

N° 3913.

FINLANDE ET NORVÈGE

Convention concernant les mesures à prendre pour empêcher le passage des rennes à travers la frontière entre les deux pays, avec annexe et protocole final. Signés à Helsinki, le 5 novembre 1935.

FINLAND AND NORWAY

Convention regarding Measures to be taken in order to prevent Reindeer from crossing the Frontier between the Two Countries, Annex and Final Protocol. Signed at Helsinki, November 5th, 1935.

¹ TRANSLATION.

No. 3913. — CONVENTION BETWEEN FINLAND AND NORWAY REGARDING MEASURES TO BE TAKEN IN ORDER TO PREVENT REINDEER FROM CROSSING THE FRONTIER BETWEEN THE TWO COUNTRIES. SIGNED AT HELSINKI, NOVEMBER 5TH, 1935.

HIS MAJESTY THE KING OF NORWAY and THE PRESIDENT OF THE REPUBLIC OF FINLAND;
Having considered it desirable to conclude a settlement between Norway and Finland regarding measures for preventing reindeer from crossing the frontier between the two countries ;
Have decided to conclude a Convention on the subject and have for that purpose appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF NORWAY :

M. Johan Fredrik Winter JAKHELLN, Envoy Extraordinary and Minister Plenipotentiary in Finland ;

THE PRESIDENT OF THE REPUBLIC OF FINLAND :

M. Antti HACKZELL, Minister for Foreign Affairs ;

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

CHAPTER I.

SUPERVISION.

Article 1.

Norwegian and Finnish reindeer owners shall be compelled to exercise such supervision over their reindeer as to prevent them, as far as possible, from crossing the frontier.

CHAPTER II.

FENCES.

Article 2.

In order to prevent reindeer from crossing the frontier, fences shall be erected and maintained in the following sections :

(1) From the Haldde Mountain at frontier stone No. 304 to frontier stone No. 310.

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

(2) From frontier stone No. 321 to the confluence of the Njuolasjokka with the Skietsamjokka and, joining this fence, a transverse fence from stone No. 321 southwards for about 5 kilometres.

(3) From the River Tana at frontier stone No. 343 to the River Pasvik at frontier stone No. 354.

(4) From frontier stone No. 361 to Engelskgammen on the River Grense-Jacob (about 11.7 kilometres in a straight line from stone No. 363).

On each of the sections mentioned the fences shall be continuous except at points where natural conditions render them superfluous.

The fences shall follow the State frontier line, but may depart from it wherever necessary in order to avoid excessive expenditure on their erection or maintenance or in order to make them more effective. In this connection, however, care shall be taken that the reindeer owners in one country shall not be deprived of pasturage to a substantially greater extent than reindeer owners in the other country.

On the section north of the confluence of the River Sandvass with the River Grense-Jacob, the fence mentioned under No. 4 shall be erected on the Finnish side of the latter river.

Article 3.

On the fenced sections mentioned in Article 2, the line of fences shall replace the frontier for all questions to which the present Convention refers. This provision shall not apply, however, to the transverse fence mentioned in Article 2, No. 2.

Article 4.

The fences shall be erected in accordance with the Specifications of Work annexed to the present Convention.

Article 5.

Each country shall defray half of the cost of erecting and maintaining the fences.

Finland undertakes to erect and maintain the fences and guarantees that Norway's share of the cost of erecting the fences mentioned below shall not exceed the following amounts :

For the fence from the Haldde Mountain at frontier stone No. 304 to frontier stone No. 310, 557,000 Finnish marks ;

For the fence from frontier stone No. 321 to the confluence of the Njuolasjokka with the Skietsamjokka and the transverse fence connected therewith, 822,000 Finnish marks ;

For the fence from the River Tana at frontier stone No. 343 to the River Pasvik at frontier stone No. 354, 1,032,000 Finnish marks ;

For the fence from frontier stone No. 351 to Engelskgammen, 184,000 Finnish marks.

Article 6.

Of the fences mentioned in Article 2, those under No. 2 shall be erected first, and thereafter Nos. 1, 3 and 4 in that order.

The work of erection shall be begun at latest by the end of 1939 and shall be completed by the end of 1944.

In good time before the erection of each fence is begun, its site shall be marked out on the land by two experts, one of whom shall be appointed by the Norwegian Government and the other by the Finnish Government. In case of disagreement regarding the line of the fences, the line which involves the lesser departure from the frontier shall be chosen.

The necessary labour shall be engaged by the two experts. Each of the experts shall be paid by the country which has appointed him. The other expenses connected with the demarcation of the line shall be divided equally between the two countries.

Article 7.

The Finnish Government shall inform the Norwegian Government who is responsible for the construction of the fences. When a fence is completed a notification shall be given as to who is responsible for its maintenance.

Article 8.

The timber used for the fences must be examined and approved in advance by an inspector appointed by the Norwegian Government.

The purchase of other material for the fences shall be effected on the basis of tenders for its supply, and Norwegian contractors shall be afforded an opportunity of making such tenders. Notices relating to the submission of tenders shall be inserted in the *Norwegian Official Journal* at the same time as they are published in the other country.

Before tenders are accepted they must be approved by the Norwegian inspector.

If the inspector refuses to approve the timber or to recommend the acceptance of tenders, Finland may submit the question to an expert appointed by the Swedish Government, whose decision shall be final.

Article 9.

The Norwegian inspector shall be entitled to exercise supervision over the construction of fences. He shall be informed of all contracts and agreements concluded.

Should the inspector find that the fences are not being constructed in accordance with the Specifications of Work or in a secure manner, or that the construction is entailing unnecessarily high expenditure, he may send a written communication on the subject to the Finnish authority responsible for the construction of the fences.

Article 10.

At the end of each year, Finland shall notify Norway of the amount which has been expended during the year on the construction of fences, including interest. Half this amount shall be refunded provisionally by Norway to Finland.

The final settlement in respect of each of the fences mentioned in Article 2 shall be effected on the basis of detailed accounts, which shall be transmitted with the necessary vouchers to an auditor appointed by the Norwegian Government, by whom they must be passed.

Article 11.

The refund of the half of the cost of maintaining the fences which is chargeable to Norway shall be refunded at the end of each year on the basis of proper accounts. The expenditure may not include compensation for the journeys of officials travelling for any other purpose than to inspect the fences or for journeys for which such officials have received remuneration from public funds in some other manner.

The *lensmenn* (heads of the local police) in both countries shall be responsible during their journeys on the frontier for the inspection of the fences and, though without involving the other country in any expenditure, for the repair of defects wherever possible without cost or considerable loss of time. Defects which cannot be so repaired shall be reported in writing to the person responsible for the maintenance of the fences.

Article 12.

When the fences are being erected, Norwegian workmen shall be afforded opportunities of taking part in the work in the same numbers and on the same conditions as Finnish workmen.

Article 13.

From the northern extremity of the fence referred to in Article 2, No. 4, to the sea, each of the two countries shall for its own account erect and maintain fences on its own territory wherever necessary on account of natural conditions, in order to prevent reindeer belonging to one country from entering the territory of the other country. The construction of these fences shall be concluded before the end of 1944.

Article 14.

On the sections of the frontier where fences are not erected in accordance with Article 2, each of the two countries may erect and maintain fences for its own account. Such fences may, however, not be erected on the territory of the other country at a distance of more than one hundred metres from the frontier without its permission. The first provision of Article 3 shall also be applicable to these fences.

In addition, each of the two countries shall be entitled to heighten or strengthen the fences mentioned in Article 2 at its own cost.

CHAPTER III.

CROSSING OF THE FRONTIER BY REINDEER, ETC.

Article 15.

If Norwegian reindeer enter Finnish territory, or Finnish reindeer enter Norwegian territory, the *lensmann* (local head of police) of the country in which the reindeer are trespassing, after having personally ascertained the facts, shall, in the presence of a witness, ascertain as exactly as possible the number of animals. This count shall not include calves of the same year. During the period January 1st-May 31st inclusive, calves of the previous year shall also not be counted.

If there is reason to doubt whether the reindeer belong to the other country, a sufficient number of animals may be shot in order to decide this point. As far as possible, pack animals and draught animals should not be shot.

If damage has been caused for which compensation is payable under Article 22, the *lensmann*, after investigating the damage, shall fix the amount of such compensation. In this connection, account shall be taken of the extent to which reindeer belonging to the country have contributed to the damage.

An official statement shall be drawn up on the spot recording the result of the count and as exact particulars as possible of the place where and the time when the reindeer were discovered and of the marks on the ears and hide in so far as it has been possible to ascertain them. If any animals have been shot, the parts of the ears bearing the marks shall be attached to the official statement. If damage for which compensation can be claimed has been done, an exact description of the nature and extent of the damage shall be included in the official statement, together with the *lensmann's* estimate of the amount of the damage. The official statement shall also indicate whether the reindeer are herding with reindeer belonging to the inhabitants of the country itself.

The official statement shall be signed by the *lensmann* and the witness.

Article 16.

The competent *lensmann* may, if circumstances make it expedient to do so, drive the reindeer back across the frontier to the nearest reindeer owner or herdsman with reindeer in his charge. Such owner or herdsman shall be bound to receive the reindeer and to give a written acknowledgment of receipt of them.

If the reindeer are accompanied by their owner or herdsman, the latter shall be compelled to assist in driving them back.

If the reindeer have been driven back, the fact shall be mentioned in the official statement referred to in Article 15.

Article 17.

When it has been ascertained in the manner indicated in Article 15 that reindeer belonging to one of the countries have entered the territory of the other country, the *lensmann* shall as soon as possible notify the competent *lensmann* of the country to which the reindeer belong. The notification shall contain the particulars recorded in the official statement in accordance with Articles 15 and 16. It shall be transmitted by telegram or telephone or, if this is impossible, by letter. If the notification is made by telephone, it shall be confirmed in writing as soon as possible

If the reindeer are herding with reindeer belonging to the inhabitants of the country in circumstances such that the *lensmann* considers they should be separated, he shall say so in the notification and shall at the same time, or in a special notification as soon as possible thereafter, appoint a time and place for such separation.

Article 18.

If the reindeer have not been driven back to the country to which they belong, in accordance with Article 16, the competent *lensmann* of that country shall see that they are fetched back without delay as soon as he has received the notification mentioned in Article 17.

If they are to be separated, the reindeer shall be fetched back at the time appointed for such separation.

Article 19.

The *lensmann* of the place where the separation is to take place must see that it can be carried out at the appointed time. The owner of the reindeer with which the foreign reindeer are herding must assist in such separation, either personally or through a representative.

Article 20.

The competent *fylkesmann* (provincial prefect) in Norway or *landshövding* (provincial prefect) in Finland may authorise one or more reputable and trustworthy persons who are not engaged in reindeer breeding as their main business to carry out on behalf of the *lensmann* the operations for which he is responsible in accordance with Articles 15-19.

The competent provincial prefects of each country shall notify each other of the names and addresses of the persons so authorised.

Article 21.

When a notification has been sent in accordance with Article 17, the country which the reindeer have entered is entitled to claim payment for the illicit stay amounting to 12 per cent, or, if the reindeer are discovered between November 1st and April 30th inclusive, 8 per cent of the value of the animals counted.

If any animals have been shot, their value shall be deducted from the payment.

If the reindeer are found in the country more than twenty days after the notification referred to in Article 17, or, if the animals are to be separated after the date appointed for such separation, the case shall be treated as a fresh crossing of the frontier, even if the reindeer have not been driven back or fetched away.

Article 22.

Compensation shall be payable for damage caused to the inhabitants of one country by reindeer belonging to the other country or by the owners or herdsman of the reindeer, and damage caused

to the State through the fact that the owners or herdsmen have taken timber from State forests. Compensation cannot, however, be claimed for damage caused in State forests by persons who have come into the country to drive or fetch the reindeer back if the damage caused is unavoidable.

Article 23.

The costs of journeys of officials, counting, driving back, supervision and separation of reindeer, despatch of notifications (Article 17), and other measures taken on account of the fact that reindeer have crossed the frontier, shall be refunded ; the amount shall be fixed in Norway by the competent *fylkesmann* and in Finland by the competent *landshövding*, but may not exceed 5 % of the value of the reindeer counted.

Article 24.

If the number of reindeer counted on the same day does not exceed ten, the provisions of Articles 18, 21 and 23 shall not be applicable.

In this case, animals may be shot only if they have caused damage for which compensation is payable under Article 22.

Article 25.

The value according to which the payment fixed in Article 21 and the compensation referred to in Article 23 are to be calculated shall be fixed for each calendar year before the beginning of the year by the competent *fylkesmann* in Norway and the competent *landshövding* in Finland on the basis of current prices of reindeer during the first half of December. If the prices fixed by the *fylkesmann* and the *landshövding* differ, the value shall be the mean between those prices.

Article 26.

At least three months after the receipt of the extract mentioned in the first provision of Article 28, the competent *fylkesmann* in Norway and the competent *landshövding* in Finland shall fix the amounts to be paid under Article 21. These amounts, together with the compensation payable under Articles 22 and 23, shall be paid out of the public funds of the country to which the reindeer belong.

At the end of each half year the competent Norwegian *fylkesmann* and the Finnish *landshövding* shall communicate to each other the amounts claimed, and these amounts shall thereupon be paid.

Each country shall itself decide whether the amounts shall be refunded by the owners of the reindeer in question.

Article 27.

The competent *lensmann* or the persons authorised under Article 20 to act on his behalf shall be responsible for keeping a register approved by the competent *fylkesmann* or *landshövding*, in which all matters relating to the crossing of the frontier by reindeer shall be entered in chronological order. It shall include in particular :

(1) Duplicates of notifications sent in accordance with Article 17, with an exact statement as to when and in what manner they are sent ;

(2) Notifications received to the effect that reindeer of the country have entered the other country, with an exact reproduction of the contents of the notification and a statement as to when and how it was received ;

(3) A statement of the measures taken as a result of the notification mentioned under 2 ;

(4) A specification of the costs, the refund of which may be claimed, in their entirety or in part, from the other country under Article 23.

The register shall also contain particulars of any defects in the fences mentioned in Article 2 and the measures taken to remedy them.

Article 28.

An extract of the official statement mentioned in Article 15 shall be sent to the competent *fylkesmann* in Norway and to the competent *landshövding* in Finland as soon as possible after the proceedings are completed. Similarly, an extract from the register mentioned in Article 27 shall be sent every six months. The *fylkesmann* and the *landshövding* shall send each other immediately a copy of the extracts received.

CHAPTER IV.

MISCELLANEOUS PROVISIONS.

Article 29.

The provisions of the present Convention shall not apply to pack or draught reindeer used by inhabitants of Norway or Finland on journeys in the other country. Such reindeer, however, may not graze in such areas as lie in the vicinity of dwelling-places and are designated by the authorities of the country in question.

The provisions of the first paragraph shall also apply to pack and draught reindeer used by the inhabitants of either country when travelling along the frontier between the confluence of the Njuolasjokka with the Skietsamjokka and frontier stone No. 343.

The inhabitants of either country living along the Skietsamjokka north of the mouth of the Njuolasjokka, or along the Anarjokka or the river Tana as far as the mouth of the Levajokka shall be entitled to pasturage for their pack and draught reindeer at places in the territory of the other country appointed by the authorities of that country and within the limits of time fixed by those authorities for each place.

The reindeer shall be tethered while grazing in the territory of the other country.

Norwegian nomadic Lapps who migrate with their herds of reindeer in spring and autumn along the above-mentioned rivers may use roads crossing Finnish territory at places and times appointed by the competent Finnish authorities, provided that they do not allow the reindeer to graze in such places. Norwegian reindeer owners seeking pasturage for their reindeer east of Pasvik in the summer shall likewise be entitled to use roads crossing Finnish territory between Jarfjordbotn and Klistervatn. Further, Finnish Lapps, when migrating, may use roads crossing Norwegian territory in accordance with detailed rules to be laid down by the competent Norwegian authorities.

The present Convention shall not be applicable to reindeer intended for slaughter which have been lawfully brought into the country under proper guard.

Article 30.

The competent *fylkesmann* in Norway and the *landshövding* in Finland shall, at the request of either of them, furnish each other with a list of the registered reindeer marks employed in the frontier districts of each country.

As far as possible, new marks shall not be registered in one of the countries if they may easily be mistaken for marks previously registered in the other country.

Article 31.

Any person who deliberately damages any of the fences mentioned in Article 2, or opens gates in any of them without taking care to close them properly, shall be liable to imprisonment for a term not exceeding six months, and the courts shall not be entitled to grant a suspension of the sentence.

If the act has been committed through negligence, it shall be punishable by a fine.

The offender shall be obliged to pay compensation for the damage caused.

Penal proceedings or proceedings for compensation shall be taken in the country in which the offender is domiciled.

Article 32.

Any dispute regarding the interpretation or application of the present Convention may be submitted by either of the countries for final decision to an arbitral commission consisting of three members, one of whom shall be appointed by each country, while the president, who may not be either a Norwegian or a Finnish national, shall be appointed jointly by the two countries or, if they do not agree, by the Swedish Government.

A demand may be made for the settlement in the same manner of disputes regarding accounts in respect of expenditure for the construction or maintenance of the fences mentioned in Article 2, or of any claims which the Norwegian inspector supervising the erection of fences may have put forward under Article 9.

The arbitral commission shall appoint the time and place of its meetings and shall draw up its rules of procedure after the president has obtained the opinion of the two countries. It shall itself fix the amount of its remuneration and the manner in which this amount and the other costs of the proceedings shall be divided between the two countries.

Article 33.

The present Convention, together with the Specifications of Work and the Final Protocol attached thereto, drawn up in the Norwegian and Finnish languages, both of which are equally authentic for purposes of interpretation, is signed subject to the approval of the respective national assemblies. It shall be ratified as soon as possible, and the instruments of ratification shall be exchanged at Oslo not later than May 1st, 1936.

Article 34.

Chapter II of the present Convention and the Specifications of Work annexed thereto, together with the provisions contained in Article 32 of the Convention, in so far as they relate to the settlement of the disputes referred to in the second paragraph of that Article, shall come into force upon the exchange of ratifications.

The other provisions of the Convention shall come into force on January 1st following a communication from the Finnish Government to the Norwegian Government to the effect that the erection of the fences mentioned in Article 2 have been completed, but in no case later than January 1st, 1945.

The Convention shall remain valid for ten years from the date upon which it has come into force in its entirety. If it has not been denounced at least two years before the expiry of the period in question, it shall remain valid for a further period of ten years, and shall subsequently be deemed to be prolonged for ten-year periods unless it is denounced at least two years before the expiry of the immediately preceding ten-year period.

Article 35.

As from the date on which the present Convention comes into force in its entirety, the Convention of March 3rd, 1922, between Norway and Finland, concerning common measures taken to prevent reindeer from crossing the frontier between the two countries, shall cease to be valid.

Done at Helsinki, in duplicate, this 5th day of November, 1935.

FR. JAKHELLN.

A. HACKZELL.

SPECIFICATIONS OF WORK

IN RESPECT OF REINDEER FENCES ON THE FRONTIER BETWEEN NORWAY AND FINLAND.

1.

The fences shall be constructed of galvanised iron wire on pine-wood posts.

2.

The distance from the ground to the top wire shall be 180 cm.

3.

The post shall be made of sound pine-wood (sound dry wood may also be used). They shall be 260 cm. long, with a point at least 10 cm. in length, and shall as far as possible be free from shakes. They shall be squared down to the wood on four sides.

4.

The fences shall be erected in a straight line, so that they do not form a curve at any place.

5.

The posts shall be inserted in the ground to a depth of 70 cm. and shall be packed with stones, in such a manner that they do not come into contact with the earth and are held erect.

6.

In mountainous districts where the soil is less than 70 cm. deep, the posts shall be fixed to a foot of at least the same size as the post itself and lying at right angles to the line of the fence. The posts shall be mortised into the foot, nailed fast to it and supported by two struts of sound pine-wood (see Point 3) at least 10 cm. thick. The struts shall be nailed to the post 100 cm. above the foot and to the foot at 100 cm. from the post. The struts shall be squared on two sides.

7.

In marshy ground the posts shall be driven down to a depth of at least 70 cm., and if the ground is very wet, to at least 100 cm. In the last-mentioned case, therefore, the posts must be at least 290 cm. in length. Instead of being packed with stones, each post shall be supported by a strut placed at right angles to the direction of the fence, of the same size and quality as the struts referred to in Point 6. They shall be driven into the marsh to a depth of at least 50 cm. and nailed fast

to the post 100 cm. above the ground. The distance from post to strut at ground level shall be 100 cm. The bark must be removed from the part of the strut which goes below the ground and up to a height of 20 cm. above ground.

8.

When the fence forms an angle, the post shall be supported on the inner side by a strut of the same size and quality as those mentioned in Point 6, and shall be firmly fixed.

9.

The top of the posts shall be cut diagonally.

10.

The distance between the posts shall on an average not exceed 300 cm. On level ground where the depth of snow does not exceed 25 cm. and there is no danger of drifts, the distance between the posts may be increased by not more than 1 metre, but on steep slopes and in places where the snow conditions are unfavourable, the distance between the posts shall not exceed 250 cm.

11.

At least every 20th post shall be provided with two lateral struts along the line of the fence, of the same size and quality as those mentioned in Point 6, and firmly fixed.

12.

Seven horizontal wires shall be fixed to the posts, on the side which is most exposed to pressure, at the following distances from the ground :

| | | | |
|-----|------|-----------|---------|
| 1st | wire | | 20 cm. |
| 2nd | » | | 40 cm. |
| 3rd | » | | 60 cm. |
| 4th | » | | 85 cm. |
| 5th | » | | 115 cm. |
| 6th | » | | 145 cm. |
| 7th | » | | 180 cm. |

13.

The wire, which must be galvanised and corrugated, of a thickness of 4 mm., must be stretched taut and straight. It shall be fixed to the posts with galvanised iron staples, which must not be driven into the posts so deeply as to damage the wire.

If a type of wire is produced which is better than the existing galvanised corrugated wire, it shall be used instead.

14.

Between the posts, vertical cross wires 3 mm. in thickness shall be fixed so that the fence is divided by these wires and the posts into rectangles of about the same length and not exceeding 75 cm.

The cross wires shall be fastened by means of three turns around the top horizontal wire, after which they are twisted once round each intermediate wire and six times round the bottom wire.

15.

Gates shall be erected at suitable places and generally at distances of not more than 15 km.

16.

Across rivers, or elsewhere if the nature of the ground renders it necessary, the distance between the posts may exceed the maximum mentioned in Point 10. In such cases the posts must be specially strengthened.

17.

In the case mentioned in Point 16 and in other cases when necessitated by the unevenness of the ground, suitable arrangements must be made to render the fence effective, *e. g.*, by forming piles of stones, fixing a net below the lowest wire, or similar measures.

18.

By agreement between the Norwegian inspector and the Finnish official responsible for the construction of the fences, changes may be made in certain details of these specifications, in so far as such changes may have been found advisable during the course of the work, in order to economise the cost without impairing the effectiveness of the fences.

Done at Helsinki, in duplicate, the 5th day of November, 1935.

FR. JAKHELLN.

A. HACKZELL.

FINAL PROTOCOL.

Upon concluding a Convention between Norway and Sweden regarding measures to be taken in order to prevent reindeer from crossing the frontier between the two countries, the two Governments have agreed upon the following :

The guarantee given by Finland in Article 5 of the Convention not to exceed the amounts indicated in that Article for construction is conditional upon the cost of material and labour during the period of construction not being substantially higher than at the time of the conclusion of the Convention.

The guarantee given by Finland and the obligation of Norway to refund half the cost of construction shall further be conditional upon no substantial change taking place in the relationship between the currencies of the two countries after the conclusion of the Convention.

In either of these eventualities, the country which suffers loss through observance of the provisions of the Convention in respect of the construction of fences shall be entitled to demand the suspension of the Convention until the two countries agree, after negotiation, to continue the construction of the fences. The suspension shall, however, not affect any expenditure already incurred when the demand for suspension was put forward.

Any disputes that may arise between the two countries in respect of the above provisions shall be settled in the manner laid down in Article 32 of the Convention.

The present Final Protocol shall come into force at the same time as Chapter II of the Convention.

Done at Helsinki, in duplicate, the 5th day of November, 1935.

FR. JAKHELLN.

A. HACKZELL.