

ANNEX 1434.

FREE CITY OF DANZIG.

C.185.1933.I.

HARBOUR POLICE. QUESTION OF "DIRECT ACTION"

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

[Translation.]

Danzig, March 7th, 1933.

I have the honour to enclose a copy of a letter, dated March 7th, 1933, sent to me by the Polish diplomatic representative at Danzig, in which the Polish Government asks for a decision to the effect that "the unilateral measures adopted by the Senate of the Free City on February 15th, 1933, in the matter of the harbour police constitute 'direct action' and should be immediately cancelled"

As the Council, by its decision of March 13th, 1925, reserved to itself in principle the right to decide on questions of "direct action", I would request you to take the necessary steps with a view to the request of the Polish Government being placed on the agenda of the Council at the earliest possible date.

I enclose the documents mentioned in the Polish request, namely:

- (1) Letter from the Senate to the Polish Government, dated February 15th, 1933;
- (2) Reply from the Polish Government, dated February 20th;
- (3) Letter from the Polish Government to the Harbour Board, dated February 20th.

(Signed) Helmer ROSTING,
High Commissioner

LETTER FROM THE COMMISSIONER-GENERAL OF THE POLISH REPUBLIC AT DANZIG
TO THE HIGH COMMISSIONER.

[Translation.]

Danzig, March 7th, 1933.

In the letter of February 20th, 1933, which was sent by the Polish Government to the Senate of the Free City in reply to the letter from the Senate, dated February 15th, 1933, on the question of the harbour police and which the Polish Government brought to the notice of the High Commissioner, that Government reserved the right to draw all the consequences resulting from the rescission of the Agreement of September 1st, 1923.

The Polish Government, both in its letter to the Senate of the Free City and in its letter on the same subject to the Harbour Board, which was also communicated to you, has made it clear that it considers the introduction by the Senate of its own police force into the port as contrary to the existing agreements and without any legal basis.

Nevertheless, the Polish Government refrained from immediately submitting to the High Commissioner the question of the illegality of the measures adopted by the Senate. On the other hand, it drew the attention of the Harbour Board to the serious situation which had arisen and requested it to take as rapidly as possible all necessary steps to re-establish order and security in the Port of Danzig in accordance with the legal position in force.

As, in spite of the action of the Polish Government, the situation of fact created by the Senate continues to exist, the Polish Government is obliged to submit the following motion to you in virtue of Article 39 of the Treaty of Paris and of the resolution of the Council of the League of Nations, dated March 13th, 1925.

"The Polish Government requests that a decision be taken to the effect that the above-mentioned unilateral measures adopted by the Senate of the Free City on February 15th, 1933, in the matter of the harbour police constitute direct action and should be immediately cancelled."

Statement of Reasons.

Articles 18 and 20 of the Treaty of Paris entrusted to the Danzig Port and Waterways Board the control and administration of the free zone and the control, administration and exploitation of the port and waterways, and of all property and establishments employed in such exploitation.

The powers of the Harbour Board are of a public law character. They include the duties of maintaining order and security—that is to say, the duties of policing the port.

Already in its decisions of September 9th and November 4th, 1921, the Harbour Board has assumed the functions connected with the maintenance of order and security

The Agreement of September 1st, 1923, imposed on the Harbour Board certain obligations in respect of the conditions for the exercise of its functions in the policing of the port.

As the above-mentioned Agreement has been rescinded, the Harbour Board has recovered its full liberty of action and entire responsibility in that field.

By the measures taken on February 15th, the Senate of the Free City introduced its own police forces into the harbour and free zone and on the waterways.

It should be pointed out that the Senate was perfectly well aware of the point of view of the Polish Government on the question of the harbour police, as that point of view had been brought to its notice during previous proceedings before the organs of the League of Nations. It was also doubtless aware of the decisions adopted by the Harbour Board on September 9th and November 4th, 1921.

The Polish Government considers that the Senate has, in full knowledge of the attitude of the Polish Government and of the Harbour Board, acted in a manner incompatible with the treaties in force and the decisions of the Harbour Board, and infringed both the powers of the latter and the rights of Poland exercised through the Harbour Board.

At the same time, the measures taken by the Senate clearly prejudice a difference between Danzig and Poland and endanger the good relations between the two parties. Consequently, all the conditions of "direct action" laid down in the resolution of March 15th, 1925, are present in this case.

In view of the extremely urgent and exceptional nature of the present affair, the Polish Government would ask you to be good enough to shorten, as far as possible, the periods allowed for the exchange of the documents in the case.

(Signed) Dr. Kazimierz PAPÉE,
Commissioner-General.

Appendix I.

LETTER FROM THE PRESIDENT OF THE SENATE OF THE FREE CITY TO THE COMMISSIONER-GENERAL OF THE POLISH REPUBLIC AT DANZIG.

[Translation from the German.]

Danzig, February 15th, 1933.

In the Agreement of September 1st, 1923, concluded between the Free City of Danzig and the Republic of Poland at Geneva on the subject of the Harbour Board police, both parties agreed to withdraw their appeals against the High Commissioner's decision of June 6th, 1923, and to give effect to the decision in question for a period of two years. A further dispute with regard to the putting into force of the decision was settled by the decision of the Council of the League of Nations of March 11th, 1925, in the sense of putting into force the opinion of M. de Reynier, President of the Harbour Board, of February 1925, for the space of two years. This decision maintained in force the arrangements of the Agreement of September 1st, 1923, to the effect that either party was to be entitled, on the expiry of the two years, to reconsider its attitude in the matter of the harbour police.

The two years have passed since May 1927

Since the expiry of the two years, Danzig has continued to tolerate the Arrangement concluded, in spite of the serious objections which it has always felt, in the interests of a good understanding with Poland, on the ground that in practice the putting in force of M. de Reynier's opinion in a manner conforming to the sense of the Agreement meant that the harbour police were used in such a way as—not without difficulty and the exercise of considerable effort—to maintain peace, security and order in the harbour, in which view we were strengthened by the fact that the serious contingencies we had apprehended (disturbances, explosions, big fires, etc.) did not materialise.

Quite recently however, the Polish delegation on the Harbour Board has gone counter to the sense of the Agreement and of the practice of the last nine years by endeavouring to extend the powers of the Harbour Board to the police and by issuing general and specific orders for the police service which constitute an infringement of the powers of the State. As this new Polish aggression in the matter of the harbour police is bound to lead to intolerable consequences, we are compelled, to our regret—making use of our right under the Agreement of September 1st, 1923, after renewed consideration of our attitude in the matter of the Harbour Board police—to say that, in the interests of public safety and order in the port, we are no longer prepared to tolerate the present purely *de facto* position, which, since May 1927, has been without any legal basis. We accordingly declare that we regard the settlement reached on March 11th, 1925, as having lapsed, and have accordingly given instructions to revert immediately to the former position in regard to the harbour police.

Copy of this note has been sent to the President of the Harbour Board and to the High Commissioner of the League of Nations.

(Signed) Dr. ZIEHM.

Appendix II.

LETTER FROM THE COMMISSIONER-GENERAL OF THE POLISH REPUBLIC AT DANZIG TO THE PRESIDENT
OF THE SENATE OF THE FREE CITY.

[Translation.]

February 20th, 1933.

I hereby acknowledge receipt of the Senate's letter of February 15th, 1933, No. A.III.30.80, relating to the question of the harbour police.

The Polish Government has noted that the Senate of the Free City of Danzig has, by unilateral action, rescinded the Agreement of September 1st, 1923, regarding the harbour police and that, also by unilateral action and without prior consultation with the Polish Government and the Harbour Board, it has withdrawn from the latter the police personnel which it supplied to the Board in pursuance of the above-mentioned Agreement and Colonel de Reynier's settlement, as approved by the Council of the League of Nations.

The Polish Government is obliged to state that it regards the Senate's unilateral rescission of the Agreement, and the measure adopted by the Senate, as contrary to the Agreement of September 1st, 1923. That Agreement did not provide for the modification of either the *de jure* or the *de facto* position by unilateral action. Under the concluding paragraph of the Agreement, the parties are merely entitled, on the expiry of a stated period, to reconsider their attitude in the matter of the harbour police and, in consequence, to take appropriate steps with a view to the modification of the state of affairs instituted by the Agreement.

The Polish Government also feels bound formally to refute the Senate's assertions with regard to the attitude latterly taken up by the Polish delegation on the Harbour Board in regard to the harbour police; assertions by which the Senate seeks to justify the rescission of the Agreement of September 1st, 1923.

It is not true that the Polish delegation has attempted to extend the police powers of the Harbour Board and to encroach upon the powers of the organs of the Free City. In [the two cases which have recently formed the subject of dispute between the two delegations on the Harbour Board, the Polish delegation urged the Board to exercise the powers expressly conferred upon it both under the High Commissioner's decision and Colonel de Reynier's settlement—viz., to exercise control and issue orders to the police under its direction. In spite of the perfectly clear and unequivocal terms of these stipulations, the Danzig delegation denied that the Harbour Board possessed any such rights. In one of these cases, the President of the Board has already given a decision endorsing entirely the attitude of the Polish delegation, against this decision the Senate has not made any appeal. The second case has not yet been settled, but there, too, there can be not the slightest doubt that the attitude adopted by the Polish delegation is entirely justified.

Although the Polish Government regards the above-mentioned unilateral acts of the Senate as contrary to the Agreement of September 1st, 1923, and the reasons put forward by the Senate as not in keeping with the facts, it nevertheless consents to the rescission of the said Agreement regarding the harbour police and intends, for the following reasons, to draw all the consequences resulting from such rescission.

The state of affairs created by the application of the High Commissioner's decision of June 6th, 1923, together with Colonel de Reynier's settlement, was in the highest degree unsatisfactory. The police supplied by the Senate to the Harbour Board was unable to cope with various incidents which occurred in the port of Danzig in regard to Polish vessels and which gave rise in Polish public opinion, and more especially in economic circles, to a conviction that public security in the Port of Danzig was inadequately safeguarded. As has been pointed out above, the Polish delegation's action, the purpose of which was to strengthen police supervision and increase security, met with definite opposition from the Danzig delegation, which absolutely denied that the Harbour Board possessed any powers in this sphere. As a consequence of this attitude on the part of the Danzig delegation, the personal relations between the police officials under the Harbour Board and the police organisation in the Free City became an obstacle to the efficient working of that force and to the performance of the duties with which it was entrusted—namely to maintain security in the Port of Danzig. Such being the case, the Polish Government has required the conviction that, in order to obviate the serious prejudice to which the Port of Danzig is exposed, radical changes in the present state of affairs are now indispensable.

In consequence of the Senate's last letter, the Polish Government considers that the Agreement of September 1st, 1923, Colonel de Reynier's settlement, and the decision of June 6th, 1923, together with the proceedings of which it was the outcome, are legally null and void.

Under Articles 18 and 21 of the Treaty of Paris, the Danzig Port and Waterways Board is under the obligation—not at present limited by subsequent agreements between Poland and Danzig and the decisions of the organs of the League of Nations—to lose no time in adopting all such measures and in issuing all such instructions as may be necessary for the maintenance of order and security on all waterways and all ground subject to the Board's administration and control, and more especially in the free zone.

On the basis of the special obligations imposed upon the Harbour Board in relation to the Polish State by Articles 26 and 28 of the Treaty of Paris, the Polish Government will very shortly communicate to the Harbour Board a complete statement of its wishes as regards the safeguarding of order and security.

In regard to the unilateral character of the Senate's statements and measures, the Polish Government, for its part, reserves to itself full liberty in judging the situation which will be created by the measures that the Harbour Board will have to take. It also reserves its freedom of action with regard to the steps which may be necessary to safeguard the economic interests of Polish circles hitherto using the Port of Danzig in the event of the Harbour Board's not succeeding in the near future in dealing satisfactorily with the problems of security and order at present confronting it.

(Signed) PAPÉE,
Commissioner-General.

Appendix III.

LETTER FROM THE COMMISSIONER-GENERAL OF THE POLISH REPUBLIC AT DANZIG TO THE PRESIDENT OF THE DANZIG PORT AND WATERWAYS BOARD.

[Translation.]

Danzig, February 22nd, 1933.

I have the honour to forward to you herewith, for information, the French translation of my reply No. 257/T/33 of the 20th inst.¹ to the letter from the Senate of the Free City of Danzig No. A.III.30.80, of February 15th last, concerning the rescission of the Agreement of September 1st, 1923, with regard to the harbour police, together with my letter of the same date to the Harbour Board, on the subject of the measures of order and security to be taken in the Port of Danzig.

(Signed) Dr. Kazimierz PAPÉE,
Commissioner-General
of the Polish Republic.

Sub-Appendix I.

LETTER FROM THE COMMISSIONER-GENERAL OF THE POLISH REPUBLIC AT DANZIG TO THE DANZIG PORT AND WATERWAYS BOARD.

[Translation.]

Danzig, February 20th, 1933.

In a letter dated February 15th, 1933, No. A.III.30.80, the Senate of the Free City of Danzig informed the Polish Government that it was denouncing the Agreement of September 1st, 1923, relating to the harbour police and was recalling the police personnel supplied to the Harbour Board under the above-mentioned Agreement and Colonel de Reynier's settlement. Despite the fact that these unilateral acts on the part of the Senate are contrary to the aforementioned Agreement of September 1st, 1923, the Polish Government, being also of opinion that the state of affairs instituted by the agreement in matters relating to the harbour police is in the highest degree unsatisfactory, has consented to its rescission and also to the withdrawal from that Harbour Board of the police personnel supplied by the Senate.

In consequence of the rescission of the agreement in question, the Harbour Board ceases to be bound by Colonel de Reynier's settlement, as hitherto applied, and also by the High Commissioner's decision of June 6th, 1923. In like manner, the arbitral proceedings, of which the aforementioned decision of the High Commissioner was the outcome, lose all legal validity.

Under Articles 18 and 20 of the Paris Treaty, entire responsibility for control and administration, and consequently for the maintenance of order and security, devolves upon the Port and Waterways Board, which is in duty bound to lose no time in taking all such measures as may be necessary in this connection.

In view of the rights granted to Poland under Articles 26 and 28 of the Paris Treaty, the Polish Government is especially interested in the rapid and satisfactory performance of the above-mentioned tasks by the Harbour Board, and it begs herewith to inform it of its opinion and wishes in the matter.

In so far as concerns the legal aspect, the Polish Government feels bound to mention that the present question was formerly settled by the decisions adopted by the Port and Waterways Board on September 9th and November 4th, 1921, with regard to the Board's right to have a police force under its own control and to issue decrees in police matters.

In these two cases, the Harbour Board pronounced in the affirmative by a majority consisting of the President and the Polish delegation.

It is true that, with reference to the practical aspect of the creation of the police corps controlled by the Harbour Board, the latter decided by a majority consisting of the President

¹ See Appendix II.

and the Danzig delegation that the necessary personnel should be borrowed from the Danzig authorities. This part of the Harbour Board's decision has, however, become meaningless now that the Senate, by unilateral action, has withdrawn the police personnel previously supplied, thus making impossible any such application of the Harbour Board's decision of principle.

Such being the case, the Polish Government is of opinion that the Harbour Board must immediately proceed to organise a security service of its own to maintain public order and security and protect the Board's premises and property together with the merchandise in its charge and the property of the Port of Danzig's clients.

The Polish Government considers that the most effective method would be to place this security service under the orders of the Commandant of Pilots, with whose duties it is very closely and directly related. As the personnel of the pilot service consists almost exclusively of Danzig nationals, it would be appropriate to adopt the principle that the security service should consist exclusively of Polish nationals. The Polish Government declares that it is prepared to place the necessary number of experienced Polish police officials at the Harbour Board's disposal at any time.

It may also be observed that, if none but Polish officials were engaged for the purposes of the security and order service, this would greatly contribute to increase the confidence of Polish economic circles in the Port of Danzig.

As neither the Polish Government nor Polish economic circles can place confidence in Danzig police officials not controlled by the Harbour Board, the Polish Government is of opinion that it would be desirable that all Danzig police officials should be withdrawn at the earliest possible moment from all ground placed under the administration of the port, and also from its offices. Such a measure is specially desirable, as, in the present state of affairs, the presence of such police officials on such ground and in such offices has no legal basis.

As all police decrees in respect of the port issued by the Danzig authorities in pursuance of Colonel de Reynier's settlement have lost their binding force through the rescission of the Agreement of September 1st, 1923, the Polish Government is of opinion that, in order to obviate confusion in legal relations, the Harbour Board must immediately issue, in pursuance of its decision of November 4th, 1921, all such decrees as may be necessary for the maintenance of order and security on all tracts of water and on land under its administration.

The Polish Government considers that all these measures must be adopted without delay, especially as it is itself prepared to facilitate their application in every way.

At the same time, the Polish Government nevertheless feels bound to point out that it reserves its right to decide in due course whether the state of affairs instituted by the Harbour Board is such as to inspire sufficient confidence. It also reserves its right to take such steps as may be necessary in the light of that decision to safeguard the economic interests of Polish circles who have previously used the Port of Danzig, in the event of the Harbour Board's not succeeding at a very early date in dealing satisfactorily with the problems of security and order.

(Signed) PAPEE,
Commissioner-General.

ANNEX 1434a.

FREE CITY OF DANZIG.

C.189.1933.I.

HARBOUR POLICE. QUESTION OF "DIRECT ACTION"

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

[Translation.]

Danzig, March 9th, 1933.

With further reference to my letter No. 0395/13/56 of March 7th, 1933 (Annex 1434), I have the honour to transmit herewith a copy of a letter sent to me yesterday by the Senate of the Free City, containing its observations on the request concerning "direct action" in the matter of the harbour police submitted to me by the Polish Government on March 7th, 1933.

(Signed) Helmer ROSTING,
High Commissioner