the countries and which are applicable to all foreigners.

Article XVIII.

The Contracting Parties shall accord to each other most-favoured-nation treatment in all that concerns the consular service.

Article XIX.

The provisions of the present Treaty shall apply to the Netherlands, the Netherlands Indies, Surinam and Curaçao.

Article XX.

The Polish Government, which is responsible for the conduct of the foreign relations of the Free City of Danzig in virtue of Article 104 of the Treaty of Versailles, and of Articles 2 and 6 of the Convention¹ of Paris, concluded between Poland and the Free City of Danzig on November 9, 1920, reserves the right to declare that the Free City is a Contracting Party to the present Treaty and that it accepts the obligations and acquires the rights resulting therefrom.

This reservation does not apply to the provisions of the present Treaty which the Polish Republic contracts on behalf of the Free City of Danzig in conformity with its rights under the treaties relating thereto.

Article XXI.

(1) The present Treaty shall be ratified, and the ratifications shall be exchanged at Warsaw, as soon as possible.

(2) It shall come into force a month after the exchange of ratifications.

(3) The Treaty is concluded for a period of one year. If, however, it is not denounced on the expiration of that period, it shall be prolonged for an indefinite period without further formality, but may be denounced at any time.

Should it be denounced, it shall continue in force for a period of three months reckoned from the date on which one of the High Contracting Parties notifies the other of its intention to terminate the Treaty.

In faith whereof, the Plenipotentiaries have signed the present Treaty.

Done in duplicate, at Warsaw, on the thirtieth day of May one thousand nine hundred and twenty-four.

(Signed) M. ZAMOYSKI.

(Signed) J. KIEDRÓN.

(Signed) D. D'ASBECK.

¹ Vol. VI, page 189 of this Series.

NAME OF STATE.
(Issuing authority).

IDENTITY CARD FOR COMMERCIAL TRAVELLERS

VALID FOR TWELVE MONTHS FROM THE DATE OF ISSUE.

Valid for No. of identity card

It is herewith certified that the holder of this card,

M. born at
resident at Street No.
possesses ¹
at
under the name of
(or) is a commercial traveller in the service of the firm (s) of
at
which possess (es)
under the name of

As the bearer of this card intends to solicit orders in the above-mentioned countries and to make purchases for the above firm (s), it is certified that the said firm (s) is (are) authorised to exercise its (their) trade and industry at (.....) and pay the taxes required by law to this end.

(.....), the 19.....

Signature of head of firm (s) :

Description of bearer :

Age.....
Height
Hair
Special marks
.....



Signature of bearer :

N. B. — Only the first item of the form should be filled in in the case of the head of a commercial or industrial establishment.

¹ Give name of factory or business.

FINAL PROTOCOL

Present at Warsaw on May thirtieth one thousand nine hundred and twenty four :

FOR POLAND :

M. Maurycy ZAMOYSKI ;
M. Józef KIEDRÓN.

FOR THE NETHERLANDS :

Baron D. van ASBECK.

Before proceeding to the signature of the Treaty of Commerce and Navigation between the Polish Republic and the Netherlands, the undersigned Plenipotentiaries have agreed as follows :

I. PROCEDURE OF ARBITRATION.

(1) Disputes which may arise between the High Contracting Parties regarding the application or interpretation of the present Treaty and which cannot be settled through the diplomatic channel shall be submitted to the Permanent Court of International Justice¹, or if one of the High Contracting Parties so requests, to the Permanent Court of Arbitration at the Hague.

(2) Should the dispute be submitted to the Permanent Court of Arbitration, the stipulations of the Hague Convention² of October 18, 1907, for the pacific settlement of international disputes shall be applicable. Nevertheless, in the absence of arbitration clauses to the contrary, the arbitral tribunal shall be composed of three members. Each of the High Contracting Parties shall appoint one member and the umpire shall be appointed in conformity with the rules of the above-mentioned Convention.

II. WITH REGARD TO ARTICLE II.

It is understood that the provisions of Article II, according to which the nationals of the High Contracting Parties shall have the right to plead in court on a footing of equality with the nationals, as well as the provisions of Article III regarding the unimpeded access of the Joint Stock Companies and other companies to the Courts of Justice of the country concerned, do not apply to free legal assistance, nor to exemption from the necessity of making payment into court.

III. WITH REGARD TO ARTICLE V.

(1) Inasmuch as Article V of the present Treaty grants most-favoured-nation treatment to the products of the soil and industry of the two respective countries, the two Contracting Parties declare that the establishment by one of them, owing to currency depreciation, of surcharges or of coefficients of increase in respect of import duties on products of the soil or industry of the other Party, would be contrary to the spirit of the present Treaty.

(2) It is understood that economic restrictions or prohibitions shall only be maintained for the period and to the extent rendered absolutely necessary by the economic conditions in question.

IV. AS REGARDS ARTICLES V AND VI.

It is understood that the provisions of Articles V and VI shall not apply to the products of the soil or of industry originating in the Customs territory of one of the High Contracting Parties if they have passed through the Customs into a third State.

¹ Vol. VI, page 380 ; Vol. XI, page 404 ; Vol. XV, page 304 ; Vol. XXIV, page 152 and Vol. XXVII, page 416 of this Series.

² British and Foreign State Papers. Vol. 100, page 298.

V. AS REGARDS ARTICLE IX.

It is understood that the provisions of this Article shall not apply to the subjects and territory of the Free City of Danzig.

VI. AS REGARDS ARTICLE X.

The provisions of the present Treaty shall not be interpreted as affecting in any way whatsoever the definitive rights and obligations of either of the High Contracting Parties in regard to the transit of arms and munitions and of military equipment and material.

VII. AS REGARDS ARTICLE XI.

(1) As long as the frontier between Poland and one of the neighbouring countries remains closed for any reason whatsoever to travellers or goods from Poland or the neighbouring country in question, the Polish Government shall not be deemed bound to accord to the Netherlands on the frontier of such country the facilities laid down in Article XI.

(2) The provisions relating to railway communication with a third State shall not be applied unless a convention regarding through communication by rail has been concluded with such State.

VIII. AS REGARDS ARTICLES XI TO XVII.

(1) Emigration undertakings authorised in one of the two countries shall enjoy in every respect the same rights, privileges, immunities and exemptions in the territory of the other country as similar undertakings of the most favoured nation. It is understood, however, that neither of the Contracting Parties may invoke the most-favoured-nation principle for the purpose of claiming the designation of a particular port for the embarkation of emigrants in the deed of concession.

(2) As regards maritime and river *cabotage*, the High Contracting Parties shall accord each other most-favoured-nation treatment, the Netherlands Government, however, reserving the rights of *cabotage* in the Netherlands Indies, Surinam and Curaçao.

(3) It is understood that the provisions of Article XVI shall not affect the international conventions regarding salvage and assistance.

IX. AS REGARDS ARTICLE XIV.

It is also understood that the provisions of Article XIV shall not affect the rights of the Polish and Netherlands Governments to demand payment for the licenses required under the laws regarding the trade in fire-arms.

(Signed) M. ZAMOYSKI.

(Signed) J. KIEDRON.

(Signed) D. D'ASBECK.