

THIRD MEETING (PUBLIC)

held at Geneva on Friday, September 1st, 1922, at 4 p.m.

Present All the representatives of the Members of the Council, and the Secretary-General.

743. Site for Polish War Materials in the Free City of Danzig.

M. Askenazy, representative of Poland, Dr. Salm, representative of the Free City of Danzig, and General Haking, High Commissioner of the League of Nations, were asked to come to the Council table.

Viscount ISHII read a report (Annex 399) containing the text of the decision of the High Commissioner against which both Governments had appealed.

M. ASKENAZY (Poland) stated that, although his Government had accepted in principle, the High Commissioner's decision of April 7th last, it had been obliged to appeal against that decision for the following reasons

The site chosen by the High Commissioner was not sufficiently large to secure safety in handling explosives.

In practice, technical requirements necessitated the construction of small subterranean stores, sufficiently far apart and spread out over an area so wide that any explosion which might occur in one of the stores would not cause the adjacent stores to explode. In view of the fact that a fire caused by modern munitions and explosives could only be extinguished by covering the burning material with a certain depth of earth, the stores would have to be placed at an adequate distance below the ground, and covered with sand, so that, in case of an explosion, the sand might fall in upon the flames.

With the sole object of affording more security to the Free City, and of accelerating the transport of explosives, the Polish Government had been obliged to request that the site assigned to it by the High Commissioner should be increased by a belt of land surrounding the basin in question. It would also be well to recall the fact that, before the war, the German authorities had adopted the same view as that now held by the Polish Government, and that their stores of munitions and explosives were spread over various parts of the City. A considerable quantity of munitions had been stored at Danzig, since the City contained a garrison of from twenty-five thousand to forty thousand men, a naval base for the destroyer flotilla, and a base for the Baltic submarines which completed the defences of Danzig. During the war, a munitions factory was established at Kokochken, in the suburbs of Danzig, which factory was the centre for the handling and shipment of explosives for the whole front of the German Army of the North-East.

Moreover, the High Commissioner himself, in Article 10 of his decision of April 7th, 1922, had remarked that the apprehensions of the Danzig Senate concerning the gravity of the danger to which the Free City was exposed appeared to him to be exaggerated. In all the commercial harbours of the world there was a continual loading and unloading of explosives taking place on a specially chosen site and, naturally, with all the necessary precautions. In other ports, however, the amount of munitions stored could be reduced, since the other States possessed many ports which could be utilised for the purpose, whereas Poland had at her disposal one port only, *viz.*, Danzig. The storage of munitions at Danzig had therefore to be on a larger scale.

Up to the present, the unloading of munitions and the loading of explosive material on trucks had taken place in the centre of the port, in the very place where there was the greatest accumulation of goods, and where the commercial life of the City was most active. The Polish authorities were compelling their labourers to take every possible precaution, but they had no influence over the choice of labourers in the free zone of the port of Danzig. In the opinion of the President of the Danzig Senate himself, some of these labourers were contaminated by Bolshevist and Communist ideas.

It was, therefore, a matter of urgency that the question should be at last settled on the lines of the Council's decisions of June 23rd, 1921, so that the explosives could be handled and unloaded in a special and appropriate place,

by a trustworthy staff of labourers — specially skilled workers or crews of Polish boats — who would be constantly under the supervision of the Polish authorities.

Since the Free City of Danzig had expressed so many apprehensions on the subject, it ought as soon as possible to agree to the arrangement requested by the Polish Government.

As regards the question of responsibility referred to by the High Commissioner in paragraph (f) of Article 17 of his decision of April 7th, the Polish Government, which had no executive authority over the territory of the Free City, could only be held responsible for accidents in the territorial waters or in the territory of the Free City in cases in which its responsibility was definitely proved.

As regards the extent to which the Polish Government was responsible, M. Askenazy proposed that, in case of disagreement, the dispute should be submitted to the Permanent Court of International Justice.

The High Commissioner had assigned to Poland temporarily a site on the island of Holm, and in paragraph (c) of Article 17 of his decision of April 7th, he contemplated the construction of a special basin on the east bank of the dead Vistula, with a permanent storage for munitions. Such a solution of the problem would necessitate a considerable expenditure on Danzig territory by the Polish Government. Such expenditure was not provided for by any treaty or agreement, on the contrary, Article 28 of the Treaty of November 9th, 1920, explicitly guaranteed to Poland the use of the port of Danzig in its existing condition, without any obligation whatever to construct a fresh port on the territory of the Free City.

In the desire, however, to show the greatest possible spirit of conciliation, M. Askenazy had undertaken, at the Conference between the Danzig and Polish Delegations which took place on this subject at the seat of the League, on August 29th, 1922, under the direction of the High Commissioner and M. Colban, to submit a final scheme for agreement which went to the limit of the concessions possible. He had suggested that the Polish Government would go so far as to agree to undertake half the expenditure necessitated by the preparation of the definitive site proposed in the High Commissioner's decision, on condition, however, that Poland was compensated by the definitive allocation to her of the basin of the Holm Island as a *port d'attache* for Polish war-vessels. This scheme, which had not been approved by the President of the Senate of the Free City, would appear to have received the approbation of the High Commissioner, that, at least, was M. Askenazy's impression.

In conclusion, M. Askenazy stated, on behalf of the Polish Government, that he was willing to accept the High Commissioner's decision of April 7th, on the following conditions

- (a) That the site proposed should be permanently and not temporarily allocated to the Polish Government,
- (b) That the site should be reasonably enlarged in such a way as to make it adequate from a technical point of view and from the point of view of the safety of the City,
- (c) That the site should be granted for the exclusive use of the Polish Government,
- (d) That Poland's responsibility should be limited to cases in which her culpability could be proved, and that in cases of disagreement the question should be brought before the Permanent Court of International Justice
- (e) That, as regards the question of the expenditure contemplated in the High Commissioner's decision for the preparation of a definitive site, Poland could only agree to bear her portion of the expenditure on condition of compensation in the shape of the definitive allocation to her of the basin of the Holm Island as a *port d'attache* for Polish war-vessels.

Dr. SAHM, representative of Danzig, was happy to think that the discussion at the previous meeting had begun under the auspices of the Red Cross, an institution the object of which was to prevent great disasters. He hoped that a disaster would be avoided in the Free City of Danzig.

The Free City had on several occasions recognised Poland's right to import and export through it all kinds of goods, including war material and explosives, but Poland's undoubted rights were limited by certain universally recognised principles of civilisation and humanity. Poland must observe the laws protecting

life and property. The establishment of a munitions depot in the middle of a commercial port was contrary to such laws, this was the opinion expressed by the High Commissioner of the League of Nations, in a note addressed to Poland and Danzig, on August 21st last. General Haking had stated that no Government could allow explosives to be handled in any commercial port. The handling of explosives should take place in a spot sufficiently remote to prevent any kind of danger to individuals, to property or to the commercial prosperity of the inhabitants. There was no such spot in the port of Danzig, which only included the Vistula and one or two basins. "If I were not bound by the Treaty," said the High Commissioner, "I should never have signed the decision at which I have arrived."

Dr. Sahn cited the precedent of the regulations in force among the various maritime nations on the subject of the handling of explosives. Which were the more important, Poland's rights under the Treaty, or the fundamental principles of civilisation? The question at issue was the protection of the City of Danzig against a very considerable danger, even the preservation of the port in which Poland was just as interested as the Free City.

He wished also to recall the fact that, as a result of the Council's decision of June 23rd, 1921, an agreement had been made between Poland and Danzig to fix upon a suitable spot for the unloading of munitions. This site had to be sufficiently remote — as remote as possible — from all dwellings, and it was left to the Harbour Board to determine the necessary measures for the safety of the Free City. The two parties were not at the time able to agree on the proposal of the French representative on the Council, which suggested the Holm Island as the most suitable site. He himself had protested against the choice of the island, and Poland and Danzig had finally agreed to leave to the Harbour Board the task of choosing a suitable site.

The President of the Harbour Board had made the following statement

"It would appear that there is not, on the banks of the Vistula, any locality which is utilisable in practice and sufficiently remote from dwellings, which fulfils the conditions laid down in the agreement of June 22nd, on which explosive materials imported by the Polish Government can be stored."

No one acquainted with the situation can possibly accept responsibility for a munitions depot on the Holm Island, which was in the middle of the City and between three shipyards, in which ten thousand workpeople were employed.

In his statement, the representative of the Polish Government had declared that, when Danzig was part of the German Empire, there were munitions depots there. On this subject it would be well first to remark that the Council of the League of Nations had decided that Danzig must be neither a military nor a naval base. Further, during the period referred to by M. Askenazy, there were only small quantities of munitions in Danzig, which were handled in casemates far from the centre of the City. During the war, the German Government had constructed a munitions park at Kokochken, far away from the town and outside the existing frontiers of the Free City.

Both the President of the Harbour Board and the High Commissioner of the League of Nations had proposed that Poland should handle explosives in the Polish war harbour of Gdingen. Poland had refused, on the ground that the harbour was not sufficiently large. He could not understand how the President of the Danzig Harbour Board, who was well acquainted with the port of Gdingen, could have made a proposal which, from a technical point of view, was impracticable.

It should also be observed that all the expenses of any new installation for this purpose should be borne by Poland, since, according to the Treaty concluded with Poland, Danzig had to put its port at the disposal of Poland in its existing condition. Danzig and Poland had never agreed to divide expenditure, except with a view to alterations made for commercial purposes.

Finally, the Polish Government must be responsible for any explosions which might happen. When explosions occurred, it was always impossible to prove whether a fault had been committed by anyone, as all concerned were generally killed. Such explosions had recently been very frequent and had caused much loss of life. Should Danzig be left in such danger when she was under the protection of the League of Nations?

Dr. Sahn stated that he had often compromised with Poland, but in this matter no compromise was possible. He urged the Council to decide as follows

- (1) That the establishment of a depot for explosive material at Danzig was not authorised.
- (2) That for all other war material, the site should be selected which had been originally proposed by the Harbour Board.
- (3) That the expenses of the installation of this site should be borne by Poland.
- (4) That all necessary precautionary measures should be taken by the Harbour Board in agreement with the Government of the Free City
- (5) That cases of dispute should be settled by the President of the Harbour Board, or, on appeal, by the High Commissioner of the League of Nations.

M. ASKENAZY, in reply to Dr. Sahn, recalled the text of the agreement concluded at Geneva on June 22nd, 1921, under the auspices of the League of Nations

“ The special Committee appointed by the Council on June 22nd agreed to the following declaration, of which the Council took note

“ The Delegate of the Polish Republic and the President of the Senate of the Free City of Danzig, as representative of the Free City, have agreed on the following principles

“ That a special site on the banks of the Vistula shall be placed at the disposal of the Polish Government for the unloading, temporary storage and despatch to Poland of war material in transit..... ”

It was thus clear that a site had been granted for war material in general, and it was equally clear that explosives were included under war material.

The question of explosives had a twofold importance for Poland. In the first place, Poland's national safety was at stake, and it was well known that her geographical situation obliged her to think constantly of her national safety

In the second place, the question was one of the greatest importance for Polish industry, notably for the mining industry, which used considerable quantities of explosives.

The question had been settled once for all by the Treaty of Versailles. In ensuring for Poland the free transit through Danzig of war materials, the Peace Conference was thoroughly alive to the fact that this operation would entail certain risks, but it also took account of the fact that such transit could only be ensured through the port of Danzig. The so-called port of Gdingen, alluded to by Dr. Sahn, was only a fishing village.

The question of principle, which had been settled by the Treaty of Peace and by the Treaty of November 9th, 1920, could not now be raised. The present necessity was to find a practical solution, not to abolish the danger to the Free City, for such danger would always exist, but to reduce it. This was what the Council had decided by its resolution of June 23rd, 1921, and this was the object of the High Commissioner in his decision of April 7th, 1922, which Poland had accepted, in principle, with the one or two minor reservations mentioned in his previous statement.

General HAKING pointed out that he had already given his view that the two questions at issue could not be settled by agreement between the parties concerned. In these circumstances, the President of the Senate of the Free City had rightly insisted on the matter being brought before the Council. He was right to urge that all possible steps should be taken to avoid danger to the lives and property of the inhabitants of the Free City

General Haking observed that, in his decision of April 7th, 1922, he had endeavoured to set forth the arguments on each side, and to state clearly both the dangers involved and the rights of Poland. But he had found himself faced with two facts which were irreconcilable

- (1) There was no safe place for munitions in the Free City
- (2) The Treaty of Versailles specifically allowed the Polish Government to import war material, including explosives, through the Free City

In these circumstances, he had thought that the only course was to choose another place. As a temporary expedient, he had placed at the disposal of the Polish Government a portion of the Holm Island. The site was to remain the property of the Harbour Board, but would be leased to Poland free of rent or any other charge.

He had further suggested that the Polish and Danzig Governments should enter into negotiations to build a channel and basin on the eastern side of the dead Vistula, near its mouth, each Government paying half of the cost.

It would now appear that the Polish Government contended that there was not sufficient space on the site chosen. The site had been selected for the following reasons

(1) Because the Polish experts consulted had given an opinion that the site was suitable.

(2) Because the site was in an isolated spot, almost entirely cut off by water from the Free City.

(3) Because, in his judgment, there was ample space on the site chosen for any war material which the Polish Government might require to store in transit.

The danger involved in a site on the Holm Island was of two kinds.

There was, first, the material danger. An explosion might spread fire to neighbouring warehouses and dwellings, and might damage adjacent wharves and railways. Moreover, many of the houses bordering on the Vistula were built on piles, and were, therefore, insecure. Further, there would be a danger that ships in course of construction would be blown off their slips and be sunk.

There was also what might be called the commercial danger. The Consuls of almost every country represented at Danzig had informed him that the presence of explosives in the Free City would have a deleterious effect upon its foreign trade. Insurance rates would be higher for goods in transit through the Free City than for goods in transit through, *e.g.*, Stettin or Königsberg.

He had, therefore, chosen the expedient of a temporary site, pending the building by the two Governments concerned of a basin, under proper safeguards, and in a suitable locality.

Viscount ISHII proposed that the Council, after having heard the observations of both parties, should think about the matter until the next day.

The Marquis IMPERIALI stated that the High Commissioner's declaration was further proof of his impartial and practical point of view.

The Council was faced with two equally unchallengeable rights — Poland's right to ensure for herself, in accordance with the Treaty, the importation of war material and the equally sacred right of the Free City of Danzig to protect the lives and industry of its inhabitants. The question became, therefore, a purely technical one, and General Haking's proposed solution was, as always, most just and reasonable.

Who should bear the expense of the new installation? Since Poland had a right to a site guaranteed to her by the Treaty, and since the Free City of Danzig could not, for reasons outside its control, furnish Poland with an acceptable site, there was matter for consideration. Poland might possibly invoke certain considerations of equity, in declining to pay the expenses occasioned by the preparation of a site.

The above question was a doubtful one. With this reservation, he entirely agreed with the proposals of the High Commissioner.

M. HYMANS recalled the fact that the High Commissioner had urged that the installation charges should be borne in equal proportions by Poland and the Free City.

M. ASKENAZY maintained that Poland could only agree to bear her portion of the expenditure involved on condition of compensation in the shape of the definitive allocation to her of the basin of the Island of Holm as a *port d'attache* for Polish war-vessels.

Viscount ISHII believed that the Council wished to take an immediate decision. He proposed that the High Commissioner's decision should be confirmed.

M. HANOTAUX supported Viscount Ishii's proposal, but he called the attention of the Council to the reservations made by M. Askenazy. The reservations on the subject of a *port d'attache* and of a subsequent site were questions for the future, upon which the Council could not at the moment take a decision.

M. HYMANS pointed out that the reservations concerned rather the practice than the principle of the question. They were reservations for the future.

Dr. SAHM stated that the representative of Poland had on several occasions protested before the Council against any connection being made between the question of a *port d'attache* and the question of munitions. The representative of Poland was now himself confusing the two questions.

As regards the question of expense, he pointed out how impossible it would be to make the citizens of Danzig agree that the cost of the installation of a munitions depot, which would be dangerous to the City, should be borne by them. He insisted on the fact that his question as to whether the written right of Poland or the rights of humanity should preponderate had not been answered.

The PRESIDENT, after consulting his colleagues, declared that *the decision of the High Commissioner was confirmed.*

M. HANOTAUX thought that the explanations and reservations which had been made by M. Askenazy in the course of the discussion, and which would appear in the Minutes, should serve for guidance for the procedure contemplated.

The MARQUIS IMPERIALI wished the Council to add that, in everything concerning the execution of its decision, it relied on General Haking's well-known spirit of justice and impartiality.

The PRESIDENT expressed the thanks of the Council to General Haking for his beneficent activities at Danzig.

(M. Askenazy Dr. Sahn and General Haking then withdrew.)

744. Repatriation of Prisoners of War.

On behalf of Dr. Nansen, the SECRETARY-GENERAL read a report on the repatriation of prisoners of war (Annex 400), in which it was stated that Dr. Nansen had been able to bring to a satisfactory conclusion his work in this connection on behalf of the League of Nations.

In view of the last paragraph of the report, in which Dr. Nansen, after expressing his deep indebtedness to all the organisations and individuals which had helped him in his task, made special mention of the assistance given him by the International Red Cross Committee, the Secretary-General suggested that the Council might perhaps think it desirable to bring this paragraph to the notice of the International Red Cross Committee, and to add its own thanks to those of Dr. Nansen.

M. HANOTAUX wished to add his thanks to those of Dr. Nansen.

He wished also to point out that Dr. Nansen had left himself out of account. The Council should take this last opportunity of stating that he had distinguished himself as much in his great works of charity as in the cause of science. Numberless families owed him a debt of gratitude in view of his work.

If there were any compensation for the evils of war, it was that war gave rise to great virtues. Dr. Nansen had been an embodiment of the great virtues of courage and charity. The work of repatriation was one of the greatest achievements of the League of Nations, and Dr. Nansen had most worthily executed it.

The Council agreed to transmit to the International Red Cross Committee the last paragraph of Dr. Nansen's report and to add an expression of its own gratitude.

It was further agreed to express to Dr. Nansen the deep gratitude of the Council for the great work which he had accomplished.

745. Russian Refugees.

On behalf of Dr. Nansen, the SECRETARY-GENERAL read a report (Annex 401) on the work accomplished since the last session of the Council in connection with Russian refugees.

He added that Dr. Nansen, who would shortly arrive in Geneva, hoped to be able to develop and amplify this report before the Assembly.

The Council noted the High Commissioner's report.