

C. 430. 1925. I.

FREE CITY OF DANZIG

I.

DELIMITATION OF THE PORT OF DANZIG FOR THE PURPOSES
OF THE POLISH POSTAL SERVICE¹

REPORT OF THE EXPERTS

appointed in pursuance of the Council's Resolution of June 11th, 1925.

LETTER FROM THE HIGH COMMISSIONER TO THE SECRETARY-GENERAL.

Danzig, August 17th, 1925.

1. I have the honour to transmit for the consideration of the Council the original of the report, together with five annexes, of the experts appointed to trace the boundaries of the port of Danzig for the purpose of the Polish Postal Service. The report is dated August 3rd and was received by me on the 14th, the delay being due to the reproduction of the maps attached to the report. A copy thereof, with one of this letter, has been sent confidentially to the Polish and Danzig Governments for their information pending the receipt by the Council of the originals and their publication as League documents.

2. With regard to the experts' proposals, I beg to recommend approval by the Council of the boundaries to the port of Danzig for the purposes of the Polish Postal Service as fixed by the Commission on the map attached to the report. The suggestion that these boundaries should be open to revision on the request of either party every five years appears, further, not only practical but reasonable in view of the possible future expansion or restriction of the activities of the port.

3. I think it desirable, however, to lay before the Council certain considerations with regard to the suggestion of the experts that the line laid down should be subject to reconsideration if certain arrangements mentioned in Article 168 of the Warsaw Agreement are not carried out within three months. These points I have unfortunately not had an opportunity of discussing with the Commission, since the report was only drawn up after the Commission left Danzig. As only a short time remains before the meeting of the Council, I have thought it better to forward my observations in advance to the Council than to wait to bring them up at the meeting.

(a). This proposal of the Commission, if adopted, would result, under the new procedure for settling Danzig-Polish questions, in the final settlement of the case being postponed till the March Session of the Council in 1926, even if agreement was reached within three months on the arrangements to be made under Article 168, since less than three months will elapse between the earliest date at which the Council can approve this report and the date when the papers must be before the Council at its December 1925 Session. If no agreement was reached thereon, the reconsideration of the boundaries could not be begun at earliest till after the March Session 1926 and possibly not then. I would draw the attention of the Council to the fact that the legal effect of Article 168 has been disputed by the parties.

(b). The delimitation of the boundaries appears to me a condition antecedent to the agreements to be made under Article 168 of the Warsaw Agreement and not *vice versa*.

(c). The considerations put forward on pp. 38 to 40 inclusive of the Advisory Opinion of the Permanent Court of International Justice do not, in my opinion, support this proposal of the experts but rather the contrary

(Signed) M. S. MACDONNELL.

REPORT OF THE COMMITTEE OF EXPERTS APPOINTED TO DELIMIT THE PORT OF DANZIG FOR THE
PURPOSES OF THE POLISH POSTAL SERVICE IN DANZIG, IN PURSUANCE OF THE COUNCIL
RESOLUTION OF JUNE 11TH, 1925.

On May 16th, 1925, the Permanent Court of International Justice, having been consulted by the League of Nations, gave the following opinion.

(1) That there is not in force any decision of General Haking which decides the points at issue regarding the Polish Postal Service.

(2) That, within the port of Danzig:

(a) The Polish Postal Service is entitled to set up letter-boxes and collect and deliver postal matter outside its premises in the Heveliusplatz, and is not restricted to operations which can be performed entirely within those premises;

(b) The use of the said service is open to the public and is not confined to Polish authorities and officials.

¹ This question was discussed at a meeting of the Council (thirty-fifth session) on September 19th, 1925.

At its meeting of June 11th, 1925, the Council passed the following resolution.

"The Council.

"(1) Adopts the opinion given by the Court on May 16th, 1925, regarding the question of the Polish Postal Service at Danzig;

"(2) Decides that the boundaries of the port of Danzig shall be traced for the purposes of the Polish Postal Service with due regard to the considerations put forward in the opinion of the Court.

"(3) To this end, invites the Chairman of the Advisory and Technical Committee for Communications and Transit, in agreement with the Council's Rapporteur, to appoint four experts, including one jurist, who will be asked to submit to the Council, for consideration at its next session, through the High Commissioner, proposals regarding the delimitation of the port of Danzig, in conformity with paragraph 2 of the present resolution.

"(4) The expenses of the mission of experts shall be borne in equal parts by the two Parties. The Secretary-General is authorised to advance the necessary sums from the Working Capital Fund, in conformity with Article 33, paragraph 2, of the Regulations concerning the financial administration of the League of Nations, and to ask the two Governments to refund these expenses.

In pursuance of the Council's decision, the Committee of Experts was constituted as follows:

M. J. HOSTIE, Member of the Legal Committee of the League of Nations Advisory and Technical Committee for Communications and Transit;

M. E. MONTARROYOS, Technical Adviser to the Brazilian Delegation at Geneva,
Colonel J. DE REYNIER, formerly Chairman of the Danzig Harbour and Waterways Board,

M. Chr. SCHREUDER, Director of the Amsterdam Post Office.

The Committee of Experts was supplied by the Secretariat of the League of Nations with the documents enumerated in the schedule annexed hereto (Annex I).

* * *

The Committee met in Geneva on July 16th, 1925, collected such information as it required, and proceeded on the next day to Danzig, where it remained from the 19th to the 23rd. It made a tour of inspection and gave several hearings to each of the two parties, which were respectively represented before it by M. H. STRASBURGER, the Polish Commissioner-General, and M. ZIEHM, Vice-President of the Danzig Senate, both gentlemen being assisted by experts. Memoranda were filed by both parties (see Annex II).

The Committee also inspected the Danzig and Polish postal organisations in Danzig.

* * *

The opinion of the Permanent Court of International Justice, which was adopted by the Council of the League of Nations, recognised the following principles:

Poland is entitled to establish in the port of Danzig considered as a territorial area, a postal service available for public use.

At this point, it may be desirable to summarise in a few words the conflicting views which have been advanced by the two parties as to the delimitation of that area and consequently as to the definition of the port.

In the *Polish* view the port in the postal sense should extend, not merely to the waters affording sheltered mooring, and berths for unloading or taking in cargo, together with the sheds and all the waterside technical plant, but also to the town, where the shipping and trading firms which use the ships and the technical port equipment for their business transactions are established and at work. Poland suggests that the port, so defined, should comprise the area falling within the red line mentioned in the High Commissioner's decision of August 15th, 1921, which deals with the assignment to the Harbour Board of the ownership of the railway lines serving the port.

According to the view held by *Danzig*, the port is limited to the harbour waters and certain technical plant along the banks. *Danzig* adds that, in its opinion, only a portion of the waters and of the sites occupied by technical plant which are administered by the Harbour Board can be included in the port, in the postal sense, by the boundary to be traced, and that in no case can this boundary pass beyond the limits of the harbour area administered by the Board. The *Danzig* proposals are shown on the map annexed hereto (Annex III).

To sum up, Poland holds that the area to be covered by the Polish Postal Service in the port should be marked out with immediate reference to the purposes of that service, whilst the Free City regards the port as an administrative area whose boundaries must first be fixed in accordance with general principles and cannot, once determined, be overstepped when the area of the Polish Postal Service comes to be delimited.

The boundaries of the port, considered as the area of the Polish Postal Service, were not fixed by the opinion of the Court.

The Committee is unanimously of opinion that the port in the postal sense should include not merely the area occupied by its technical plant, but also the area in which its economic constituents are concentrated.

Wherever the documents contain references to postal communications between Poland and the Port of Danzig, the reasonable construction of these terms is that they refer primarily to communications from and to the Danzig establishments of the shipping and trading firms, agencies,

banks, etc., which require buildings and offices and cannot, in the nature of things, set up their main establishments on the water or quay-sides or in the warehouses.

The Committee does not think it necessary to set forth the reasons why it has felt unable, after careful consideration, to subscribe to the arguments which have been adduced against this view.

It would merely point out that the High Commissioner's decision of May 25th, 1922, which has been cited by Danzig and uses the words "in the vicinity of the port" to describe the position of the establishments required for the Polish Postal Service, was in no way intended to delimit the port.

Whilst, therefore, unanimously of the opinion that the port in the postal sense should not be restricted to the area covered by the technical port organisation (*port technique*), the Committee was equally agreed that the town area to be included in the port should not exceed such portions as would be necessary. Among the various reasons which prompted this attitude, there is one which the Committee feels bound to mention expressly. Owing to the secrecy of the post, the Polish Postal Service in the port may as it is open to the public, be used for every kind of communication to or from Poland *whatever its subject*. The Committee therefore held that the Polish postal area should, in fairness, be restricted to those portions of the actual town of Danzig where establishments whose work is connected with the use of the port are concentrated in such numbers that they would seem to acquire a significance entitling them to inclusion.

The following details are given in explanation of the line unanimously agreed upon by the Committee of Experts (Annex IV)

The *green* line on the annexed map starts from the sea and strikes the north-west corner of the free port, whence it follows the enclosure of the free port, which is included in its entirety down to the boundary of the free port in the neighbourhood of Brösen. At this point it crosses the railway-line and strikes the Brosen-Neufahrwasser road, which it follows. It then forms a salient to include the old barracks, which were handed over to Poland for the establishment of its emigrants' camp, and passes through Neufahrwasser, assigning to the port, *inter alia*, the sheds and quays along the banks of the Hafen Kanal and the Dead Vistula and excluding a residential portion of Neufahrwasser.

The line then strikes the Broschkascherweg, assigning the Weichselbahnhof and its various warehouses and dumping-grounds to the port. It leaves this road and follows the railway-line to include in the port the various sheds and warehouses which occupy this area. It then leaves the railway-line and follows the Schichaugasse, thus taking in the series of naval shipyards along the banks of the Dead Vistula.

The tortuous line which follows has been drawn with a view to including, first, the Heveliusplatz and the Polish Post Office at that point and, secondly a portion of the city where the large majority of the trading and other firms which work in conjunction with the port are situated.

The line then returns to the Mottlau and takes in the Speicher Insel, which is still used for warehousing purposes, though its importance is waning owing to the shallowness of the water. After crossing the bridge over the new Mottlau, the line bears away from the banks of that river and takes in the Head Customs Office and a number of warehouses. Thence it crosses a stretch of more or less waste ground and strikes a ditch, which it follows up to the railway-bridge over the Vistula, taking in the new building-sites which have been laid out in this area for import and export warehouses. From the railway-bridge the line continuously follows a road at varying distances from the Vistula and the Kaiser Hafen, assigning to the port the establishments situated on their banks.

From the point where it reaches the neighbourhood of Weichselmünde, the boundary has been drawn in a straight line to the sea, thus including the new establishments now being erected in that area, together with the Westerplatte, over the greater part of which Poland has been granted rights of user.

In order to justify the selected line more fully where it follows a zigzag course through the town, we have thought it desirable to reproduce it, for information, on a copy of Map No. 2 annexed to League of Nations document No. C. 343. 1925. I (Polish Memorandum of June 7th, 1925).

The Committee thinks it advisable to state that the boundary indicated must be considered as drawn with a view to the inclusion in the Polish postal area of the buildings situated on both sides of the streets, roads or squares through which it passes, the consequence being that letters may be delivered to all such buildings and that letter-boxes may be set up at any point in these roads, streets or squares.

Thus, to take an example, as the main railway-station is situated on the boundary which we have drawn, letter-boxes may be affixed to the face of that building and letters may be delivered in it.

To allow for possible changes in the position of the economic and technical constituents of the port, the Committee feels that it would be advisable to provide that the line bounding the port for postal purposes shall be subject to revision at the request of either party — say every five years.

Passing on to other considerations which are related to the matters just discussed, the Committee desires to state that it has been most anxious not to overstep the limits of its terms of reference. At the same time it would lay stress on two points: (1) certain Polish authorities — notably the office of the Polish Commissioner-General — which are established outside the line, obviously have legitimate grounds for wishing to use the Polish post; (2) in its endeavour not to assign to the port area any more of the town of Danzig than was strictly necessary the Committee was led to exclude from that area a relatively large number of scattered undertakings working in conjunction with the port. Without wishing to express any opinion on the bearing of Article 168 of the Warsaw Agreement, the Committee feels bound to point out at once that if, after the expiry of a reasonable time-limit — say three months to be reckoned from the date of the Council's

decision — no settlement should have been reached, either by agreement or in any other manner, as regards (1) the delivery of postal matter addressed to the Polish authorities outside the port, and (2) facilities for the delivery of postal matter for addressees outside the port at addresses selected within the port, and in particular at post-office boxes in the Heveliusplatz, then the line should, in its opinion, be reconsidered, as the proposed boundary has been drawn in contemplation of such a settlement. Theoretically speaking, the point raised under (2) may be imagined as arising in respect of the despatch of postal matter. But the Committee is of opinion that no difficulties can arise in this connection, as it considers that the public nature of the Polish Postal Service carries with it the consequence that all persons, wherever established, will necessarily be entitled, in practice, to use the Polish postal establishments in the port for despatching their mail.

Although the Committee did not see its way to disregard these two points, the settlement of which it regards as indissolubly bound up with the location of the line, it felt bound to disregard, as being outside its terms of reference, all other matters relating to the Polish Postal Service to which reference was made during the discussions.

The Committee wishes, further, to point out that the boundary which has been drawn must not, in its opinion, be considered as affecting in any way the agreement concluded in regard to the sorting offices established in one of the dependencies of the Danzig main railway-station.

In conclusion, the Committee has the honour to propose to the Council of the League of Nations that the area marked on the annexed map (Annex IV) be recognised as the port of Danzig in the postal sense.

The Committee holds itself at the disposal both of the High Commissioner and of the Council of the League of Nations for any further explanations which they may consider desirable in regard to the task entrusted to it.

Geneva, August 3rd, 1925.

(Signed) Jan HOSTIE.
E. MONTARROYOS.
James DE REYNIER.
Chr. SCHREUDER.

SCHEDULE OF ANNEXES TO THE REPORT¹

Annex I. — List of documents supplied to the Committee by the Secretariat of the League of Nations.

Annex II. — Documents filed by the parties, viz:

- (a) Documents filed by Danzig during the discussions of the Committee,
- (b) Documents filed by Poland during the discussions of the Committee,
- (c) Polish and Danzig documents which reached the Committee after the expiry of the prescribed time-limit (Thursday July 23rd, 1925, at noon).

Annex III. — Boundary of the port, as proposed by Danzig.

Annex IV. — Boundary of the port, as proposed by the Committee.

Annex V. — Details of the Committee's line shown, for information, on a copy of Map No. 2, annexed to Document No. C.343.1925.I (Polish Memorandum of June 7th, 1925).

C. 706. M. 256. 1925. I.

II.

DELIMITATION OF THE POLISH MUNITIONS DEPOT ON THE WESTERPLATTE PENINSULA AND THE TRANSFER OF THAT AREA TO THE POLISH GOVERNMENT

LETTER FROM THE HIGH COMMISSIONER TO THE SECRETARY-GENERAL OF THE LEAGUE.

Danzig, November 14th, 1925.

With reference to the Council resolution of September 19th, 1925² regarding the delimitation of the Polish Munitions Depot in Danzig Harbour, I have the honour to inform you that the expert appointed to give his advice, Count Gravina, visited Danzig from October 15th to 19th and made his report on the latter date.

As the delegations to the Harbour Board were unable to agree upon the report, the President of the Harbour Board gave an arbitral decision on October 22nd. Copies of these two documents are attached¹

The Senate on October 31st, 1925, handed over to the Harbour Board that part of the area attributed to the Polish Government which was not already in the possession of the Harbour Board, and the entire area as delimited by the President of the Harbour Board on October 22nd was transferred to the Polish authorities on October 31st, 1925. The resolution of the Council of September 19th, 1925, has therefore been put into execution.

(Signed) M. S. MACDONNELL.

¹ These documents are kept in the archives of the Secretariat.

² See *Official Journal*, October 1925, pages 1367-1370.