

C. 126 (I). 1925. I.

Annex 749

FREE CITY OF DANZIG TRANSFER OF CERTAIN PROPERTY OF THE FORMER PRUSSIAN ADMINISTRATION OF THE VISTULA.

Report by M. Quiñones de Leon, adopted by the Council on March 13th, 1925.

The Council has before it a Polish appeal against the decision, given on November 9th, 1924, by the High Commissioner of the League of Nations at Danzig, regarding the transfer of certain property of the former Prussian Vistula Administration. In the report on this subject, which I had the honour to submit to the Council on December 12th, 1924¹ I proposed the following procedure, with a view to assisting the two Parties to arrive at a final settlement of the whole question:

1. That Colonel de Reynier, President of the Harbour Board, should communicate to the High Commissioner of the League of Nations the result of the negotiations which the Polish representative stated he was prepared to enter into with the Harbour Board, in pursuance of Article 20, paragraph 3, of the Paris Treaty in so far as this might help to bring about a practical solution of the question of the transfer of the Vistula Administration's property

2. That the juridical problems raised by the High Commissioner's decision should be examined by the Rapporteur with the aid of some of our experts.

The High Commissioner of the League of Nations forwarded to the Secretary-General the report which Colonel de Reynier submitted to us. This report has been communicated to you in Document C. 91. 1925. I. It appears from this report that the negotiations between the Harbour Board and Poland have not led to any result. On February 13th the delegates of the Harbour Board and Poland each submitted a voluminous dossier. The President of the Harbour Board, at the request of the Danzig and Polish delegations on the Board, drew up a personal report on the basis of these dossiers. I would draw attention to the following points in this report:

(a) The technical directors of the two administrations both declare that they require the great bulk of the material formerly belonging to the Prussian Vistula Administration and at present in the possession of the Harbour Board.

(b) A distribution of the floating material, ice-breakers, boats, dredgers, etc., is possible on condition that they are either replaced or that a loan contract is entered into between the Parties.

(c) The delegate of the Harbour Board estimates that the sum required to replace the material which is asked for by the Polish Administration and which would have to be replaced by the Board amounts to about 4 million gulden (25 gulden = £1).

In order that the situation may be better understood, I beg to quote the following passages from a letter written by M. de Reynier to the Polish representative and inserted in the report:

"The movable property of the former Vistula Administration was under the former regime sufficient to provide for the entire administration of this river or, at any rate, of the part with which we are concerned, that is to say the regularised part of the river, which has a length of about 220 kilometres. There is therefore reason to suppose that, whatever may be the distribution of the movable property in question, the whole or a part may be used in future by both Administrations, as has been the case during the past four years while this property was in the hands of the Harbour Board. During this period the procedure was, in fact, as follows: The administrations informed each other of the work that each of them proposed to carry out, and arranged with each other for the use at a given moment of the necessary plant. If I remember rightly with the exception of two cases which presented some difficulties and in which I was called upon to intervene to give a decision, these loans of plant were effected to the satisfaction of both parties. I venture to hope that this will continue to be the case in future. Such an agreement would save great expense and also ensure a more continuous and therefore more profitable use of the working plant. I venture to express the hope that what has been possible in the past will also be possible in the future."

With regard to the legal aspect of the question, M. Matsuda, legal adviser to the Japanese Delegation (who kindly replaced M. Botella, legal adviser to the Spanish Delegation, as the latter was unable to act), and Dr. van Hamel, Director of the Legal Section of the Secretariat of the League of Nations, have submitted a report, for which I express my sincere thanks. This report has been communicated to you in Document C. 125. 1925. I.

In the first place the legal advisers are of opinion that the allocation of property made by the Repartition Commission in its letter of March 9th, 1922, was not final, as is maintained in the Danzig appeal, but provisional, and that a further distribution is provided for.

They then consider the procedure and the principles to be followed in connection with this further distribution and submit the following conclusions:

(a) The allocation should take place by agreement between the parties concerned, namely, Poland and the Harbour Board.

(b) The object of this distribution should be to allocate to Poland and the Harbour Board in a proportion "corresponding to that part of the administration which is attributed" to the two parties, that part of the movable property connected with the Vistula on Polish and Danzig territory (ships, ice-breakers, etc.) which had already been handed over to the Harbour Board by the Free City of Danzig.

¹ See *Official Journal*, February 1925, page 279.

(c) That part, if any of the movable property which formerly was employed on the upkeep of the part of the Vistula now situated in Polish territory should be handed over to Poland.

Should it be impossible to come to an agreement with regard to the distribution, or should such agreement not have been established directly between the parties, they ought, in the first place, to agree as to the method by which the dispute can be settled, possibly by having recourse to arbitration or to expert opinions. The High Commissioner has proposed that the Harbour Board should appoint an arbitrator, and the Polish Government requested that the arbitrator should be appointed by the Secretary-General of the League of Nations. It should, however, be observed that Section III of the Decision of the Repartition Commission of May 3rd, 1923, provides that, in cases where the parties cannot come to an agreement, they shall appoint, or have appointed by the High Commissioner of the League of Nations, an arbitrator, whose decision shall be final.

In view of the Jurists' opinion, I might confine myself to proposing that the Council should confirm the High Commissioner's decision, with a single modification regarding the authority which would, if necessary appoint the arbitrator mentioned in the decision. I think, however, that it is advisable to go further and — in accordance with the suggestions made in my report of December 12th last and approved by the Council — to propose a resolution which may contribute to a settlement of the whole question. I hope in this respect to have the entire approval of the two interested parties and of the High Commissioner.

I therefore beg to submit the following resolution to the Council:

“(1) The Council is of opinion that the allocation of the property of the former Prussian Vistula Administration to the Harbour Board, made by the letter of the Repartition Commission of March 9th, 1922, was not final. A further distribution shall take place by agreement between the parties, with a view to allocating to Poland and the Harbour Board the proportion of this property corresponding to that part of the Administration which is attributed to them. This distribution may take place without awaiting the results of the negotiations provided for in Article 20, paragraph 3, of the Treaty of November 9th, 1920.

“(2) Should the two parties not be able to agree, they shall appoint or have appointed by the High Commissioner of the League of Nations an arbitrator, whose decision shall be final.

“(3) The parties shall enter into a mutual loan contract with a view to obviating, as far as possible, the necessity for the Harbour Board to replace such material as might be allocated to Poland. Should the parties not come to an agreement, the terms of this contract shall be fixed by the procedure provided for in paragraph 2 of the present resolution.

“(4) The decision of the High Commissioner of the League of Nations at Danzig of November 9th, 1924, is replaced by the present resolution.”

Annex 750.

C. 178. 1925. I.

FREE CITY OF DANZIG HARBOUR POLICE OF THE FREE CITY.

Report by M. Quiñones de León and Resolution adopted by the Council on March 13th, 1925.

On December 12th, 1924¹ the Council approved the report which I had the honour to submit to it regarding a decision by the High Commissioner dated November 10th, 1924, against which the Danzig Senate had appealed. This decision referred to the execution of a previous decision by the High Commissioner regarding the establishment of a special police force to be placed at the disposal of the Danzig Harbour Board. In my report, I suggested that the Council should request the President of the Harbour Board—who, in view of his four years' experience, would appear to be in a position to appreciate the various aspects of the question—to submit to us in due course a detailed proposal for a practical solution of the problem. Colonel de Reynier has now submitted to the Council a plan on this subject, which the Secretary-General has communicated to the members of the Council (Annex 750a). This plan, which is of a technical nature, is based on two principles. In the first place, certain police forces are to be detached from the Free City Police and placed permanently under the Harbour Board's orders. In the second place, a force up to the strength of a company is to be placed by the Senate at the disposal of the Harbour Board at the latter's request in order to carry out special and temporary duties. The plan further provides for co-operation in certain cases between the Senate Police and the Harbour Board Police. The Harbour Board is to transact all its business regarding the Police with the Senate and the Chief of the Danzig Police through the intermediary of a person of Polish nationality chosen by the Board.

My colleagues will remember that the High Commissioner's decision of June 6th, 1923, regarding the constitution of the Harbour Board Police, was accepted by the two parties by the Geneva Agreement of September 1st, 1923, for a trial period of two years. In his decision of November 10th, 1924, the High Commissioner decided that the two years' period provided for by the Agreement of September 1st, 1923, should start as from the date when this Agreement came into operation.

¹ See *Official Journal*, February 1925, page 280.