

C. 567. 1927. I.

## ANNEX 1003 b.

## MINORITIES IN UPPER SILESIA. EXECUTION OF THE COUNCIL RESOLUTION OF MARCH 12TH, 1927 REGARDING GERMAN MINORITY SCHOOLS IN POLISH SILESIA.

TELEGRAM FROM THE GERMAN GOVERNMENT TO THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS, SUBMITTED TO THE COUNCIL ON DECEMBER 8TH, 1927.

Berlin, November 14th, 1927.

[Translation.]

On March 12th, 1927 the Council of the League of Nations passed a resolution regarding the admission of children to the German minority schools in the Polish parts of Upper Silesia. The question then at issue was whether some 7,000 children, for whom applications of admission to the minority schools had been made, should be allowed to attend these schools forthwith or whether the Polish authorities were entitled to ascertain first whether the children actually belonged to the German minority. In consequence of the Polish authorities taking this step, a large number of the children were at the time deprived of school education, and, in face of this situation, it was decided to have the children examined by a Swiss expert.

We now learn from Upper Silesia that children whose names have been entered for the current school year (1927-28) are also being examined. It is reported that this step is taken in accordance with a decision of the Council Rapporteur in virtue of Part IV of the resolution referred to above.

Before the adoption of this resolution, the German representative on the Council, who was then President, made the statement reproduced textually in the Minutes (*Official Journal*, 8th year, No. 4, p. 402). As will be seen from this statement, the German representative described the solution then proposed as nothing more than a way out of the difficulties which had recently arisen in connection with the minority schools in East Upper Silesia as a result of the action of the Polish authorities. He expressly stated, however, that the German Government could not agree to the report on which the resolution was based if the examination of the children were also to apply in the future. Should the question again arise, the German Government would, on the contrary be obliged to press for a fundamental and final decision.

In these circumstances, the German Government is of opinion that the examinations now being carried out constitute a mistaken application of the resolution of March 12th, 1927. To prevent such an application it requests you to take the necessary steps to ensure that it is made clear before the Council of the League of Nations that the resolution of March 12th, 1927, provided for an exceptional measure, which was not to be extended to the treatment of children who might later be admitted to the minority schools.

(Signed) VON SCHUBERT,

Secretary of State for Foreign Affairs.

## ANNEX 1004.

C. 571. 1927. I.

## FREE CITY OF DANZIG. ACCESS TO AND ANCHORAGE IN THE PORT OF DANZIG FOR POLISH WAR VESSELS.

LETTER FROM THE HIGH COMMISSIONER TO THE SECRETARY-GENERAL OF THE LEAGUE, SUBMITTED TO THE COUNCIL ON DECEMBER 8TH, 1927.

Danzig, November 15th, 1927.

[Translation.]

I must report to you on the situation with regard to what has now come to be known as the question of the "access to and anchorage in the Port of Danzig for Polish war vessels" which the Council considered at its meeting of September 8th last <sup>1</sup>

<sup>1</sup> Note by the Secretary-General: See Minutes of forty-sixth session of the Council, *Official Journal*, October 1927, page 1121.

After discussion, the Council laid down the following procedure:

Poland would have until October 15th to submit her observations, and until November 15th every endeavour would be made to reach an agreement under my presidency at Danzig. The Rapporteur suggested that it might also be advisable to invite the President of the Harbour Board to take part in the negotiations between the two Governments, and at my request the Rapporteur agreed that a naval expert might be consulted in accordance with the principles of the procedure at present being followed. If the negotiations did not achieve the desired result on or before November 15th, the whole question would be referred to the Naval Sub-Committee, and the High Commissioner would send to the Secretariat all the documents, with a report on the negotiations at Danzig.

I beg to inform you that I am unable to submit this report to serve as a basis for the Naval Sub-Committee's enquiry and for consideration by the members of the Council.

An unexpected situation has arisen, as a result of which the negotiations proposed by the Council have not taken place, and it has been impossible to advance the matter to the point which the Council, I think, intended.

On Saturday October 15th, I received from the Polish Government its written observations, a copy of which is attached. I forwarded a copy of these observations to the Senate of the Free City of Danzig on Monday October 17th, adding that I would be glad if the Senate would, in view of the negotiations which were to take place thereafter, communicate to me any observations it wished to make on the Polish letter. A copy of my covering letter is attached.

I was bound to await the Senate's reply which was not forwarded to me until November 10th (copy attached).

Thereupon, I immediately convened the two parties and the President of the Harbour Board, in order to discuss the procedure to be followed. It was clear that it would not be possible to conduct the negotiations with any real chance of arriving at useful results before November 15th. I convened a meeting of the two parties with a view to preparing the way carefully pointing out that this meeting could not be regarded as a meeting convened in application of the decisions of September 8th, 1927

I asked the Danzig and Polish representatives whether it would be possible to put forward any suggestions which might still make it possible to examine the question on the lines proposed by the Council.

The President of the Senate informed me that, in the opinion of Danzig, Poland possessed no right of entry or stay in the port; consequently the only rules which could be applied were those of international law. He stated that he was ready to enter into negotiations regarding these rules. The Polish representative, on the other hand, said that he did not wish to discuss specifically a question of law — the application of a special right, or of international law in general, that it was necessary to find a practical solution of the question by exhaustive negotiations.

The President of the Senate said that he was ready to negotiate until the parties had to leave Danzig for Geneva. The Polish representative declared that he could not accept this proposal, and suggested that a minimum period of four weeks should be fixed for the negotiations, which was the length of time contemplated by the Council in September.

The President of the Senate placed on record that he could not accept this proposal.

I have been unable to secure an agreement, and the negotiations have not been opened.

It is therefore impossible to carry into effect the Council's decisions, and I forward to you the two documents which I have received: the Polish note of October 15th, and the Danzig note of November 10th. At the same time, I would place on record that it has not been possible for the proposed negotiations to take place, and that neither the President of the Harbour Board nor I have been able to discuss the question with the parties concerned, nor have I personally had any opportunity of seeking, through you, the assistance of an impartial naval expert, whose services might have been valuable.

In reporting these facts to you, I cannot, of course, venture to suggest what procedure should now be followed in this somewhat unexpected situation. I cannot foresee whether the Naval Sub-Committee will desire to examine the question on the basis of the necessarily incomplete data which I am forwarding to you, nor whether in these circumstances the Council will wish to discuss the matter.

I would request you to be so good as to communicate the foregoing to the Council.

(Signed) VAN HAMEL,  
High Commissioner

Three Appendices:

Polish note,  
Covering letter to the Senate,  
Danzig note.

#### Appendix I.

NOTE FROM THE POLISH GOVERNMENT TO THE HIGH COMMISSIONER.

[Translation.]

October 15th, 1927

In pursuance of the resolution adopted by the Council of the League of Nations on September 9th, 1927 and in response to the request of the Senate of the Free City of Danzig, I have the honour to furnish you with the following additional information on the subject of the port d'attache for Polish vessels in the Port of Danzig.

## I.

In a letter dated March 5th, 1921<sup>1</sup> the Polish Government requested the Council of the League of Nations to secure to Poland the right of free access to the sea through the port of Danzig, as recognised by the Treaty of Versailles and the Convention between Poland and Danzig of November 9th, 1920. Enumerating a series of concrete rights derived from that of free access to the sea, the Polish Government asked the Council to decide "that a port d'attache should be placed at the disposal of the Polish Government in the harbour of Danzig, in order to ensure the mooring, supply and repair of Polish warships

On June 22nd, 1921<sup>2</sup> the Council of the League of Nations, having considered this request, adopted the following proposals in the report:

"With reference to the question of a port d'attache in the port of Danzig, I would refer to the decision which has already been taken on the question of the defence of the Free City. This decision states that it would be advisable to request the High Commissioner to consider what steps should be taken to establish a port d'attache for Polish warships in the harbour of Danzig, without thereby creating a naval base; the same rule should apply in regard to the vessels attached to the Polish Maritime Police."

This resolution of the Council of the League has a double significance:

(a) The Council recognises that, as argued in the Polish application, Poland's right of access to the sea through the port of Danzig likewise implies the right of Polish warships to make use of the port of Danzig on certain conditions, one of which is that no naval base shall be established, and

(b) That this right is strictly linked with the question of the defence of the Free City and the powers which may be given to Poland for that purpose.

1. On September 10th<sup>3</sup> the High Commissioner, General Haking, submitted his report to the Council. His conclusions may be summarised as follows:

(a) Poland should not be given any establishments on shore, but only accommodation where warships could be moored and which would always be available for that purpose.

(b) The High Commissioner should have the right to request the withdrawal of Polish warships if he considers that the situation demands it.

(c) Poland should, however, have certain greater privileges for her warships than other foreign Powers; the chief of these privileges would be her right to a "port d'attache" where her warships could be berthed for as long as she pleased.

(d) It should be recognised in principle that, since the Danzig Constitution forbids the establishment of a naval base, Polish warships cannot remain in the port of Danzig without the consent of the Senate, but that considering the peculiar relations between the States of Poland and Danzig, it is possible to give Poland an anchorage or wharf accommodation for her permanent use, and then draw up regulations which would safeguard the rights of both the League of Nations and the Government of the Free City"

2. Finally General Haking proposed that the whole question should be submitted to the naval experts of the Council for their opinion.

From General Haking's proposals the following conclusions may be drawn:

(a) Notwithstanding his strictly limitative interpretation of the right granted to Poland by the Council of the League, General Haking establishes that this right is a right to the permanent use—without time-limit or any condition of annulment—of the port of Danzig for Polish war vessels, and to the possession of a specified site in the harbour for that purpose.

(b) Further on in his report, General Haking recognises that Polish warships should enjoy greater privileges than the ships of other foreign Powers.

(c) Notwithstanding his wide interpretation of the Senate's rights—in which the Polish Government considers that he was mistaken—General Haking, taking into special consideration the peculiar relations between Poland and Danzig, admitted that it was possible to give Poland a permanent mooring station, with the recommendation that regulations establishing the rights of the League of Nations and of the Danzig authorities should thereafter be issued.

3. On September 16th, 1921<sup>4</sup> in accordance with General Haking's proposals, the Council of the League referred the question of a "port d'attache" for Polish warships at Danzig to the Permanent Advisory Commission, which in turn referred it to the Naval Sub-Commission.

With reference to the foregoing, the Senate of the Free City expressed its views on the subject in a special memorandum dated September 20th, 1921<sup>5</sup> The Senate did, indeed, on the substance

Note by the Secretary-General: See document C.155.1921.I, Annex 213 to the Minutes of the thirteenth Session of the Council.

Note by the Secretary-General: See Annex 213 to the Minutes of the thirteenth session of the Council.

Note by the Secretary-General: See document C.338.M.240.1921.I.

Note by the Secretary-General: See Paragraph 486 and Annex 258 of the Minutes of the fourteenth session of the Council.

Note by the Secretary-General: See document C.360.M.255.1921.I.

of the question, advance the view that Polish warships should not be given any privileged position in the port of Danzig, because the grant of any privilege would create a naval base; on the other hand, in Part III of its memorandum the Senate observed that:

If the resolution of the Council of the League of Nations is to be understood in that way *i.e.*, that Poland is in any case to have the right of establishing a port d'attache in the harbour of Danzig, it must be concluded that the Polish men-of-war would have more rights in the harbour of Danzig than the men-of-war of other nations, but of course notwithstanding the two principles mentioned in I.

Generally the men-of-war of all nations have the right to use the harbour of Danzig, but only under the general police regulations and with the limitations that they have to follow the orders of the Danzig authorities as to their position and the length of their stay. In view of the establishment of a port d'attache exception from the general principle might be made in favour of Polish ships so that they would be released from the obligation of previous notification, and so that a permanent anchorage might be given them.

But in order to prevent prejudicing the interests of commercial navigation, important also for Poland's free access to the sea, the Polish Government will always have to announce how many ships it wishes to accommodate in the harbour of Danzig. Also regarding the length of their stay no limitations shall be made to the Polish men-of-war, beyond such restrictions as may be also applicable to merchant ships (see II*b*). But the Danzig Government should reserve the right to ask Polish ships to leave the harbour if special circumstances rendered this necessary.

In this argument the Senate recognises that the right to a port d'attache signifies privileged treatment for sea-going vessels in the Port of Danzig — at least, and in particular, their exemption from the obligation of notifying their arrival in advance to the Danzig authorities, and the guarantee of a permanent anchorage without restriction of time. The only concomitant reservation made by the Senate — the right to ask Polish ships to leave the Harbour — is in clear contradiction to the whole meaning of the right to a port d'attache which the Senate recognises.

4. On September 24th<sup>1</sup> the Naval Sub-Commission of the Permanent Advisory Commission submitted its report to the Council. It studied very carefully the technical aspect of the question, and laid down detailed conditions for the use of the Port of Danzig as a "port d'attache" by Poland.

These conditions may be summarised as follows:

(a) Polish ships of war shall have the right of shelter and of wharfage in the Port of Danzig at any time.

(b) For this purpose there shall be leased to them by the Free City a definite site which might with advantage be situated at the spot intended for the unloading of the Polish material in transit.

(c) They shall have freedom of passage in the maritime and river waters of the Free City.

(d) Areas corresponding to their wharves shall be conceded to them on lease in order that they may establish there stores for fuel and material of all sorts which are necessary for their navigability and upkeep.

(e) Submarines shall not enter the territorial waters of the Free City in a submerged condition.

(f) Vessels may embark in the harbour ammunition brought directly by river craft or arriving at Danzig direct from foreign firms.

The Sub-Commission further emphasised in its report that the right to a port d'attache should only be conceded to Poland until the port of Gdynia was completed.

The Sub-Commission thus established on a liberal basis the rights conferred by a port d'attache inasmuch as it conceded to the ships not merely the right of permanent anchorage and revictualling, but also the right of embarking supplies of munitions in the Port of Danzig.

On the other hand, it is not clear on what the Sub-Commission based its opinion that Poland's rights should cease to be operative as soon as the port of Gdynia was completed.

Clearly having recognised Poland's rights to a port d'attache for an intermediate period and unconditionally and having merely laid stress upon the fact that a naval base must not be established there, the Sub-Commission had simply to lay down the technical conditions for the use of the Port of Danzig by Polish vessels so as to exclude the establishment of a naval base.

Note by the Secretary-General: See document C.368.1921.

It is hard to believe that the Sub-Commission did not realise such a clear and incontestable legal situation.

The report should therefore be read as meaning that, by setting fairly wide limits to the rights of Polish vessels in the Port of Danzig, the Sub-Commission laid it down for purely technical reasons that those rights were necessary to Poland until such time as the port of Gdynia was completed. This interpretation of the report is strengthened by the fact that the Sub-Commission entirely ignored the question of the difference between a "port d'attache" and a naval base.

In any case it must be realised that, although the report is a valuable contribution to the definition of a "port d'attache" it has, apart from this, no legal value whatever, since it could neither alter nor even interpret the rights recognised by the Council of the League as belonging to Poland.

The report was neither approved by the Council nor accepted by the parties.

5. On October 8th, 1921, the Polish Government and the Senate of the Free City concluded an agreement, which has been observed for six years and is still in force. Its terms are as follows:

(1) Poland wishes to continue to use the Port of Danzig for her warships until the question of a port d'attache is decided by the Council of the League of Nations.

"(2) Poland will inform the President of the Danzig Senate regarding the number of ships she wishes to keep in the Port, and the President of the Senate will raise no objection to these ships remaining in the Port.

"(3) The Harbour Board will provide the necessary berths for these ships.

"(4) This arrangement does not commit either side as regards any future agreement on the subject between the two States, or as regards any decision of the Council" (see document C.417.M.297.1921.I).

This agreement constitutes a purely practical settlement of the dispute. Both parties reserve their legal opinion and also their right to appeal again to the League. It should be specially noted that the agreement imposes no time-limit for the Polish rights, and, most important of all, does not establish any connection between them and the construction of the port of Gdynia.

6. General Haking, the High Commissioner, in connection with the report of the Naval Sub-Commission, expresses his final views in his report of December 7th, 1921<sup>1</sup>. He begins by making the following apt observation:

"The establishment of a port d'attache for Polish war vessels is almost entirely a political question so far as Danzig is concerned, and apparently an administrative one so far as Poland is concerned. There is no administrative reason why Poland should not be given definite berths for her ships, where they can be repaired, provided with oil or coal fuel, and where they can receive their necessary supplies of all kinds."

In his final suggestions, General Haking repeats in the main the views expressed in his previous report, at the same time laying down the detailed conditions which should, in his opinion, govern the rights granted to Poland in respect of her warships in the Port of Danzig.

According to his suggestions, Polish vessels would be able to use the Port of Danzig permanently without its being necessary to notify each arrival either to the Danzig authorities or to the Port authorities.

*This right was not to be limited as regards the length of the stay nor was it made conditional upon the construction of the port of Gdynia.* The High Commissioner, the Senate and the President of the Harbour Board were to be informed only of the total number of vessels using the Port of Danzig and of any changes in the total personnel. The Harbour Board was to allot permanent berths to Polish warships. In addition, General Haking recognised the necessity — not mentioned in the original proposals — for the Harbour Board also to allot to Poland ground for the storage of supplies for the vessels, and for the latter to take on board war material, including explosives, without special depots being established for this purpose, by direct transhipment from vessels or railway wagons. In place of the High Commissioner's right, as in the earlier proposals, to order the withdrawal of the vessels at any time, General Haking proposed that the Senate should have power to denounce the right to remain in the Port, Poland being free at the same time to appeal to the High Commissioner of the League, in accordance with the procedure laid down in Article 39 of the Paris Treaty. These proposals were submitted to the parties with the suggestion that they might come to an agreement in the matter. According to the opinion expressed by the Secretariat of the Council<sup>2</sup> of the League, this act was to take the place of a decision by the High Commissioner.

<sup>1</sup>Note by the Secretary-General: High Commissioner's report of December 7th, 1921 (see document C.89.M.43.1922.I).

<sup>2</sup>Note by the Secretary-General: See Introductory Note to the High Commissioner's report of December 7th, 1921 (document C.89.M.43.1922.I).

It was only in the event of the proposals being rejected by the parties that the Council of the League would have to pass a resolution.

Although the parties did not succeed in coming to an agreement, they determined, in view of the provisional agreement already concluded, not to submit the matter to the Council of the League, and the Council by its resolution of January 12th, 1922,<sup>1</sup> decided to postpone consideration of the question.

7 A retrospective survey of the question points to the following conclusions:

(a) Under the Treaty of Versailles, as well as under the Polish-Danzig Treaty and the resolution of the Council of the League of Nations, Poland is entitled to a port d'attache for her vessels in the Port of Danzig, and this right is not subject to any condition or time-limit. In particular, it is independent of the construction of any port on the Polish coast.

(b) General Haking, the High Commissioner, who twice examined the conditions for the exercise of this right, acknowledged each time that it implied. (1) the right of the vessels to berth in the port for as long as they wished, without previously notifying the Danzig authorities; (2) the right to permanent berths for these vessels; (3) the right to obtain supplies and fuel in the Port of Danzig; and (4) the right to use the Danzig shipyard and docks. When the question was further examined after receipt of the Naval Sub-Commission's report, the High Commissioner added to these rights: (1) the right to use ground on the quay for the storage of material of every description, (2) the right to take on board war material and explosives. *The High Commissioner never regarded these rights as being affected by the progress of the work in the port of Gdynia.*

(c) The Sub-Commission, when studying the question from the purely practical side and from the point of view of the *military* requirements of the Polish fleet during the period when Poland would have no suitable installations in her own ports, defined in detail the rights under consideration, at the same time making the reservation that rights of *this kind* could be granted to Poland only until the port of Gdynia should be completed. The question of what permanent rights Poland should possess in respect of her warships in the Port of Danzig was not specifically dealt with by the Commission.

(d) The Senate of the Free City also declared that the possession by Poland of a "port d'attache" implied privileged treatment for Polish vessels in the Port of Danzig as compared with the vessels of other Powers, the right to enter the Port of Danzig without previous notice and to remain there for an indefinite period, and, lastly the right to permanent berths for her vessels.

## II.

By a letter dated August 2nd, 1927<sup>2</sup> the Senate of the Free City submitted the question again to the Council of the League. It requested the Council to declare that Poland was not entitled to a "port d'attache" at Danzig or to any rights in respect of her vessels other than those enjoyed by the vessels of other Powers. The Senate's reasons may be summarised as follows:

1. The main reason for which Danzig consented to sign the Agreement of October 8th, 1921, was the fact that at that time Poland possessed on her own coast no port where her vessels could berth.

2. At the present date Poland has at Gdynia a completely built port.

3. The Sub-Commission expressed the view that Poland was entitled to a port d'attache in the Port of Danzig only until the port of Gdynia should be completed.

4. The right of Polish vessels to remain indefinitely and without previous notification in the Port of Danzig is a violation of these clauses in the Danzig Constitution whereby it is forbidden — in accordance with the recommendation of the Council of the League — to establish a naval base at Danzig.

5. Important economic reasons exist which make it undesirable that warships should stay in the Port of Danzig, where their presence interferes with commercial shipping.

## III.

The Polish Government cannot admit the justice of these arguments.

*Ad 1.* — The reason which led the Senate of the Free City at the time to sign the Agreement of October 8th, 1921, is quite irrelevant to the present dispute and is a purely private concern of the Free City. The Agreement itself does not contain the slightest allusion to this point.

*Ad 2 and 3.* — The actual significance of the opinion of the Naval Sub-Commission has been explained above. The Sub-Commission's report was not approved by the Council of the League or by the High Commissioner. Accordingly it possesses no legal value. The character

Note by the Secretary-General: See paragraph 551 and Annex 301 to the Minutes of the sixteenth session of the Council.

Note by the Secretary-General: See document C.389.1927.I.

and nature of Poland's right are determined by the resolution of the Council of the League, dated June 22nd, 1921. The fact of the construction of the port of Gdynia and the progress of the works there do not affect that right in the slightest degree. The Sub-Commission's proposals were of a purely practical nature.

*Ad 4.* — The Senate's statement that the installation of a "port d'attache" or "port d'attache" would be a violation of the clause in the Constitution concerning a naval base, is contrary to the opinion of the Council of the League as expressed in its resolution of June 22nd, 1921, which recognises the possibility of granting Poland a "port d'attache" without thereby creating a naval base. If the Senate's statement were correct, this resolution of the Council would have no meaning.

*Ad 5.* — The economic interests of Danzig are not at all adversely affected by the berthing of Polish warships in the port; on the contrary their presence there is *entirely in the economic interests* of the people of the Free City

In the first place, it is not in accordance with the facts to declare that the Polish vessels interfere with commercial shipping. These vessels only remain for any length of time during the winter that is, when there is a falling off in the commercial traffic and there is plenty of room in the port. In summer, which is the best time for navigation, most of the warships put out to sea, berthing in the port only long enough to take in supplies or to carry out the necessary repairs.

The taking in of supplies by Polish warships in the Port of Danzig and the use of the Danzig shipyards and docks *are obviously to the advantage of Danzig trade and industry.* Danzig is at present in the throes of an economic crisis. The Free City is obliged to support large numbers of unemployed. Such being the case, it is quite incomprehensible that the Senate should persist in trying to deprive Danzig trade and industry of such excellent clients as the Polish warships. The Senate's action, so rightly judged by General Haking to be dictated purely by political considerations, is in flagrant contradiction with the economic interests of the Free City.

#### IV

The Polish Government, in claiming to exercise its right to use the Port of Danzig for its warships — a right conferred upon Poland by the resolution of the Council of the League dated June 22nd, 1921 — bases its claim on legal, but chiefly on economic and technical, considerations. Poland does not possess, either at Gdynia or in any other port on her coast-line, the technical installations required for repairing her ships. On the other hand, the Polish Government is one of the shareholders in the Engineering and Shipbuilding Company a big concern which is situated in Danzig territory right in the Port of Danzig, and which includes the former Reich shipyard and the railway repair shops. This shipyard, which employs Danzig personnel and labour exclusively is most important for the repair of vessels and the supply of their technical equipment.

It is almost impossible, and would indeed be most undesirable, from the point of view of Danzig's economic interests, that any undertaking should in the near future be set up at Gdynia or in any other Polish port which would compete with the Danzig shipyard.

The efforts of the Senate of the Free City to prevent Polish warships from using the port of Danzig would result in a paradoxical situation, for Poland would be unable to use the Danzig shipyard of which she is joint owner, and would be obliged to establish on her own coast a shipyard and docks, which would injure the Free City in that they would obtain all the Polish orders and carry out all repairs to Polish vessels.

The fact, which was emphasised by President Sahm at a meeting of the Council of the League, that the Senate is prepared to authorise Polish warships to enter the Port of Danzig in order to undergo repairs in the Danzig shipyard, does not affect the legal and economic situation as defined above, and is of no practical value. It would amount to this: the Senate would become the sole judge of the necessity of repairs to Polish ships, the nature of such repairs and the order of priority in which they should be carried out.

Such a state of affairs is inconceivable, and Poland's incontestable right to use the Danzig shipyard and the no less incontestable economic interests of the Free City make it essential that Polish vessels should be free to enter and remain in the Port of Danzig.

A second point closely allied to the first is the fact that the depots of material required for shipping are situated in Danzig and not on the Polish coast. Foremost among these are the petroleum tanks, oil depots, etc.

It would be contrary to Polish economic interests and would even be prejudicial to those of Danzig if Poland were to set up rival depots in her own ports. In the interests of both alike, Polish ports should be developed so as to supplement the Port of Danzig and not to make it superfluous from the Polish point of view

The policy adopted by the Senate of the Free City is at variance with this principle.

Lastly an important point to be noted is that Poland, possessing, as she does, a number of warships for river traffic, in addition to her sea-going warships, must also have free access to her inland ports. These vessels can only enter the Vistula through the Port of Danzig. If anything is

done to prevent their passing through the Port, this means cutting them off from their Polish inland ports, which is contrary to the general principle of access to the sea guaranteed to Poland under the Treaty of Versailles.

Poland has always regarded the Agreement of October 8th, 1921, as a provisional compromise which did not settle the dispute and failed to satisfy her legitimate interests. Only her unvarying spirit of conciliation prevented her from bringing the matter before the Council of the League of Nations.

Since, however, this question has again been submitted to the Council of the League, on the motion of the Senate, the Polish Government now also applies for a final settlement in the matter.

The Polish Government considers that the second report of General Haking, the High Commissioner, dated December 7th, 1921, constitutes an adequate basis, subject to certain reservations, for reaching a solution.

These reservations concern, firstly General Haking's proposal that the Senate should have power to denounce to the Polish Government the right of Polish warships to remain in the Port of Danzig: General Haking himself modified this suggestion by allowing for arbitration by the High Commissioner in the event of a protest by Poland. This proposal is contrary to the resolution of the Council of the League dated June 22nd, 1921, which recognises Poland's right to a "port d'attache" and does not admit of denunciation of that right by the Free City of Danzig.

Further, it should be noted that, logically the proposal in question is invalidated automatically if once it is decided, in accordance with General Haking's suggestion, that the question shall be settled not on the basis of the Polish-Danzig Agreement but by a resolution of the Council of the League of Nations.

Lastly it is not absolutely clear from the rules set forth by General Haking that Polish inland vessels are to be allowed to pass freely through the Port of Danzig in order to reach the Polish inland ports. Some such provision should, in the Polish Government's opinion, be included in the resolution by which the dispute is to be finally settled.

(Signed) LALICKI,

*For the Commissioner-General of the Polish Republic  
at Danzig.*

#### Appendix II.

##### LETTER FROM THE HIGH COMMISSIONER TO THE PRESIDENT OF THE SENATE OF THE FREE CITY

[*Translation from the German.*]

Danzig, October 17th, 1927

I have the honour to enclose a copy of the Polish Government's note of September 21st, 1927 on the question of the "Port d'attache"), which reached me on the 15th instant.

I would ask you to forward me any observations to which this document may give rise, in view of further negotiations on the subject.

(Signed) VAN HAMEL.

#### Appendix III.

##### NOTE FROM THE PRESIDENT OF THE SENATE OF THE FREE CITY TO THE HIGH COMMISSIONER.

[*Translation from the German.*]

Danzig, November 10th, 1927.

With reference to the Polish Government's note dated October 15th, 1927 regarding the question of the "port d'attache" forwarded in your letter 9/D/5/B dated October 17th, 1927, I have the honour to communicate to you the following:

#### A.

In the first place, the Polish contentions are based on a fundamental error, inasmuch as they contain the assertion that Poland has a "right" to a port d'attache for her warships at Danzig and that this right has already been recognised by the Council of the League of Nations.

Furthermore, the Polish Government is in error in stating that the Danzig Government wishes to hinder Polish warships from using the installations of the harbour of Danzig, and the river warships from traversing Danzig's territorial waters.

Lastly the Polish Government thinks fits to bring Danzig's economic interests into the discussion, although these are a matter for the appreciation and consideration of the Danzig Government, which is alone responsible. □

## I.

It must once again be emphasised that no right to a "port d'attache" in the harbour of Danzig is given to Polish warships either in the Treaty of Versailles or in the Treaty of Paris between Danzig and Poland, or in any resolution of the Council of the League of Nations. Poland has merely since 1920 put forward on repeated occasions her claim first to a "point d'attache" and then to a "port d'attache" for her warships in the harbour of Danzig. The Council of the League of Nations has never recognised this right, but has simply resolved to ask its High Commissioner in Danzig, and later, on his proposal, the Permanent Advisory Commission, to consider whether a "port d'attache" could be created in the harbour of Danzig without thereby establishing a naval base. The institution of such an enquiry cannot be regarded as the recognition of a right. The review of the antecedents of the question given in the Polish statement of October 15th, 1927 unfortunately omits to mention important considerations previously adduced in support of various pleas which are quite essential to a proper understanding of the question.

The Polish Government, in a declaration made to General Haking at Warsaw, which he quotes in his report of September 10th, 1921<sup>1</sup> made the following statement:

"If the geographical formation of the Polish sea-coast is considered, it can be seen that 13 Polish warships cannot, in case of bad weather, and particularly in winter, find shelter anywhere on the whole coast even including the one Polish fishing port—Puck. This port not only has a very small draught of water, but it is connected with the sea by so narrow a channel (6 metres wide) that no warship can enter. It is also impossible to anchor small ships at Dirschau (Tczew) on account of the draught of water of the Vistula (2 metres in normal conditions). Consequently the only shelter left for Polish warships is Danzig."

The report of the Polish representative to the League of Nations of September 29th, 1921<sup>2</sup> which again asks for a site to serve as "shelter" for warships, also refers to the fact that work had just been begun at Gdingen (Gdynia) and that, as was then thought, it would not be completed for another ten years.

The passages quoted above clearly show the reasons for the Polish request, and all the later statements of the organs of the League and of the Danzig Government must be considered in the light of these reasons.

That this is the case is shown with particular clearness by the report of the Permanent Advisory Commission of September 24th, 1921<sup>3</sup> which has been frequently referred to.

The Polish statement of October 15th, 1927 unfortunately omits the very important preamble of this report, which is quoted below in order to make the decision easier to understand:

"After hearing the Polish naval delegate, who defined the difference between a naval base and a port d'attache as follows: A naval base is used only for warships, whereas a port d'attache supplies the normal needs of ships in peace time and having also heard the representative of the Free City of Danzig, the Naval Sub-Commission was unanimous in deciding that Polish war vessels should be granted facilities for sheltering, storing and effecting necessary repairs in the Port of Danzig until such time as the Polish port of Gdingen (now in course of construction) is available."

The Naval Sub-Commission then submitted the following opinion to the Council:

*Opinion of the Naval Sub-Commission.*

1. Poland has a new port under construction at Gdingen on the Baltic coastline. If the privilege of using Danzig as a port d'attache is to be conceded, it should be confined to the period which must elapse until the new Polish naval port is complete.

2. During this period, it is clearly necessary for Polish ships of war, other than those whose draught will permit them to make use of Dirschau, a river port situated 32 miles up the river, to stay at Danzig for longer periods than it is customary for the ships of war of one nation to remain in the port of another State.

3. In view of the above, and bearing in mind the fact that it has already been definitely decided that no naval base is to be established in the Port of Danzig, we suggest the following regulations for the provision of a port d'attache for these ships.

Then follow the individual provisions quoted in the Polish memorandum which, as the preamble shows, are only to apply until the port of Gdingen has been completed.

When the Polish memorandum says that it is not clear on what basis the Sub-Commission expresses the view that Poland's right terminates when the port of Gdingen has been completed,

Note by the Secretary-General: See document C.338.M.240.1921.I.

Note by the Secretary-General: See document C.282.M.266.1921.I.

Note by the Secretary-General: See document C.368.1921.

an answer is furnished by the above-mentioned reasons quoted by Poland herself in support of her request for a port d'attache

Knowing these reasons, the Permanent Advisory Commission could hardly take any other decision.

As regards General Haking's remarks quoted by Poland in support of her contention, these, too, can only be understood if they are taken in their proper context.

The following passage from General Haking's report of December 7th, 1921<sup>1</sup> is of particular importance:

If it is going to remain a question of right it can only be solved by the most carefully worded guarantees, such as those put forward by the Permanent Advisory Committee on Naval and Military Affairs of the League of Nations, and Poland's power of using the harbour for her warships will consequently be limited both as regards space and period of time.

In his further remarks General Haking merely puts forward proposals and pronounces no decisions of any kind.

As regards the observations on the Polish claims made by Danzig at the time, which according to Poland, already constitute a recognition of Poland's right, they too, cannot be taken out of their context. Although, in its main memorandum of September 20th, 1921<sup>2</sup> the Danzig Government, referring to Poland's contentions, made the remark quoted in the note of October 15th, 1927<sup>3</sup>

if the resolution of the Council of the League of Nations is to be understood in that way *i.e.*, that Poland is in any case to have the right of establishing a port d'attache in the harbour of Danzig etc.

Danzig never recognised that the Council's resolution was in fact to be understood in that way

The Council itself, as stated above, never made any statement to this effect either.

All the conclusions which the Polish Government seeks to draw from the considerations put forward by Danzig at the time therefore fall to the ground.

Poland's above-mentioned reasons for claiming a port d'attache must also be taken into account in interpreting the meaning of the provisional agreement of October 8th, 1921<sup>3</sup> The arrangement itself expressly states that it does not commit either party As will be seen from the Secretary-General's letter of October 1st, 1921<sup>4</sup> Danzig was only led to conclude the arrangement owing to the predicament in which Poland was placed, and it is inadmissible that Danzig should not be allowed to avail herself of this argument now.

## II.

As already stated on several occasions, the Danzig Government has no wish to prevent Polish warships from using the Port of Danzig, or her river warships from crossing Danzig's territorial waters. Her vessels will be free to make any necessary repairs at the Danzig wharves and to take in provisions, oil and coal, etc. All over the world the ships of every country are allowed to carry out such operations in foreign ports without any objections being raised. Danzig only asks that the Polish navy should observe the same rules as apply in every other harbour of the world. That this is no unjustified demand on Danzig's part is expressly recognised by the High Commissioner, General Haking, when he says in his report of September 10th, 1921, that:

Danzig, to maintain her undoubted rights, must have a voice in the question of foreign ships of war, especially considering that she has entered into an engagement with the League of Nations, under whose protection she lives, that she will not establish a naval and military base in her territory

## III.

The adoption of Danzig's proposals will not involve any risk that her trade and industry will suffer. In any case, as mentioned above, that does not concern the Polish Government. In particular, there is no danger that Polish ships will not be able to use the Danzig international wharf, in which British and French capital each has a share of 30 per cent, Danzig and Polish capital each a share of 20 per cent.

## B.

We regret that the Polish Government makes no mention of the essential fact that, as required by the League, the Danzig constitution forbids the establishment of a military and naval base, that the granting to Poland of a permanent right to a "port d'attache" for Polish warships in the

Note by the Secretary-General: See document C.89.M.43.1922.I.

Note by the Secretary-General: See document C.360.M.255.1921.I.

Note by the Secretary-General: See document C.417.M.297.1921.I.

Note by the Secretary-General: See document C.382.M.266.1921.I.

harbour of Danzig would involve the risk of the establishment of such a base, and finally that the construction of the Polish naval harbour of Gdingen has so far advanced since 1921 that it has been able to shelter the whole Polish navy since the autumn of 1926.

## C.

In conclusion, we would once more summarise our views as follows:

1. Poland has no right to a port d'attache for her warships in the harbour of Danzig under any treaty nor has the League of Nations granted her such a right.
2. Poland has simply put forward a claim to such a right and this on the explicitly stated grounds that the Polish coast provided no shelter for the Polish fleet.
3. In view of the fact that the Danzig Constitution forbids the establishment of a military or naval base at Danzig, the organs of the League in 1921 simply contemplated a provisional and *de facto* settlement granting Polish warships certain privileges in the harbour of Danzig without prejudice to the legal question at issue.
4. The Danzig Government only gave its consent to a provisional and entirely *de facto* settlement of the question in view of Poland's predicament, and expressly declined to commit itself with regard to any subsequent agreement.
5. Owing to the completion of a naval harbour on the Polish coast, there remains no reason either for the organs of the League or for Danzig to recognise any longer the Polish claim, which is contrary to the Danzig Constitution as guaranteed by the League of Nations.

\* \* \*

I hold myself in readiness to give further verbal explanations on the occasion of the proposed discussions under your presidency

(Signed) SAHM.

C.574. M.204. 1927. II.  
[F 441.]

ANNEX 1005.

## SIXTEENTH QUARTERLY REPORT OF THE REFUGEE SETTLEMENT COMMISSION <sup>1</sup>

Athens, November 15th, 1927.

### FINANCIAL SITUATION

#### A. SITUATION ON SEPTEMBER 30TH, 1927.

The financial situation on September 30th, was as follows:

<i>Liabilities.</i>	£	s.	d.
Proceeds of the 7% 1924 Loan	9,970,016	6	9
Contribution of the Greek Government for purchase of cereals in 1924	219,619	13	0
Receipts	277,864	8	3
Bonds deposited by refugees as security for their debts	94,330	0	0
Commitments.	176,659	7	11
Various <i>per contra</i> accounts	354,680	1	1
	£ 11,093,169	17	0
 <i>Assets.</i>			
Balances available at Bank and Head Office	1,301,093	7	6
Bonds deposited	94,330	0	0
Recoverable advances	34,723	13	1
 Expenditure:			
Agricultural Settlement	8,007,806	12	0
Urban Settlement	1,080,125	10	7
Central Administration:			
Furniture and fittings	4,301	11	7
General charges	119,272	2	10
	9,211,505	17	0
Sums applied to redemption of the 7% 1924 Loan	96,836	18	4
Various <i>per contra</i> accounts	354,680	1	1
	£ 11,093,169	17	0

For the last report, see *Official Journal*, October 1927, pages 1295-1299.