

N° 4678.

ALLEMAGNE ET PAYS-BAS

Traité tendant à fixer une frontière d'exploitation pour les mines de charbon situées des deux côtés de la frontière, le long de la rivière Worm, et Protocole final. Signés à La Haye, le 17 mai 1939.

Textes officiels allemand et néerlandais communiqués par le ministre des Affaires étrangères des Pays-Bas. L'enregistrement a eu lieu le 29 janvier 1940.

GERMANY AND THE NETHERLANDS

Treaty for the Determination of the Working Boundary of the Coal Mines situated on Both Sides of the Frontier along the River Worm, and Final Protocol. Signed at The Hague, May 17th, 1939.

German and Dutch official texts communicated by the Netherlands Minister for Foreign Affairs. The registration took place January 29th, 1940.

TEXTE ALLEMAND. — GERMAN TEXT.

N^o 4678. — VERTRAG¹ ZWISCHEN DEM DEUTSCHEN REICH UND DEM KÖNIGREICH DER NIEDERLANDE ÜBER DIE FESTSETZUNG EINER BETRIEBSGRENZE FÜR DIE AUF BEIDEN SEITEN DER GRENZE AN DER WURM LIEGENDEN STEINKOHLBERGWERKE. GEZEICHNET IM HAAG, DEN 17. MAI 1939.

IHRE MAJESTÄT DIE KÖNIGIN DER NIEDERLANDE
und

DER DEUTSCHE REICHSKANZLER,
von dem Wunsche geleitet, den Abbau von Kohle in den auf beiden Seiten der niederländisch-deutschen Grenze an der Wurm liegenden Steinkohlenbergwerken zu erleichtern, haben, um zu diesem Zweck einen Vertrag zu schliessen, zu ihren Bevollmächtigten ernannt :

IHRE MAJESTÄT DIE KÖNIGIN DER NIEDERLANDE :

Herrn Dr. Nestorius Christiaan COUVÉE, Rat im Ministerium von « Waterstaat » ;

DER DEUTSCHE REICHSKANZLER :

Herrn Dr. Conrad ROEDIGER, Vortragenden Legationsrat im Auswärtigen Amt,

die nach Prüfung ihrer in guter und gehöriger Form befundenen Vollmachten Nachstehendes vereinbart haben :

Artikel 1.

Für diejenigen Steinkohlenbergwerke, die nach der diesem Vertrag beigelegten Karte (Anlage) zwischen den Punkten I und II mit dem Wurmbach markscheiden, wird unbeschadet der Reichsgrenze für den Betrieb unter Tage eine Betriebsgrenze vereinbart. Diese ist in der Karte durch eine gebrochene rote Linie dargestellt.

Artikel 2.

(1) Die Betriebsgrenze tritt an die Stelle der bisherigen Feldesgrenzen. Die durch die Betriebsgrenze abgetrennten Feldesteile werden mit dem jenseits der Betriebsgrenze liegenden angrenzenden Felde vereinigt.

(2) Die Rechtsverhältnisse der abgetrennten Feldesteile richten sich nach denjenigen des Feldes, mit dem sie vereinigt werden, soweit in diesem Verträge nichts anderes bestimmt ist.

(3) Mit der Vereinigung erlöschen alle bisherigen Rechte an dem abgetrennten Feldesteil. Alle Rechte an dem Feld, mit dem der Feldesteil vereinigt wird, erstrecken sich auf diesen.

(4) In den durch die Betriebsgrenze abgetrennten Feldesteilen, die an bergfreies Gebiet angrenzen, gilt dasselbe Recht wie in dem bergfreien Gebiet.

(5) Die Bestimmungen der Absätze 1—3 gelten auch für die durch die Betriebsgrenze abgetrennten bergfreien Teile. Hier steht das Recht zum Abbau der Steinkohle ohne Verleihung dem Eigentümer des Feldes zu, mit dem diese Teile vereinigt werden.

¹ The exchange of ratifications took place at Berlin, December 15th, 1939.
Came into force December 16th, 1939.

TRANSLATION.

No. 4678. — TREATY BETWEEN THE GERMAN REICH AND THE KINGDOM OF THE NETHERLANDS FOR THE DETERMINATION OF THE WORKING BOUNDARY OF THE COAL MINES SITUATED ON BOTH SIDES OF THE FRONTIER ALONG THE RIVER WORM. SIGNED AT THE HAGUE, MAY 17TH, 1939.

HER MAJESTY THE QUEEN OF THE NETHERLANDS
and

THE CHANCELLOR OF THE GERMAN REICH,
Being desirous of facilitating the extraction of coal in the mines situated on both sides of the frontier between the German Reich and the Netherlands, along the River Worm, have, for the purpose of concluding a Treaty with that object, appointed as their Plenipotentiaries :

HER MAJESTY THE QUEEN OF THE NETHERLANDS :

Dr. Nestorius Christiaan COUVÉE, Counsellor at the Ministry of the *Waterstaat* ;

THE CHANCELLOR OF THE GERMAN REICH :

Dr. Conrad ROEDIGER, *Vortragenden Legationsrat* at the Ministry of Foreign Affairs ;

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

Article 1.

For the coal mines which, as shown on the map attached to the present Treaty (annex),¹ arel between points I and II, bounded by the River Worm, there shall, irrespectively of the politica, frontier of the Reich, be fixed by common agreement, for underground workings, a working boundary, represented on the map by a broken red line.

Article 2.

1. The working boundary shall be substituted for the former boundaries of the deposits. Parts of deposits cut off by the working boundary shall be attached to the adjacent deposit situated on the other side of the working boundary.

2. For juridical purposes, parts of a deposit which are cut off shall, in the absence of any provision to the contrary in the present Treaty, be deemed to form part of the deposit to which they are attached.

3. The fact of being attached shall terminate all former rights in respect of the part of a deposit which is cut off. All rights in respect of the deposit to which the part of a deposit is attached shall extend to that part.

4. In regard to parts of a deposit which are cut off by the working boundary and are contiguous with a territory in respect of which no working rights have previously been granted, the law applicable shall be that of the territory in respect of which no working rights have previously been granted.

¹ See pages 248 and 249 of this Volume.

5. The provisions of paragraphs 1 to 3 shall apply also to parts of a deposit which are cut off by the working boundary and in respect of which no working rights have previously been granted. The owner of the deposit to which such parts are attached shall be entitled to extract coal therefrom, without applying for the grant of working rights for that purpose.

6. No actions for damages may be instituted in regard thereto.

7. The mining authorities of the two States shall, by common agreement, draw up new plans of the mines and these shall be attached to the documents previously drawn up. If there are any land registers, registration therein shall be effected at the request of the mining authority.

Article 3.

1. In the coal mines, there shall be left intact, on either side of the new working boundary, a barrier-wall with a thickness of ten metres measured perpendicularly to the said boundary.

2. This barrier-wall shall not be pierced, reduced in thickness or cut down except with the authorisation of the mining authorities of both States.

3. The barrier-walls existing at the present time shall be suppressed if they do not coincide with the barrier-walls mentioned in paragraph 1.

Article 4.

In regard to parts of a deposit situated between the political frontier of the Reich and the working boundary, the following provisions shall apply :

(1) In the matter of the supervision exercised by the police over the underground workings, there shall apply the laws, ordinances and other provisions of the State on whose territory the coal is brought to the surface.

(2) Similarly, supervision over the underground workings shall be exercised by the mining authorities of that State.

(3) The position of workers and employees occupied in underground workings shall be governed in the same manner.

(4) Acts and negligences committed in the underground workings, even if of such a character that the criminal or civil law is applicable thereto, shall be deemed to have been committed in the State on whose territory the coal is brought to the surface.

(5) The legal consequences which ensue from the relationship between the ownership of the mine, the ownership of the land and rights *in rem* constituting encumbrances on the mine, in particular claims for compensation in respect of damage caused by the mine, shall be determined in accordance with the laws of the State on whose territory the land is situated.

(6) For the purposes of import and export duties, and also import and export prohibitions and restrictions, the coal shall be deemed to have been extracted in the State on whose territory it is brought to the surface. Furthermore, the coal and the working thereof shall be taxed in virtue of the laws and for the benefit of the State in whose territory the winding-shaft is situated.

(7) Surface installations shall not be set up without the authorisation of the State on whose territory they are to be constructed.

Article 5.

If, in one of the Contracting States, it is shown, to the satisfaction of the mining authority of the other State, that there are sufficient grounds for a claim for damages in respect of the working of a mine bounded by the working boundary and placed under the supervision of the said authority,

the latter shall, in accordance with the following principles, permit the claimant, whatever may be his nationality and domicile, to consult the plan of the mine :

(1) In addition to the owner of the land, any person who possesses a right *in rem* or *in personam* to the use or enjoyment of the land shall be authorised to present a claim of this kind.

(2) For the purpose of showing that there are sufficient grounds for the claim, it shall be sufficient for the claimant to indicate on a map the situation of the land, to prove by means of an official attestation that he is the owner of the land or that he possesses a right to the use or enjoyment of the land, and to produce confirmation of his assertions concerning the cause of the damage either in the form of an official report by the communal or local police authority or in that of an opinion by an expert.

(3) The mining authority shall then request the owner of the mine to communicate a statement of his views as soon as possible.

(4) If the owner contests the statements made by the claimant and if, after a summary examination, the mining authority, on the basis of its general technical experience, is of opinion that it is absolutely impossible that the mine should have affected the state of the land, the claim shall be rejected without further formalities.

(5) If the owner of the mine does not contest the statements made by the claimant or if, notwithstanding the fact that he does contest those statements, the mining authority is of opinion that there is a possibility that the mine has affected the state of the land, it shall fix a date for the examination of the documents relating to the matter and shall summon to this effect the claimant and the owner of the mine. Only those parts of the plan of the mine shall be produced which relate to the damaged land.

The taking of copies of plans shall be prohibited. The claimant shall, however, be entitled to have recourse to the services of an expert and to be represented by an agent.

(6) The claimant shall be entirely free to institute proceedings in the courts for the purpose of asserting his rights.

Article 6.

1. The foregoing provisions shall apply also to that part of the territory of the German Reich on which, in virtue of Articles 19 and 20 of the Treaty signed at Aix-la-Chapelle on June 26th, 1816, between the King of Prussia and the King of the Netherlands, the State of the Netherlands is entitled to extract coal and to exercise over the underground workings the rights of sovereignty relating thereto.

2. In all other respects, the present Treaty shall not affect the provisions of the Treaty of Aix-la-Chapelle.

Article 7.

1. The present Treaty, together with the Final Protocol relating thereto, shall be ratified.

2. The Treaty, together with the Final Protocol relating thereto, shall come into force on the day following the date of the exchange of the instruments of ratification, which shall take place in Berlin.

In faith whereof the Plenipotentiaries have signed the present Treaty in the Dutch and German languages, the two texts being equally authentic, and have thereto affixed their seals.

Done at The Hague, this 17th day of May, 1939.

N. C. COUVÉE.

Dr. Conrad ROEDIGER.

FINAL PROTOCOL.

On signing the Treaty for the determination of the working boundary of the coal mines situated on both sides of the frontier along the River Worm, the Plenipotentiaries of the two States have further recorded their agreement on the following points :

I.

Ad Article 5.

The transfer by a German debtor to a Netherlands creditor or by a Netherlands debtor to a German creditor of compensation due in respect of damage caused by the mine shall be the subject of arrangements to be concluded in each particular case.

II.

Ad Article 6.

This Article shall be interpreted in the sense that, in regard to the mine worked at Kerkrade by the *N. V. Domaniale Mijn-Maatschappij*, the Kingdom of the Netherlands shall, in respect of the underground workings, be exclusively entitled to exercise all rights in the matters of legislation jurisdiction, police and taxation.

In faith whereof the Plenipotentiaries have signed the present Protocol in the Dutch and German languages, the two texts being equally authentic.

Done at The Hague, this 17th day of May 1939.

N. C. COUVÉE.

Dr. Conrad ROEDIGER.