

N° 2773.

ALLEMAGNE ET POLOGNE

Accord concernant la réglementation
de la pêche dans les eaux limitro-
phes, avec protocole final. Signés
à Berlin, le 10 décembre 1927.

GERMANY AND POLAND

Agreement regarding the Regulation
of Fishing in Boundary Waters,
with Final Protocol. Signed at
Berlin, December 10, 1927.

TEXTE POLONAIS. — POLISH TEXT.

N^o 2773. — UKŁAD¹ POMIĘDZY POLSKĄ A NIEMCAMI W SPRAWIE RYBOŁÓWSTWA NA BIEŻĄCYCH I STOJĄCYCH WODACH GRANICZNYCH. PODPISANY W BERLINIE, DNIA 10 GRUDNIA 1927.

Textes officiels allemand et polonais communiqués par le délégué de la Pologne auprès de la Société des Nations. L'enregistrement de cet accord a eu lieu le 6 août 1931.

POLSKA z jednej Strony i NIEMCY z drugiej Strony w wykonaniu artykułu 36 konwencji² polsko-niemieckiej w sprawie uregulowania stosunków granicznych, podpisanej dnia 27 stycznia 1926 r. w Poznaniu, pragnąc ustalić zasady wykonywania i ochrony rybołówstwa na bieżących i stojących wodach granicznych, postanowiły zawrzeć układ.

Mianowani w tym celu Pełnomocnicy :

ZE STRONY POLSKI :

pp. Maciej KOCZOROWSKI, Delegat Rządu do rokowań granicznych polsko-niemieckich,

Józef BOROWIK, Zastępca Dyrektora Państwowego Instytutu Naukowego Gospodarstwa Wiejskiego,

ZE STRONY NIEMIEC :

pp. Dr. Paweł ECKARTD, Poseł i Minister Pełnomocny,

Dr. Emil SEYDEL, Radca Ministerjalny, Krajowy Inspektor Rybołówstwa w Pruskiem Min. Rolnictwa, Dóbr i Lasów,

po sprawdzeniu swych pełnomocnictw, uznanych za dobre i sporządzone we właściwej formie, uzgodnili następujące postanowienia :

CZĘŚĆ I.

POSTANOWIENIA OGÓLNE.

Artykuł 1.

1. W rozumieniu niniejszego układu uważa się jako bieżące i stojące wody graniczne te wody bieżące i inne wody, przez które oznaczona jest polsko-niemiecka granica (porównaj art. 3, ust. 3 i 4 konwencji w sprawie uregulowania stosunków granicznych z dnia 27 stycznia 1926 roku).

2. Niniejszy układ nie rozciąga się na przybrzeżne wody morskie.

¹ L'échange des ratifications a eu lieu à Varsovie, le 28 mai 1931.

² Vol. LXIV, page 113, de ce recueil.

TEXTE ALLEMAND. — GERMAN TEXT.

N^o 2773. — ABKOMMEN¹ ZWISCHEN POLEN UND DEUTSCHLAND ÜBER DIE FISCHEREI IN DEN GRENZWASSERLÄUFEN UND GRENZGEWASSERN. GEZEICHNET IN BERLIN, AM 10. DEZEMBER 1927.

German and Polish official texts communicated by the Polish Delegate accredited to the League of Nations. The registration of this Agreement took place August 6, 1931.

POLEN einerseits und DEUTSCHLAND andererseits haben in Ausführung des Artikels 36 des am 27. Januar 1926 in Posen unterzeichneten polnisch-deutschen Vertrages² zur Regelung der Grenzverhältnisse, von dem Wunsche beseelt, die Grundsätze für die Ausübung und den Schutz der Fischerei in den Grenzwasserläufen und Grenzgewässern festzulegen, beschlossen, ein Abkommen zu treffen.

Die zu diesem Zwecke ernannten Bevollmächtigten :

VON POLEN :

- der Delegierte der Polnischen Regierung zu den polnisch-deutschen Grenzverhandlungen Herr Maciej KOCZOROWSKI,
- der Vize-Direktor des Staatlichen Wissenschaftlichen Instituts für Landwirtschaft Herr Józef BOROWIK,

VON DEUTSCHLAND :

- der Gesandte Herr Dr. Paul ECKARDT,
- der Ministerialrat und Landesoberfischmeister im Preussischen Ministerium für Landwirtschaft, Domänen und Forsten Herr Dr. Emil SEYDEL,

haben sich nach Prüfung ihrer als gut und in gehöriger Form befundenen Vollmachten über folgende Bestimmungen geeinigt :

TEIL I.

ALLGEMEINE BESTIMMUNGEN.

Artikel 1.

1. Im Sinne dieses Abkommens gelten als Grenzwasserläufe und Grenzgewässer diejenigen Wasserläufe und sonstigen Gewässer, durch welche die polnisch-deutsche Grenze bezeichnet wird (vergleiche Artikel 3 Absatz 3 und 4 des Vertrages zur Regelung der Grenzverhältnisse vom 27. Januar 1926).

2. Auf Küstengewässer bezieht sich das Abkommen nicht.

¹ The exchange of ratifications took place at Warsaw, May 28, 1931.

² Vol. LXIV, page 113, of this Series.

¹ TRANSLATION.

No. 2773. — AGREEMENT BETWEEN GERMANY AND POLAND,
REGARDING THE REGULATION OF FISHING IN BOUNDARY
WATERS. SIGNED AT BERLIN, DECEMBER 10, 1927.

POLAND, of the one part, and GERMANY, of the other part, being desirous of establishing definite rules for fishing and the protection thereof, in frontier waterways and frontier waters, have decided, in pursuance of Article 36 of the Polish-German Treaty for the Settlement of Frontier Questions, signed at Poznan on January 27, 1926, to conclude an Agreement, and have for this purpose appointed as their Plenipotentiaries :

POLAND :

- M. Maciej KOCZOROWSKI, Delegate of the Polish Government for the Frontier Negotiations between Poland and Germany ;
- M. Józef BOROWIK, Assistant Director of the State Scientific Institute of Agriculture ;

GERMANY :

- Dr Paul ECKARDT, Minister Plenipotentiary ;
- Dr Emil SEYDEL, Ministerial Counsellor, Head of the State Fisheries Department in the Prussian Ministry of Agriculture, Public Domains and Forests ;

Who, after examining their full powers, found in good and due form, have agreed on the following provisions :

PART I.

GENERAL PROVISIONS.

Article 1.

1. For the purposes of the present Agreement, the expression " frontier waterways and frontier waters " shall be taken to mean such waterways and other waters as are used for the purposes of the demarcation of the frontier between Poland and Germany (see Article 3, paragraph 3 and 4 of the Treaty for the Settlement of Frontier Questions of January 27, 1926.).

2. The present Agreement shall not apply to coastal waters.

PART II.

FISHING.

Article 2.

Each of the Contracting Parties undertakes to permit fishing in frontier waterways and frontier waters by nationals of the other Contracting Party, in so far as such persons are entitled thereto either as holders of fishing rights or in virtue of a transfer or leasehold agreement or of a

¹ Translated by the Secretariat of the League of Nations, for information.

fishing permit, or as employees or assistants of a person holding fishing rights or a fishing lease, and provided that they comply with the conditions laid down in Article 3.

Article 3.

1. Nationals of one of the Contracting Parties, when engaged in fishing in frontier waterways and frontier waters in the territory of the other Contracting Party, shall carry a frontier fishing permit issued by the Second Instance Administrative Authority (Voivod, Provincial Governor (*Regierungspräsident*)) of that Party and shall produce it to the competent supervisory officials whenever the latter so require.

2. Frontier fishing permits shall conform to the model appended to the present Agreement and shall be issued for one calendar year. The model may be altered by agreement between the Governments of the two Contracting Parties.

3. The issue of a frontier fishing permit may be refused or such a permit may be withdrawn, if, under the regulations of either of the Contracting Parties in force at the time, a home fishing permit, or any official certificate in lieu thereof, has been or might be refused or withdrawn.

4. The issue of a frontier fishing permit may not be refused or made subject to conditions other than those laid down in Article 2 or Article 3, paragraph 3, solely on the ground that the applicant is not a national of the Contracting Party in whose territory he desires to fish. The same shall apply also to the withdrawal of frontier fishing permits.

5. Application for the issue of a frontier fishing permit shall be made to the authorities in the applicant's own country who are responsible for the issue of fishing permits to foreigners and in whose district the frontier waterways or frontier waters are situated in the foreign part of which the applicant desires to fish; the said authorities application shall be forwarded to the competent authorities of the other Contracting Party, with a request for the necessary action. The application shall be accompanied by a photograph of the applicant and a specimen signature (sign manual), both officially authenticated. When forwarding the application, the home authorities shall state whether, under the laws of the country, the fishing permit for persons belonging to the country has been or might be refused or withdrawn.

6. Frontier fishing permits issued under the present Agreement shall be exempt from all dues.

7. Apart from the fishing facilities provided for in the present Agreement, the holders of frontier fishing permits shall be entitled to cross the frontier running through the frontier waterways and frontier waters covered by the authorisation to fish, and to move about freely in the territory of the other Party within the limits of such waterways and waters, without being required to possess either passport or visa. Landing on the banks and shores is governed by the provisions of Article 6.

8. Holders of frontier fishing permits who desire to fish between sunset and sunrise shall notify the competent frontier post to this effect, not less than twelve hours in advance. Night fishing shall be prohibited only in special cases and for a stated period.

Article 4.

Persons entitled to fish in frontier waterways and waters shall be allowed, without payment of Customs duties, taxes or dues, and without special authorisation :

(a) To transfer boats and tackle required for fishing from the territory of one of the Contracting Parties to that of the other, provided that such boats and tackle are brought back at the end of each day's fishing.

(b) To take with them such provisions as they may require while engaged in fishing.

(c) To take back into their home country all fish caught in conformity with the provisions of the present Agreement.

Article 5.

Boats used in the manner described in Article 4 (a) of the present Agreement must bear, in addition to the means of identification prescribed in Article 15, a distinguishing mark, consisting, in the case of German boats, of the letters " F. F. " and, in the case of German boats, of the letter " R ". Such marks must be placed in a visible position on both sides of the boat and on the sails of fishing boats.

Article 6.

1. In the frontier waterways and frontier waters of one of the Contracting Parties, authorised fishermen who are nationals of the other Contracting Party shall only moor at such points along the banks or shores as are designated for this purpose by the competent authorities ; mooring places shall as far as possible be designated with due regard to the interests of fishing. Whenever their fishing activities so require, fishermen may land on the bank or shore with their boats, fishing tackle, catch and provisions, without paying Customs duties, taxes or dues, provided that the said boats, fishing tackle and catch are re-exported, together with any provisions not consumed.

2. In cases of forced landing due to *force majeure*, paragraph 1, sentence 2 shall apply.

Article 7.

1. In fishing cases, the Courts and other authorities of the two Contracting Parties shall give one another direct legal assistance in conformity with the general provisions relating thereto in force between the Contracting Parties.

2. The competent authorities of the Contracting Parties shall inform one another of cases in which a home fishing permit, or an official certificate in lieu thereof, has been withdrawn from a person authorised to fish in the frontier waterways and frontier waters to whom a frontier fishing permit had been issued by the authorities of the other Party.

3. Should it be impossible to institute proceedings in respect of an offence against statutory or police regulations with regard to fishing, committed in the territory of one of the Contracting Parties, by reason of the fact that the guilty person is a national of the other Contracting Party and has remained in its territory, the authorities of that Party shall, if so requested, themselves institute proceedings, provided that the offence is punishable under the laws of the country.

PART III.

PROTECTION OF FISHING.

Article 8.

For the purposes of Part III of the present Agreement " open waters " shall be taken to mean all frontier waterways and frontier waters, with the exception of artificial fishponds and lakes which are not permanently and naturally connected with streams of running water and in which the fishing rights are vested in a private individual.

Article 9.

1. The catching, storing, sale and forwarding of fish and crayfish from frontier waterways and frontier waters shall be authorised only if the fish, measured from the tip of the head to the end of the longest part of the tail fin, or the crayfish, measured from the tip of the head to the end of the tail, have attained at least the following lengths :

Eels (<i>Anguilla vulgaris</i> L)	35 cm.
Salmon (<i>Trutta salar</i> L)	35 cm.
Sea - trout (<i>Trutta trutta</i> L)	35 cm.
Perch-pike (<i>Lucioperca sandra</i> Cuv. u. Val.)	35 cm.
Barbel (<i>Barbus fluviatilis</i> Ag.)	28 cm.
Large Marena (<i>Coregonus maraena</i> Bloch)	25 cm.
Baltic Lavaret (<i>Coregonus laveretus</i> L)	25 cm.
Bream (<i>Abramis brama</i> L)	25 cm.
Grayling (<i>Thymallus vulgaris</i> Nils)	20 cm.
Aland (<i>Idus melanotus</i> Heck)	20 cm.
Dobule (<i>Squalius cephalus</i> L)	20 cm.
Broadsnout (<i>Chondrostoma nasus</i> L)	20 cm.
River-trout (<i>Trutta fario</i> L)	20 cm.
Tench (<i>Tinca vulgaris</i> Cuv.)	18 cm.
Small Marena (<i>Coregonus albula</i> L)	18 cm.
Crayfish (<i>Potamovius fluviatilis</i> L)	10 cm.

The Second Instance Administrative Authorities may, by mutual agreement, reduce the minimum length for small marena and crayfish in the case of waters in which the fish or crayfish are of small dimensions.

2. The minimum length stipulation shall not apply to fish removed from fish-breeding establishments for the purpose of stocking other waters.

3. Under-sized aland, dobule and broadsnout may be caught by fishermen as bait for their own use.

4. Fish or crayfish below the prescribed size shall if still alive when caught by a fisherman, in contravention of the law, be returned at once to the water, every care being taken to avoid injuring them.

5. Fish spawn in open waters shall not be damaged or taken out of the water.

Article 10.

1. Fishing in open waters shall be prohibited on Sundays between 9 a. m. and 6 p. m. (*Sunday close time*), except with rod and line ; fixed fishing gear (*i.e.*, such gear as is neither dragged nor pushed, e. g., fixed nets, eel traps and bow nets made of rope, wire or wickerwork) may, however, be left in position in the water.

2. By agreement between the Second Instance Administrative Authorities of the two Contracting Parties, fishing in open waters may also be prohibited during a *spring or winter close season* ;

(a) The *spring close season* extends from April 15 to June 15, during which time the catching of fish by other means than fixed gear (see paragraph 1) and rod and line is prohibited.

(b) The *winter close season*, which falls between October and January, lasts eight weeks, during which time all fishing must cease. The dates on which this close season shall begin and end will be decided by agreement between the Second Instance Administrative Authorities.

3. If necessary the Second Instance Administrative Authorities, acting in agreement, may establish special *close seasons for the protection of particular species*, in open waters :

- a) For salmon, sea trout and river trout from October 1 to December 31 ;
- b) For marena from November 1 to December 31 ;
- c) For grayling from March 1 to April 30 ;
- d) For crayfish from November 1 to May 31.

Article 11.

By agreement between the Second Instance Administrative Authorities of the two Contracting Parties, temporary exceptions to regulations relative to minimum lengths and close seasons may be made in favour of individuals engaged in scientific pursuits or fishery and especially of those desirous of obtaining material for breeding purposes.

Article 12.

In frontier waterways and frontier waters fishing by any of the following methods shall be prohibited :

- (a) The employment of injurious or explosive substances (poisoned bait, material for stunning or destroying fish, explosive cartridges or other explosives, etc.),
- (b) The use of spears, gaffs, etc.,
- (c) The use at night of torches or other lights for the purpose of gathering together and attracting fish or crayfish.

Article 13.

1. In open waters, fixed fishing gear obstructing the free passage of fish shall not extend more than half-way across the surface of the water measured from the bank at the normal water level. No further gear of this kind shall be placed in position without the authorisation of the Second Instance Administrative Authorities. Such gear shall not be placed so close together as seriously to impede the free passage of fish ; the Second Instance Administrative Authorities, acting in agreement, may issue more detailed regulations on the subject.

2. Paragraph 1, sentences 1 and 3, shall not apply to fixed gear in position when the present Agreement comes into force.

3. At least two centimetres in width must be left between the woodwork of the various fixed fishing gear.

4. Paragraph 1, sentences 1 and 3, shall apply also to the use of fixed nets, eel traps and bow-nets planted in the bed or in the bank, or anchored thereto.

5. Fishing gear and bow-nets which lie so far below the surface that half the depth of the water remains unencumbered shall not be deemed to create an obstruction within the meaning of paragraph 1 .

Article 14.

1. The meshes of nets and drag-nets used for fishing in open waters must measure, when wet, at least 2.5 cm. from the middle of one knot to the middle of the next ; this stipulation shall not apply to bow-nets and trammel nets. By mutual agreement the Second Instance Administra-

tive Authorities may authorise the use of smaller meshes in tackle used for catching smelt, bleak, perch, small marena, eels, river and rainbow trout, sticklebacks and fish used as bait.

2. Paragraph 1 shall not apply to the rear pockets of drag-nets.

Article 15.

1. All boats used for fishing in frontier waterways and frontier waters must be marked on the outside, on both sides, with the Christian name, surname and place of residence of the fisherman or owner, and with a number allotted by the local supervisory authorities; these particulars must be clearly inscribed, in a manner capable of withstanding the action of water.

2. All fishing tackle and receptacles for fish must likewise bear the marks prescribed by the local fisheries authorities; such marks shall either be cut or burnt in or indicated on durable tag affixed to each article. Distinctive marks shall not be required in the case of gear carried by the fisherman or used when he is present.

Article 16.

Fishing by any method whatsoever within a distance of fifty metres on either side of the fish ladders in the locks on the River Netze is prohibited from September 15 to December 15, and from the break-up of the ice until April 30.

Article 17.

Marsh crayfish (*Potamobius leptodactylus Eschz.*) and non-indigenous fish shall not be introduced into open waters. Exceptions to this rule may be made by agreement between the Second Instance Administrative Authorities of the two Contracting Parties.

Article 18.

Fishing gear shall not be set up or used in open waters in such a manner as to impede the movements of boats.

Article 19.

1. The Contracting Parties shall appoint fishery experts who shall meet, as required, for the following purposes:

(a) To investigate fishing conditions in frontier waterways and frontier waters.

(b) To advise in regard to disputes arising out of Part III of the present Agreement.

(c) To prepare proposals with a view to the possible amplification or improvement of the regulations regarding protection.

2. The experts shall meet whenever an invitation to that effect is addressed by the Second Instance Administrative Authorities of the one Contracting Party to the corresponding Administrative Authorities of the other Party. Such invitation shall indicate the matters to be dealt with and shall fix the date and place of the meeting.

PART IV.

FINAL CLAUSES.

Article 20.

The provisions of Part III of the present Agreement may be extended, by agreement between the Governments of the Contracting Parties, to waterways and other waters not covered by Article 1, which are nevertheless intersected by the frontier between the two States or which have some economic connection with frontier waterways and frontier waters.

Article 21.

Disputes between the Contracting Parties arising out of the application or interpretation of the present Agreement shall be referred to the Mixed Committee set up in the district concerned under Article 6 of the Treaty of January 27, 1926, for the Settlement of Frontier Questions. In such cases the Contracting Parties shall be free to substitute a fishery expert for one of the three members of the Committee. The Committee shall make detailed proposals with a view to the amicable settlement of the dispute and shall communicate them to the Governments. Should no proposals be forthcoming or should they be rejected by one of the Parties, the two Governments shall settle the dispute by amicable agreement.

Article 22.

The present Agreement, drawn up in Polish and in German, shall be ratified, together with the Final Protocol. Ratifications shall be exchanged in Warsaw. The Agreement shall come into force on the thirtieth day after the exchange of ratifications. It may be denounced by either of the Contracting Parties as from April 1st of any year, subject to six months notice.

In faith whereof the Plenipotentiaries of the two Contracting Parties have signed the present Agreement and have thereto affixed their seals.

Done at Berlin, December 10, 1927.

(L. S.) (—) Maciej KOCZOROWSKI.

(L. S.) (—) Józef BOROWIK.

(L. S.) (—) Dr Paul ECKARDT.

(L. S.) (—) Dr Emil SEYDEL.

FINAL PROTOCOL.

At the time of signing the Polish-German Agreement of to-day's date on Fishing in Frontier Waterways and Frontier Waters it was expressly agreed that as regards factual validity, authorisation to fish, as specified in Article 2, shall be governed by the law of the Contracting Party in whose territory the party concerned desires to fish; from the point of view of form, it is sufficient, in the case of transfer and lease-hold agreements if these are in conformity with the laws of the country in which they were concluded.

Done at Berlin, December 10, 1927.

(—) Maciej KOCZOROWSKI.

(—) Józef BOROWIK.

(—) Dr Paul ECKARDT.

(—) Dr Emil SEYDEL.