

“Article VII.

“The opinion of the Technical Committee or experts appointed in accordance with the above procedure shall be given in writing and communicated to the High Commissioner through the Secretary-General. The High Commissioner shall communicate it to the two parties and shall consider the question whether, in view of the opinion given, an agreement could be reached which would render it unnecessary for him to give a decision on the dispute.

“If an appeal is lodged against the High Commissioner’s decision after he has consulted a Technical Committee or experts appointed in accordance with the above procedure, he shall communicate the opinion of the experts to the Secretary-General together with the other relevant documents.

“Appeals against the High Commissioner’s decision, together with the reasons for the appeal, must be lodged with him within forty days from the date on which the decision was notified in writing to the representative of the party in question.

“An appeal against the High Commissioner’s decision shall be placed on the agenda of the first Council session beginning not less than forty days after the Secretary-General has received the appeal and the reasons therefor. In cases of extreme urgency the President of the Council may place the appeal on the agenda even if the condition regarding the period of forty days has not been observed.

“If the Council is in agreement with the above Rules of Procedure, I beg to propose the adoption of the following resolution.

“The Council adopts the present report, approves the proposals contained in Articles I-VII of the report, and requests the Secretary-General to take the necessary steps to carry these articles into effect. ”

M. STRASBURGER, representative of Poland, expressed the hope that the new procedure would contribute to a large extent to diminishing the number of disputes, which were often technical and local in character. The opinion of the Technical Committees of the League of Nations would be especially useful. The experts on these Committees were familiar with the questions dealt with at Danzig.

He would also emphasise the importance of the last paragraph of Article II of the new regulations concerning the matters to be dealt with by decisions of the High Commissioner. He hoped that this provision would enable any misunderstanding to be avoided in future.

As regards the meetings with the High Commissioner, the Polish authorities were prepared to delegate representatives, as they were convinced that the rules laid down in the decision of the Council of July 7th, 1923, would be observed.

He would like to thank the Rapporteur for the care he had taken in framing the proposed procedure.

M. SAHM, representative of the Free City was happy to state that the Government of the Free City of Danzig had no observations to make on the draft report which had been submitted to the Council. He accepted the report in its entirety

The report and resolution were adopted.

1516. Free City of Danzig. Polish Postal Service in the Territory of Danzig. Advisory Opinion of the Permanent Court of International Justice.

The PRESIDENT, Rapporteur, read the following report and resolution.

“I.

“On March 13th, 1925, the Council addressed a request to the Permanent Court of International Justice for an advisory opinion on certain questions concerning the Polish postal service at Danzig¹

“It may be well briefly to recall the facts of the case. According to the treaties, Poland is entitled to establish a postal, telegraph and telephone service in the port of Danzig communicating directly with Poland. For the purposes of this service, Poland possesses premises in the Heveliusplatz at Danzig. On January 5th, 1925, Poland set up letter-boxes at various points outside the premises of the Heveliusplatz. These letter-boxes were intended for the reception of correspondence to be sent to Poland by the Polish postal service. Poland also claimed to be entitled to distribute correspondence coming from Poland outside the Heveliusplatz premises. On February 2nd, 1925, the High Commissioner, before whom the question had been laid by the Danzig Senate, gave a decision in which he stated that the points under dispute had been finally settled by certain decisions of his predecessor, General Haking. Poland appealed to the Council against this decision of the High Commissioner.

“The incident having assumed a certain importance in the eyes of the public, the Council decided to submit the following questions to the Court for an advisory opinion.

“I. Is there in force a decision of General Haking which decides, in the manner stated in paragraph 18 of the present High Commissioner’s decision of February 2nd, 1925, or otherwise, the points at issue regarding the Polish postal service, and, if so, does

such decision prevent reconsideration by the High Commissioner or the Council of all or any of the points in question ?

“2. If the questions set out at (a) and (b) below have not been finally decided by General Haking:

“(a) Is the Polish postal service at the port of Danzig restricted to operations which can be performed entirely within its premises in the Heveliusplatz, or is it entitled to set up letter-boxes and collect and deliver postal matter outside these premises?

“(b) Is the use of the said service confined to Polish authorities and officials, or can it be used by the public ?

“The Court met in extraordinary session on April 14th, 1925, and on May 16th gave its reply to the questions submitted by the Council. In Document C.270.M.101.1925.V., the Secretary-General communicated the Court's advisory opinion to the Council. This opinion reads as follows:

“1. That there is not in force any decision of General Haking which decides in the manner stated in paragraph 18 of the present High Commissioner's decision of February 2nd, 1925, or otherwise, the points at issue regarding the Polish postal service.

“2. That, within the port of Danzig:

“(a) The Polish postal service is entitled to set up letter-boxes and collect and deliver postal matter outside its premises in the Heveliusplatz, and is not restricted to operations which can be performed entirely within those premises;

“(b) The use of the said service is open to the public and is not confined to Polish authorities and officials.

“I presume that the Council will agree to adopt the opinion expressed by the Court.

“ II.

“In the arguments contained in its opinion, the Court emphasises that Poland's postal rights are confined to the port of Danzig and that the practical application of the Court's replies depends on where the boundaries of the port are fixed.

“The Court says:

“The mere fact that, under Article 168, No. 1(b), the parties had in view the conclusion of special arrangements for private persons as well as for Polish authorities and offices outside the limits of the port shows, that failing such arrangements, the field of activity of the service is confined to the limits of the port, and that the service is only intended for the use of the public in the port. In actual practice it is, of course, hardly possible to prevent the public outside the port from making use of the service, but, in the matter of distribution outside the post office and delivery within it, an effective control can be exercised.

“The Court pointed out that the limits of the port considered as a Polish postal area have not been fixed and that it has not been invited to define and delimit the port of Danzig. Nevertheless, it reviews the principles of this question in its arguments and states that the right conferred on Poland by the terms of international agreements is the right of holding communication with the port of Danzig in the territorial sense of the term.

“The Court makes the following remarks on this point:

“Since the Court is of opinion that the port in the postal sense is not a personal entity comprising certain authorities and offices or categories of persons, as contended by Danzig, and that the Polish postal service is not limited to operations inside the building in the Heveliusplatz, it is essential to indicate why the Court considers the port of Danzig as a territorial area.

“Besides the fact that the expression “the port of Danzig” conveys, as ordinarily used, the notion of a territorial and topographical entity both the Paris Convention and the Warsaw Agreement use in several instances the expression. *dans le Port (im Hafen von Danzig)*, and particularly in Article 168 of the above-mentioned Agreement there is a specific mention of arrangements to be concluded concerning the relations between Polish post, telegraph or telephone offices in the port with addresses or Polish authorities and offices outside the port, (b) and (c), or with Polish authorities and offices which are in Danzig outside the port (168 (d)).

“These distinctions prove, whatever interpretation may be put upon Article 168 as a whole, that in the opinion held by the contracting parties in 1921 the port of Danzig is regarded as a territorial area lying within the territory of the Free City. This conclusion is confirmed by the wording of certain other provisions of the Warsaw Agreement, *e.g.*, its Article 240.

“In my opinion, we should take the considerations put forward by the Court as our guide in deciding upon a permanent solution of this problem.

“ III.

“The Council has now to consider how to fix the boundaries of the port from the point of view of the Polish postal service.

“Proposals regarding the fixing of the exact boundaries of the port can hardly be made until an investigation has been carried out on the spot by persons perfectly acquainted with local conditions and with the technical aspect of the question. The Council might ask the High Commissioner of the League of Nations at Danzig to lay before it proposals to that effect. The High Commissioner will, however, certainly find it necessary to have recourse to experts. In order to lose no time, it would perhaps be better at once to ask the Chairman of our Advisory and Technical Committee for Communications and Transit, in agreement with the Council's Rapporteur, to appoint three experts to consider the question, at least one of whom should have special knowledge of postal questions; another of these experts might be the former President of the Danzig Harbour Board, Colonel de Reynier, who acquired great experience during his four years' service at Danzig, and who possesses detailed knowledge of all matters connected with the port. The experts should then submit their proposals to the Council through the High Commissioner.

“I venture to propose to the Council the following draft resolution.

“The Council.

“1. Adopts the opinion given by the Court on May 16th, 1925, regarding the question of the Polish postal service at Danzig.

“2. Decides that the boundaries of the port of Danzig shall be traced for the purposes of the Polish postal service with due regard to the considerations put forward in the opinion of the Court.

“3. To this end, invites the Chairman of the Advisory and Technical Committee for Communications and Transit, in agreement with the Council's Rapporteur, to appoint three experts, who will be asked to submit to the Council for consideration at its next session, through the High Commissioner, proposals regarding the delimitation of the port of Danzig, in conformity with paragraph 2 of the present resolution.

“4. The expenses of the mission of experts shall be borne in equal parts by the two Parties. The Secretary-General is authorised to advance the necessary sums from the Working Capital Fund, in conformity with Article 33, paragraph 2, of the Regulations concerning the financial administration of the League of Nations, and to ask the two Governments to refund these expenses.”

The Rapporteur added that, after drafting the report, he had received certain observations from the Free City of Danzig and from the Polish Government dealing in particular with the question of what exactly was meant by the port of Danzig. These observations had been communicated to all the Members of the Council by the Secretary-General. He had examined them carefully but had come to the conclusion that he ought not to modify his report. He was of opinion that the observations of the two parties should be included in the dossier to be communicated by the Secretary-General to the experts.

The representatives of the two parties and his colleagues would, no doubt, wish now to present their views, which would be communicated to the experts, who would not fail to take account of all the documents in the case.

M. SAHM read the following statement:

“Since the Rapporteur has proposed that the Council should confirm the advisory opinion of the Permanent Court of International Justice at The Hague, I will confine myself to-day to dealing only with those questions which have not been settled by the advisory opinion.

“In the first place, the question of the delimitation of the port of Danzig must be considered. Danzig, while following the principles laid down by the International Court in its advisory opinion in regard to the meaning of the *res judicata*, must nevertheless lay stress upon the fact that the High Commissioner has already given a legally valid pronouncement regarding the limits of the port

of Danzig. In the decision of May 25th, 1922, the legality of which has never been contested, the High Commissioner says, in the operative part of his decision, paragraph 15, sub-paragraph 1.

“ I decide therefore

“That Danzig must provide Poland with the means of establishing a postal, telegraph and telephone service *in the vicinity of the port of Danzig*, if possible, in one building, but in any case in one or more adjacent buildings.

“The exact interpretation of this passage in the operative portion of the decision must be sought in paragraph 8 of the statement of reasons. The interpretation of the operative portion of the decision by means of the relevant statement of reasons is admissible also in the opinion of the Permanent Court.

“It is therefore laid down that the Polish postal service may be established in the vicinity of the port of Danzig. Subsequently the Polish postal service was established in a building on the Heveliusplatz near the port. By accepting the decision of May 25th, 1922, the Polish Government recognised that the term ‘port of Danzig’ in its territorial sense does not include the building on the Heveliusplatz, which is in the centre of the town of Danzig. At the time when he gave his decision of May 25th, 1922, the High Commissioner was aware of the Polish Government’s intention to establish a Polish postal service in the building on the Heveliusplatz. There exists therefore a legally valid decision recognised by Poland that — contrary to the view now adopted by the Polish Government — the term ‘port of Danzig’ in its territorial sense does not include the centre of the town of Danzig.

“Moreover, in accordance with the provisions of the relevant treaties the Polish contention is not well founded. The Treaty of Versailles draws a distinction between.

“The Free City of Danzig,

“The City of Danzig, and

“The Port of Danzig,

“The City of Danzig and the Port of Danzig are therefore not identical.

“In the Treaty concluded at Paris on November 9th, 1920, on the basis of Article 104 of the Treaty of Versailles and in execution of that article, the terminology is uniform throughout, and so is the meaning given to the term *port of Danzig*. This is the port which is placed under the administration of the Harbour Board. It is clear that this port must be limited to the waters of the harbour and to the area belonging to it for technical requirements.

“In its notes submitted to the Council on June 2nd and 9th, 1925, the Danzig Government enumerated certain other points which urgently require settlement in order to avoid differences of opinion in the future concerning the operation of the Polish postal service.

“Before concluding this statement, I feel I must quote verbatim the following passage from the advisory opinion of the Permanent Court of International Justice at The Hague:

“‘If General Haking had felt himself constrained to give a decision upon the points now at issue, he very probably would have settled them in conformity with Danzig’s contention.

“The population of the Free City holds the view that it has a moral right to claim that its economic interests should not be prejudiced by too wide an interpretation of the Treaty and that such an interpretation should not cause the Free City of Danzig harm in other directions, the extent of which it is at present impossible to estimate.”

M. STRASBURGER said that the Polish Government entirely accepted the advisory opinion of the Permanent Court of International Justice. He would confine himself to noting that this opinion finally decided not only the question of the postal service at Danzig but it also settled a large number of very serious legal questions. This would contribute, he hoped, to an improvement in the relations between the two Governments, which the Polish Government desired to base on the principles of right and justice.

As regards the boundaries of the port, he would venture to point out that there were two ideas; either a port was an area of water, or it was a town situated on the edge of the water. These were two explanations of the term, which were found in all encyclopædias. In the present case, the question was whether the Polish post was established in order to serve the area of water or to serve the public which inhabited the town. Here again the agreements and the advisory opinion of the Permanent Court contained a reply.

The advisory opinion said that the post was installed for the public which inhabited the port. If the post were installed for the public which inhabited the port, the post ought to be in the same place as the public, and not elsewhere. It would be illogical to accept any other explanation of the term “port”. He would venture, however, to point out that, on the pieces of land which were administered by the Harbour Board and which had been mentioned by the President of the Senate of the Free City, there lived one or two officials or watchmen of the Harbour Board, but it was not for these officials that the post at Danzig had been installed, as was shown by all the treaties and by the advisory opinion of the Permanent Court.

President Sahm had referred to the opinion which stated that, if General Haking had settled the question, he would have settled it according to the contentions of the Free City. The advisory opinion of the Permanent Court, however, set aside the views of General Haking.

He thought it would be useful, in order to hasten the work of the Committee, to give certain indications to the experts who were to define the boundaries of the port. He must state, however, that the question appeared to him to be so simple and so logical that the experts could not accept any other explanation of the term "port" than that which was found in the treaties which had granted the postal service to Poland.

He hoped that the experts, in settling the question, would take into account all the technical and economic factors which affected the activity of the port and also the objects for which the treaties had granted to Poland the right to instal a postal service in the port of Danzig.

Mr. MACDONNELL said he only wanted to ask one question for his personal guidance in reference to an observation made by the Polish representative, and that was whether, in effect, the advisory opinion of the Court settled any other point than that submitted to it.

The PRESIDENT said that the opinion of the Court dealt only with the question which had been submitted to it.

M. HYMANS agreed.

Mr. CHAMBERLAIN said he understood the Court to have included in its advice an expression of opinion that the definition of the port given for other purposes did not define the port for the purpose of the postal service. The Court did not say what the port for the postal service should be, it had not been asked to do so. That would be a task for the experts.

Mr. MACDONNELL said that his question was really more general than that. The Polish representative had said that the advisory opinion settled legal points between the two Parties, and he wanted for his guidance in the future to know whether the Council was of the opinion that the Court had settled any other points than that submitted to it.

M. STRASBURGER said that he entirely agreed with the opinion of the British representative, namely that the opinion of the Permanent Court at The Hague did not exhaust the question of the definition of the port. The decisions of the High Commissioner, moreover, and particularly that of May 25th, 1922, had no bearing on the present question.

When he had said that the opinion of the Permanent Court settled other questions, he had meant that the Permanent Court had dealt with certain legal questions of considerable importance. It had, for example, formulated an opinion on the question whether the arguments on which the decisions of the High Commissioner were based were binding on the parties or not.

These were questions of a purely legal character, which had no relation to the question of the definition of the port now under discussion.

M. SAHM said that he could not associate himself with the declaration of the British representative, as the Court had not included in its report an expression of opinion that the definition of the port given for other purposes had not defined the port for the purpose of the postal services. The Court had only stated that the decision of the High Commissioner concerning the railway question did not apply to the question of the port of Danzig. He agreed with the representative of Poland that, according to the opinion of the Permanent Court, the question of the definition of the port of Danzig remained open.

Mr. CHAMBERLAIN agreed. He had expressed himself more widely but he agreed.

M. UNDEN did not think that it was necessary to give a more definite reply to the question put than by saying that the experts should take into account the arguments given in the opinion of the Court. He suggested to the Rapporteur that it would perhaps be advisable to appoint a jurist among the three experts, seeing that the problems raised had unquestionably a legal aspect.

The PRESIDENT proposed to add a jurist to the three experts mentioned in the report.

This proposal was adopted.

M. HYMANS observed, in regard to the question raised by the High Commissioner, that the opinion of the Court settled only the questions which had been submitted to it.

Moreover, the arguments given in this opinion contained various legal observations, but these observations could not be considered as having the value of decisions. Accordingly they settled no question. They were interesting considerations which could be taken into account, but they had no binding force. This would be his reply to the observations of the High Commissioner.

M. PAUL-BONCOUR said that the Permanent Court at The Hague had dealt with only one definite point. The Council had adopted the opinion of the Court on this point and no further discussion of it was possible. On the other hand, the Court had undoubtedly left open the question of the boundaries of the port, and in regard to this point he associated himself with the observations of the President of the Senate of Danzig.

The Court, however, had supported its opinion with a certain number of arguments which,

although they had no obligatory force, nevertheless contained extremely valuable indications in view of the high authority of that body.

The Court had noted that it was impossible to limit the rights of the Polish postal service to what might be called the area of the harbour waters. Here he agreed with the observations made by the Polish delegate.

The Court considered that the expression under discussion could refer only to a territorial conception and that, therefore, when the treaties or agreements referred to the port of Danzig and the rights, postal or others, attaching to the port, these expressions could only refer to a territorial district.

The Court based this assertion upon three kinds of arguments:

First, it quoted the current meaning of the word "port" which did not merely define the surface of the water in the port but also the necessary services surrounding the water.

The second argument was based on the idea in accordance with which the port of Danzig had been constituted, an argument which was quite independent of politics. The port had been constituted for purely economic reasons, and had been set up owing to the necessity of enabling Poland to use the harbour. Certain consequences followed from this necessity in regard to the railway and postal services.

The third argument on which the Court based its opinion was to be found in the texts of the Treaty of Paris and the Agreement of Warsaw, in which the expression "*dans le port*" was used ("*im Hafen von Danzig*").

The opinion of the Court, based on these three arguments, emphasised very clearly that the expression "port of Danzig" only referred to a territorial district, and consequently to a district within the town of Danzig.

These considerations appeared to him to be of great importance.

As regards the boundaries of this district the Court had not given any opinion, and had declared that it had not the necessary information enabling it to form any opinion. It was in order to fix these boundaries that an expert enquiry was necessary

M. HYMANS agreed.

M. PAUL-BONCOUR said that, according to the opinion of the Court, a territorial district was necessary in the Free City in order to enable Poland to exercise the rights which she was recognised to possess, and to ensure the working of the services above mentioned. It was in regard to the boundaries of this district that the experts would be able to furnish indispensable information.

The PRESIDENT said that the Council was agreed on the matter. He associated himself completely with the opinion which had been expressed by the French representative.

He would venture to add that these views were those which had guided him in drafting the report.

The resolution proposed by the Rapporteur was adopted, with the modification that a jurist should be added as a fourth expert.

1517. Free City of Danzig Delimitation of the Polish Munitions Depot in the Danzig Harbour.

The PRESIDENT, Rapporteur, said that the Council at its first meeting had asked him to examine this question, which the High Commissioner had suggested by telegram should be placed on the agenda, and to decide whether it was possible for the Council to deal with it during the present session. He had received the documents late, and one of the parties had informed him that it was not ready to discuss the question.

In these circumstances, he did not think it was possible for the Council to deal with it at that moment, and the question must take its natural course according to the ordinary procedure.

Agreed.

M. Strasburger, M. Sahn and Mr. MacDonnell withdrew.

1518. Work of the Financial Committee during its Eighteenth Session.

M. HYMANS, Rapporteur, read the following report and resolutions

"The Council has been informed of the work of the Financial Committee in connection with the financial reconstruction of Austria and Hungary by the special committees dealing with these questions.

"The Financial Committee's agenda included two problems in connection with Danzig (see Report of Financial Committee, Annex 774). The first concerns the municipal loan which has been successfully issued since the Council's last session. The Committee recommends the Council to accept the arbitration duties provided for in certain clauses of the General Bond between the lenders and the banks; the Council will doubtless agree to accept these duties.

"The second problem concerns the external obligations of the Free City of Danzig to the Conference of Ambassadors. The Council will observe that two of these obligations can probably