

N° 1522.

ALLEMAGNE ET POLOGNE

Accord concernant les formalités douanières et des passeports, ainsi que le trafic ferroviaire à Korzeniow (Kurzebrack), avec protocole final. Signés à Berlin, le 16 juin 1926.

GERMANY AND POLAND

Agreement regarding Customs and Passport Formalities and regarding Railway Traffic at Korzeniow (Kurzebrack), with Final Protocol. Signed at Berlin, June 16, 1926.

TEXTE ALLEMAND. — GERMAN TEXT.

N^o 1522. — POLNISCH-DEUTSCHES ABKOMMEN ¹ ÜBER DIE GEMEINSAME ZOLL- UND PASSABFERTIGUNG UND DEN EISENBAHNVERKEHR IN KURZEBRACK, GEZEICHNET IN BERLIN AM 16. JUNI, 1926.

German and Polish official texts communicated by the Delegate of the Polish Republic accredited to the League of Nations. The registration of this Agreement took place August 20, 1927.

POLEN und DEUTSCHLAND haben in der Absicht, den Personen- und Warenverkehr über die Grenze bei Kurzebrack zu erleichtern, beschlossen, ein Abkommen über die gemeinsame Zoll- und Passabfertigung sowie über den Eisenbahnverkehr in Kurzebrack zu schliessen. Die dazu Bevollmächtigten, nämlich :

FÜR POLEN :

Herr Maciej KOCZOROWSKI und
Herr Dr. Zygmunt KLECHNIOWSKI,

FÜR DEUTSCHLAND :

Herr Gesandter Dr. Paul ECKARDT,

haben sich über die folgenden Bestimmungen geeinigt :

Artikel 1.

1. Die Zoll- und Passabfertigung im Personen- und Warenverkehr über die Zollgrenze bei Kurzebrack wird von den polnischen und den deutschen Zoll- und Passbehörden gemeinsam und zwar räumlich nebeneinander, zeitlich nacheinander in der Regel auf dem Deckwerk vorgenommen. Zu diesem Zwecke räumt Polen Deutschland das Recht ein, die Zoll- und Passabfertigung auf dem Deckwerk oder auf der Dammkrone vorzunehmen. Über die Bereitstellung der hierzu etwa erforderlichen geeigneten Räume und über eine etwaige Vergütung hierfür werden sich die örtlichen Zoll- und Passbehörden miteinander verständigen.

2. Sollten hoher Wasserstand, ungünstige Witterungsverhältnisse oder sonstige Umstände die Zoll- und Passabfertigung ausserhalb des Deckwerks und der Dammkrone geeigneter erscheinen lassen, so erfolgt diese Abfertigung an einem im Benehmen zwischen den örtlichen Dienststellen festzusetzenden Orte am Zugangswege zum Deckwerk. Zu diesem Zwecke räumt Deutschland Polen das Recht ein, die Zoll- und Passabfertigung in den vorhandenen oder etwa neu zu errichtenden Baulichkeiten am Zugangswege zum Deckwerk vorzunehmen, auf die sich das am 23. Juni 1923 unterzeichnete Abkommen ² über die Benutzung von Baulichkeiten in Kurzebrack durch Polen und über den Zugang zu diesen Baulichkeiten bezieht.

¹ The exchange of ratifications took place at Warsaw, July 4, 1927.

² Vol. LXVII, Treaty N^o 1537, of this Series.

¹ TRANSLATION.

No. 1522. — AGREEMENT BETWEEN GERMANY AND POLAND REGARDING CUSTOMS AND PASSPORT FORMALITIES AND REGARDING RAILWAY TRAFFIC AT KORZENIOW (KURZEBRACK). SIGNED AT BERLIN, JUNE 16, 1926.

POLAND and GERMANY, desirous of facilitating passenger and goods traffic over the frontier in the neighbourhood of Kurzebrack, have decided to conclude an agreement concerning joint Customs and passport formalities and also concerning railway traffic at Kurzebrack.

The Plenipotentiaries designated for that purpose, namely :

FOR POLAND :

M. Maciej KOCZOROWSKI, ; and
Dr. Zygmunt KLECHNIOWSKI ;

FOR GERMANY :

Dr. Paul ECKARDT, Minister Plenipotentiary,

Have agreed on the following provisions :

Article I.

1. Customs and passport formalities in respect of passenger and goods traffic crossing the Customs frontier at Kurzebrack shall be carried out jointly by the Polish and German Customs and passport authorities, in adjoining premises, one examination taking place immediately after the other, and as a general rule on the covering work (" *Deckwerk* "). For this purpose, Poland grants Germany the right to carry out Customs and passport examination on the covering work or at the top of the glacis (" *Dammkronē* "). The local Customs and passport authorities shall agree together with regard to the equipment of suitable premises for this purpose, and with regard to payment of any expenditure involved thereby.

2. Should it appear preferable, in view of high water level, inclement weather or other circumstances, that the Customs and passport examination should be carried out elsewhere than on the covering work (" *Deckwerk* ") or top of the glacis (" *Dammkronē* "), such examination shall be carried out in a place chosen by agreement between the local authorities and situated on the road leading to the covering work (" *Deckwerk* "). For this purpose Germany shall grant Poland the right to carry out Customs and passport examinations in buildings which already exist or may subsequently be erected on the approach to the covering work (" *Deckwerk* ") and which are referred to in the agreement signed on June 23, 1923, concerning the use of buildings in Kurzebrack by Poland and concerning access to the same.

¹ Translated by the Secretariat of the League of Nations.

3. Both Customs services shall be authorised to store goods in bond under their own control in the premises allotted to them under paragraphs 1 and 2.

4. Private persons whose interests are concerned shall be allowed free access to the service and store-rooms in the Customs offices, but must be accompanied by a competent Customs official.

Article 2.

The Customs services established in foreign territory shall be termed "detached services" (*exponerte Dienststellen*) for the purposes of this Agreement.

Article 3.

Shields bearing the arms of the State concerned may be displayed on the buildings used by the detached services.

Article 4.

Unless otherwise provided by the present Agreement, the creation of the said detached services shall in no way prejudice the sovereign rights of the State in whose territory they are established.

Article 5.

1. The Customs regulations of both Contracting Parties shall be applied conjointly for the clearance of goods. In the case of exports, the Customs regulations of the exporting State shall apply until the goods have been cleared for export. In the case of imports, the Customs regulations of the importing State shall apply as from the moment at which formalities in respect of clearance for import commence.

2. Should the Customs service of either Contracting Party think it necessary to examine an article which has already been presented to the Customs service of the other Party for clearance but is still under the latter's supervision, the last named Customs service shall be obliged to place the article in question at the disposal of the service of the former for fresh examination.

3. Should either Party find that the article in question should be seized, the other Party shall be obliged to hand it over to the first-named Party.

4. The detached services of one Party shall, within the limits laid down by the present Article, be entitled, in case of breaches of their own Customs regulations in the territory of the other Party, to take action in accordance with the provisions of the said regulations, and to remove articles seized or held as security and also persons arrested — if necessary accompanied by officials of the other Party — into their own territory. Nationals of one Party may not be arrested by officials of the other Party. Nevertheless, a person who has infringed the Customs regulations may be constrained to go before the authorities for an enquiry into the facts. When such proceedings take place before an official of one Party an official of the other Party must be present. The nationals of one Party may not be forcibly searched during an investigation by officials of the other Party except in the presence of an official of the first-named Party.

Article 6.

1. As regards the examination of passports by the detached services, the passport regulations of the two Contracting Parties shall be conjointly applied, provided however that the regulations of the country of departure shall have priority.

2. Persons intending to leave the territory of one Party may be refused entry to the territory of the other Party if they are not provided with papers authorising them to leave the said territory. In such cases they shall be required to return to the territory which they have quitted. Should they refuse to return they may be forcibly reconducted.

3. Nevertheless, the use of force by officials of the detached services of one Party for the purpose of reconducting nationals of the other Party to their own territory shall not be allowed. On the other hand a passenger may be forcibly brought before the authority for an enquiry into the facts. When such an enquiry is carried out before an official of one Party, an official of the other Party must be present. After the conclusion of the enquiry the person shall be authorised to continue his journey.

Article 7.

The detached services of both contracting Parties shall be entitled to maintain order in the premises provided for their exclusive use and to expel therefrom private individuals who behave in a disorderly manner.

Article 8.

The competent officials of each Party shall communicate the names and official positions of persons employed in their detached services to the competent authorities of the other Party.

Article 9.

Employees in detached services shall be allowed to cross the frontier during and for the purpose of the exercise of their duties, and shall be allowed to stay in the territory of the neighbouring State while so employed without being compelled to obtain passports and visas, provided that they have identity cards made out by the competent authorities. The said cards shall be made out in accordance with the attached model and shall be valid for one year.

Article 10.

1. The staff of the detached services shall, when in foreign territory, wear uniform or visible service badges, if the regulations of the State employing them prescribes the wearing of uniform or service badges, or if the exercise of their duties brings them into contact with the public in the neighbouring State.

2. Arms may only be carried by officials on duty.

3. Arms may only be used for purposes of lawful self-defence.

Article 11.

1. Employees of detached services shall be given the necessary protection during their residence in foreign territory. They shall continue to be regarded while in the neighbouring State as public officials, within the meaning of the penal code. In cases of insult or personal injury where, apart from any civil proceedings brought by the injured party the authorities have power to prosecute, the Contracting Parties shall exercise such right on behalf of the employees of the neighbouring State doing duty in their territory just as they would on behalf of their own officials.

2. As regards punishments for administrative offences, officials of the detached services shall be exclusively under the disciplinary authority of their official superiors in the State from which

they have come. As regards punishable offences committed by officials in the performance of their duties in the State in which they are serving, judgment for such offences shall be left exclusively to the State from which they have come, should it so request, provided that no nationals of the State into which they are sent are implicated. Should such a request be made, the accused shall immediately be handed over by the State in which he is serving to the authorities designated by the State from which he has come. The request for leave to judge the case and for the handing over of the accused shall be made by the competent prosecuting authority of the State from which the official came to the competent prosecuting authorities of the State in which he was serving.

Article 12.

1. The officials of either Party shall assist the officials of the other Party who are serving in their territory in carrying out their official duties, particularly with a view to the prevention and discovery of offences.

2. The authorities and officials of each Party shall afford all necessary protection to the detached services of the other Party and to their officials and shall comply with any requests for such protection in the same manner as they would comply with similar requests made by their own services.

Article 13.

1. Each of the Contracting Parties shall be entitled to send its own inspectors to ascertain that the duties assigned to its officials in the territory of the neighbouring State are being satisfactorily performed.

2. The provisions of Articles 9, 11 and 12 shall apply to the crossing of the frontier by the officials referred to in paragraph 1 and their temporary residence in the territory of the neighbouring State.

Article 14.

Articles to be used in the performance of their duties by the detached services and officials whom they employ shall be admitted free of Customs duties, taxes and other charges, on production of an official certificate from the competent service of the State from which they have come, and shall be re-exported free of Customs duties, taxes and other charges.

Article 15.

1. The Marienwerder narrow-gauge railway company and its legal successors shall be entitled to provide at their own expense for operating their lines on Polish territory between the covering work ("*Deckwerk*") and the political frontier, in connection with the operating of the other portion of the Marienwerder narrow-gauge railway on the basis that all expenses for repairs and upkeep of the permanent way and equipment shall be chargeable against the railway company and that all receipts shall accrue to the said railway company.

2. The operation, maintenance and any alterations that may be made on the lines situated on Polish territory shall be governed by the relevant Polish laws.

3. The narrow-gauge railway company shall be entitled to provide for working and maintenance of the line by another railway enterprise on condition that the above provisions are observed. In such cases the said railway company shall remain responsible for seeing that its obligations are carried out.

4. The provisions of Articles 9 to 14 shall apply by analogy to officials of the narrow-gauge railway on duty in Polish territory.

Article 16.

1. Disputes arising out of the present Agreement shall be settled by an arbitral tribunal on which each of the Contracting Parties shall appoint an arbitrator. The arbitral tribunal shall only meet when a case arises. Should the arbitrators fail to come to an agreement they may choose a third arbitrator who shall decide. Should they not be able to agree on the appointment of the third arbitrator, the Contracting Parties shall come to an agreement on the matter through the diplomatic channel.

2. Each Contracting Party shall bear the expense of the arbitrator whom it appoints. The expenses of the third arbitrator and the general expenses of the arbitral tribunal shall be equally divided between the two Parties.

Article 17.

1. The present Agreement shall be ratified. The instruments of ratification shall be exchanged as soon as possible. The Agreement shall come into force on the first day of the month following the exchange of the instruments of ratification.

2. Negotiations for modifications in the present Agreement shall be commenced at the request of either of the Contracting Parties.

Done at Berlin, June 16, 1926, in duplicate in the Polish and German languages, both texts being authentic.

(L. S.) (Signed) Maciej KOCZOROWSKI.

(L. S.) (Signed) Dr. ECKARDT.

(L. S.) (Signed) Dr. KLECHNIOWSKI.

ANNEX

FRONT.

National colours.	Identity card No.
Valid till	192.....
.....
(official position)	(name)
domiciled at
exercises at
the duties of.....
Official stamp. 192.....
.....	Name of the Administration
(Signature of holder)
.....
(Signature of the Official issuing the card.)

BACK.

NOTICE.

This identity card must be returned to the Administration which issued it as soon as the holder ceases his official duties and in any case on the expiration of its validity.

FINAL PROTOCOL.

TO THE POLISH-GERMAN AGREEMENT OF JUNE 16, 1926, REGARDING CUSTOMS AND PASSPORT FORMALITIES AND REGARDING RAILWAY TRAFFIC AT KORZENOW (KURZEBRACK).

When proceeding to sign the Polish-German Agreement of June 16, 1926, regarding the establishment of joint Customs and passport services at Kurzebrack and concerning railway traffic at that place, the Plenipotentiaries of the two Parties have agreed on the following provisions :

I. *Ad Articles 1, 9, 11 and 12.*

The provisions of paragraph 4 of Article 1, and those of Articles 11 and 12 of the present Agreement constitute an extension, and the provisions of Article 9 constitute an alteration of the provisions to which the Contracting Parties have agreed in Articles 5, 7 and 9, and in paragraphs 1 and 2 of Article 12 of the Convention of June 23, 1923.

II. *Ad Article 11.*

(a) Offences committed by employees of the detached services against the laws concerning Customs and taxation and against regulations prohibiting or restricting imports and exports shall not be regarded as having been committed in the exercise of their official duties.

(b) Both Parties reserve the right to grant right of asylum in accordance with the general principles of law.

(c) Should penal proceedings be instituted against an official in respect of actions committed during his sojourn on duty in the territory of the neighbouring State, the administrative authority under which the said official is employed shall be immediately notified.

(d) Each State shall be free to determine the authority which shall decide upon requests made by the other Party to be allowed to judge accused persons and upon requests for the handing over of such persons.

BERLIN, June 16, 1926.

(Signed) Maciej KOCZOROWSKI.

(Signed) Dr. KLECHNIOWSKI.

(Signed) Dr. ECKARDT.