

ANNEX 299.

THE FREE CITY OF DANZIG.

CONSTITUTION OF THE FREE CITY.

AMENDMENT CONCERNING THE TERM OF OFFICE OF THE SENATORS.

Report by Viscount Ishii, and Resolution adopted by the Council on January 12th, 1922.

On June 22nd, 1921, the Council adopted a report which included the text of a clause to be inserted as an amendment in the Constitution of the Free City of Danzig. This clause concerned the term of office of the President and of the seven other principal Senators of the Free City. As the Council has already been informed in documents circulated by the Secretary-General, a draft law to amend the Constitution with regard to this matter, which was introduced into the Danzig Popular Assembly by the Senate, has not yet been approved by the Assembly. As explained in the letter dated December 31st, 1921, from the President of the Danzig Senate, the quorum provided for by the Constitution, which must represent at least two-thirds of the elected representatives of the Assembly, could not be obtained for the vote on this amendment when it was brought up for consideration on December 31st, 1921. According to his statement, certain groups in the Assembly obstructed the passage of the amendment because they desired more far-reaching changes in the Constitution. Further statements with regard to this matter by members of the Popular Assembly, which were forwarded to the Secretariat of the League of Nations through the High Commissioner by the President of the Senate, have also been brought to my attention.

I have examined the text of the draft law for the amendment of the Constitution which was circulated in Document No C. 31. M. 6. 1922. I. I have compared it with the text adopted by the Council on June 22nd, 1921, and I believe that the Council will have no objection to raise to the draft law as submitted by the President of the Danzig Senate, and that we can therefore authorise the High Commissioner to give his final approval to the Constitution, as provided for by Article 103, paragraph 1, of the Treaty of Versailles, as soon as this draft law has been finally enacted into law as an amendment to the Constitution.

I trust, moreover, that the Free City of Danzig will take advantage of this further opportunity which is given to it to settle this question at an early date, so that the High Commissioner may be able to inform the Council at the next session that his final approval has been given to the Constitution.

I beg, therefore, to propose the following resolution

RESOLUTION.

“The High Commissioner of the League of Nations in Danzig is authorised to give his final approval, in accordance with Article 103, paragraph 1, of the Treaty of Peace of Versailles, to the Constitution of the Free City of Danzig when the draft law concerning the term of office of the Senators which was annexed to the letter of November 14th, 1921, from the President of the Senate, shall have been enacted into law as an amendment to the Constitution.”

ANNEX 300.

FREE CITY OF DANZIG.

THE POLISH-DANZIG AGREEMENT OF OCTOBER 24th, 1921.

Report by Viscount Ishii, and Resolution adopted by the Council on January 12th, 1922.

In a letter of November 11th, 1921, the High Commissioner of the League of Nations in Danzig forwarded a copy of an Agreement signed in Warsaw on October 24th, 1921, between the Polish and Danzig Governments to execute and complete the Treaty between these two countries dated November 9th, 1920. A translation of the table

of contents of the agreement and a statement setting forth certain observations made by the High Commissioner have been circulated to the Council by the Secretary-General. Since that time the Secretary-General has received from the Government of the Free City through the High Commissioner the text of an addition to the Agreement of October 24th, which was dated December 21st, 1921. I understand that the Agreement with the addition to it was ratified on December 31st, 1921. I have considered in a separate report the question of the acquisition and loss of nationality in the Free City, which is dealt with in the first part of the Agreement.

It is not the duty of the Council to examine the many technical details of this lengthy Agreement. We have only to consider how it affects or may affect the status of the Free City. This status and the position of the League with regard to it were explained in my report of November 17th, 1920, and I beg to call your attention to the special provisions of paragraph 3 of the resolution of the same date, which states that no modification contrary to the status of the Free City shall be introduced into the Polish-Danzig Treaty of November 9th, 1920, without the previous assent of the League.

The High Commissioner has made certain observations with regard to the Agreement and it has been examined by the Legal and Administrative Commissions Sections of the Secretariat.

The High Commissioner draws particular attention to the stipulations of Articles 236 and 241 which were quoted in the Council document on this subject. These Articles provide that in certain cases a decision by the High Commissioner under Article 39 of the Treaty of November 9th, 1920 (dealing with the settlement of differences between Danzig and Poland through decisions by the High Commissioner and appeals to the Council of the League) shall not be given.

It will be seen that Article 236 does not prevent the Free City of Danzig from applying Article 39 of the Convention of November 9th, 1920. It only declares that if the Free City obtains certain decisions under Article 39, the Polish Government will have the right to denounce the section of the Agreement on which there is a difference of opinion. It seems that the stipulation of Article 236 does not interfere with the application of the stipulation of Article 39.

Article 241 records that the Agreement will be binding upon the two parties until October 1st, 1931. Until that date it cannot be altered even by a decision of the High Commissioner of the League without the consent of the two Parties. After that date either of the two Parties can move an amendment and, if this is not accepted by the other Party, can ask for the decision of the High Commissioner under Article 39. The High Commissioner expresses the view that it would be a mistake to enable one of the two Parties to block negotiations with a view to amending the Agreement for a period of 10 years, and that the Free City should be at liberty to bring up, for consideration by the League of Nations, its desire for amendments at any time, under Article 39. It seems, however, difficult to interpret Article 39 so that Poland and Danzig would be prevented from entering into binding agreements, not inconsistent with the status of the Free City, covering such a period of years. The period of ten years does not in itself seem excessive for an agreement of this kind, and the stability of the relations between Danzig and Poland might be seriously endangered if either Party had the right at any time to ask the League of Nations to consider its request for an alteration.

It appears that no time limit has been fixed for the Council to give its opinion with regard to this Agreement. If experience should show that execution of the Agreement leads to consequences quite unforeseen by the two Parties and contrary to the status of the Free City, the League will be entitled to intervene.

I beg to propose the following Resolution

RESOLUTION.

“ The League of Nations takes note of the Polish-Danzig Agreement of October 24th, 1921, as forwarded to the Secretary-General by the High Commissioner on November 11th, 1921. ”