



Treaty Series No. 10 (1949)

Agreement

between the Government of the United Kingdom
and the Polish Government

relating to Money and Property
subjected to Special Measures
since 1st September, 1939

[With Annex]

Warsaw, 14th January, 1949

*Presented by the Secretary of State for Foreign Affairs to Parliament
by Command of His Majesty*

LONDON
HIS MAJESTY'S STATIONERY OFFICE
TWO PENCE NET

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM AND THE POLISH GOVERNMENT RELATING TO MONEY AND PROPERTY SUBJECTED TO SPECIAL MEASURES SINCE 1ST SEPTEMBER, 1939

Warsaw, 14th January, 1949

The Government of the United Kingdom of Great Britain and Northern Ireland and the Polish Government,

Desiring to conclude an Agreement to facilitate the restoration of money and property situated in Poland or in the United Kingdom, as the case may be, and belonging to United Kingdom and Polish persons respectively,

Desiring also to provide for the resumption of normal financial and commercial relations between persons in the United Kingdom and persons in Poland,

Have accordingly agreed as follows:—

Part I.—Scope and Object

Article 1

(a) In this Agreement—

- (i) the expression "Polish persons" means individuals and corporations of any nationality now resident or carrying on business in territory now under Polish authority, whose money or property was subjected in the United Kingdom to special measures as hereinafter defined solely by reason of their then being resident or carrying on business in territory which, on the outbreak of war between Poland and Germany, was under Polish authority;
- (ii) the expression "United Kingdom persons" means individuals and corporations of any nationality (except individuals who, having been of Polish nationality and resident in Poland on 1st September, 1939, did not at the end of hostilities in Europe on 8th May, 1945, possess British nationality) now resident or carrying on business in the United Kingdom whose money and property was subjected, in territory which, on the outbreak of war between Poland and Germany, was, and continues to be, under Polish authority, to special measures as hereinafter defined;
- (iii) the expression "special measures" means measures, specified in the list contained in the Annex to this Agreement, taken since 1st September, 1939, and affecting the ownership or control of United Kingdom or Polish persons over money or property in territory which was on the outbreak of war between Poland and Germany under Polish authority, or in the United Kingdom, as the case may be.

(b) Subject to the provisions of paragraph (c) below, this Agreement applies—

- (i) to money and property of Polish persons which have been subjected in the United Kingdom to special measures;

- (ii) to money and property of United Kingdom persons which have been subjected to special measures in territory which at the outbreak of war between Poland and Germany was and continues to be under Polish authority.
- (c) This Agreement does not apply—
 - (i) to money and property the release or return of which is subject to a special agreement between the contracting Governments or one or more departments thereof;
 - (ii) to rights in industrial, literary and artistic property.

Part II.—Application of the Agreement to Various Classes of Money and Property

Article 2

Bank Balances

Bank balances belonging to Polish persons shall be placed at the disposal of the original account holders in accordance with the provisions of Article 6 below. Bank balances belonging to United Kingdom persons shall be placed at the disposal of the original account holders, on not less advantageous terms than bank balances held by Polish nationals are at their disposal for the purpose of meeting current expenses.

Article 3

Commercial Debts, Interests and other Moneys of a like nature due under Contracts

(a) Sterling and other sums at present held in the United Kingdom by a Custodian of Enemy Property in respect of commercial debts, interest and other moneys of a like nature due to Polish persons shall be transferred to the Polish Government for the satisfaction of the claims of the creditors, but the Government of the United Kingdom may, with the agreement of the Polish Government, repay moneys now held by a Custodian to the persons from whom the Custodian received such moneys in cases which are held to justify such action.

(b) Debts due to Polish persons which have not been paid to a Custodian of Enemy Property shall, in accordance with the provisions of Article 6 below, be freed from any special measure preventing the Polish person from exercising his rights against the debtor.

(c) The Polish Government, recognising that persons, resident in territory which on the outbreak of war between Poland and Germany was and continues to be under Polish authority, owing debts of the kind referred to in paragraph (a) of this Article to United Kingdom persons remain liable to their creditors until the debts are fully discharged in accordance with the terms of the relevant contract or instrument and in the currency specified therein, undertake—

- (i) to assist the creditors to trace and identify the debtors;
- (ii) to afford the necessary legal facilities for the enforcement of the claims of the creditors against their debtors, their heirs or successors;
- (iii) in accordance with the Polish Exchange Regulations in force from time to time or with any special agreement which the contracting Governments may conclude, to permit the transfer of funds for the settlement of such debts as soon as the economic circumstances of Poland allow.

Article 4

Other Moneys

(a) The provisions of paragraph (a) of Article 3 shall also apply to sterling and other sums at present held in the United Kingdom by a Custodian in respect of moneys due to Polish persons as the result of the sale of goods, legacies or trusts or other causes.

(b) The provisions of paragraph (c) of Article 3 shall also apply to moneys, situate in territory which at the outbreak of war between Poland and Germany was and continues to be under Polish authority, due to United Kingdom persons as the result of the sale of goods, legacies or trusts or other causes.

Article 5

Securities

Securities in the United Kingdom belonging to Polish persons shall in accordance with the provisions of Article 6 below be placed at the disposal of the original holders; securities in territory which on the outbreak of war between Poland and Germany was, and continues to be, under Polish authority, belonging to United Kingdom persons shall be placed at the disposal of the original holders. Nevertheless, securities held in one country for banks in the other will only be eligible for such release on proof that they are not beneficially owned by persons resident or carrying on business in, or organised under the laws of, a country with which the Government making the release is or has been at war since 1st September, 1939.

Article 6

Application for Release

The contracting Governments agree that the normal method to be followed in making available to persons resident or carrying on business in Poland the money and property referred to in Articles 2, 3 and 5 shall be by means of an application made by them to the proper Polish authority and thereafter transmitted to the Custodian of Enemy Property. After the signature of this Agreement, the Custodian of Enemy Property shall not be required to accept payment of debts due to Polish persons but the restrictions arising in the Custodian Order and the Trading with the Enemy Acts shall be removed in any cases in which a proper application is received so as to enable the Polish creditor to exercise his ordinary rights against the debtor.

Article 7

Property

Subject to the right of either Government on a basis of complete non-discrimination to nationalise property on payment of adequate and effective compensation and to take over property under measures of agrarian reform subject to the provision of an appropriate indemnity, there shall be restored to Polish and United Kingdom persons respectively the rights of full ownership, control, direction and management of their property, movable and immovable, including industrial, commercial and financial concerns and undertakings, in the United Kingdom or in territory which at the outbreak of war between Poland and Germany was, and continues to be, under Polish authority, as the case may be. In any case where, owing to the operation of Polish post-war legislation, such restoration cannot be made to United Kingdom persons compensation or indemnity shall be paid in accordance with the relevant Polish legislation or any applicable special agreements concluded between the contracting Governments.

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Article 8

The Estates of Deceased Persons

Notwithstanding the provisions of any other Article of this Agreement, money or property belonging to the estates of Polish persons who have died since their money or property became subject to the Custodian Order shall not be paid out or delivered, as the case may be, by the Custodian to an administrator appointed under Polish law until such an administrator (or his attorney) has been issued with a grant of representation in the United Kingdom.

Part III.—Miscellaneous Provisions

Article 9

Acts of Dispossession

The Polish Government will take all possible steps to procure the restoration to United Kingdom persons of any property of such persons which has been the subject of discriminatory legislation or of acts of dispossession on the part of the enemy, of the kinds covered by the Inter-Allied Declaration of 5th January, 1943,⁽¹⁾ against Acts of Dispossession committed in Territories under Enemy Occupation. In any case where, owing to the operation of Polish post-war legislation, such restoration cannot be made, compensation or indemnity shall be paid in accordance with the relevant Polish legislation or any applicable special agreements concluded between the contracting Governments.

Article 10

Removal of Legal Obstacles

The contracting Governments will consider taking such action as may be necessary for the removal of legal obstacles, such as periods of prescription, arising from the war which may prevent an equitable settlement of outstanding indebtedness.

Article 11

Fees

No fees will be charged in the United Kingdom or in territory which at the outbreak of war between Poland and Germany was, and continues to be, under Polish authority in respect of the release or restoration of property as provided in this Agreement.

Article 12

Scope of Agreement

This Agreement extends to the release of money or property only from special measures as defined in this Agreement.

The contracting Governments agree to consult together with a view to settling methods for giving effect to its provisions.

Article 13

Entry into Force

This Agreement shall come into force on signature.

In witness whereof the undersigned, duly authorised by their respective Governments have signed this Agreement and have affixed thereto their seals.

Warsaw, 14th January, 1949.

(L.S.)

D. ST. CLAIR GAINER.

(L.S.)

K. DĄBROWSKI.

(1) "Miscellaneous No. 1 (1943)," Cmd. 6418.

ANNEX -

The measures referred to in Article 1 (a) (iii) are—

- (1) in the case of measures taken in the United Kingdom—
The Trading with the Enemy (Custodian) Order, 1939, as subsequently amended,
- (2) in the case of measures taken in territory under Polish authority—
 - (A) all measures taken by the enemy affecting the ownership or control of United Kingdom persons over money or property, and
 - (B) the following measures taken by the Polish Government or Polish authorities :—

I.—Measures relating to abandoned property—

- (i) Decree of 8th March, 1946 (Journal of Laws No. 13 of 1946, item 77).
- (ii) Order of the Council of Ministers of 7th November, 1946 (Journal of Laws No. 64 of 1946, item 360).
- (iii) Order of the Council of Ministers of 16th November, 1946 (Journal of Laws No. 70 of 1946, item 383).
- (iv) Decree of 20th December, 1946 (Journal of Laws No. 72 of 1946, item 395).
- (v) Decree of 3rd February, 1947 (Journal of Laws No. 19 of 1947, item 77).
- (vi) Decree of 28th October, 1947 (Journal of Laws No. 66 of 1947, item 402).

II.—Measures relating to Agrarian Reform—

- (i) Decree of 6th September, 1944 (Journal of Laws No. 4 of 1944, item 17).
- (ii) Decree of 17th January 1945 (Journal of Laws No. 3 of 1945, item 9).
- (iii) Decree of 28th November, 1945 (Journal of Laws No. 57 of 1945, item 321).

III.—Measures relating to the City of Warsaw—

- (i) Decree of 26th October, 1945 (Journal of Laws No. 50 of 1945, item 279), (Ownership and use of ground on the territory of the City of Warsaw), 280 (building rights), 281 (demolition and repair of buildings).
- (ii) Order of the Minister of Reconstruction of 25th February, 1946 (Journal of Laws No. 10 of 1946, item 72).
- (iii) Instructions of the Minister of Reconstruction of 11th September, 1946 (Monitor Polski No. 96 of 1946).
- (iv) Resolution of Warsaw Municipality of 4th December, 1946.
- (v) Instructions of the Minister of Reconstruction of 29th April, 13th May and 17th May, 1947 (Monitor Polski Nos. 60, 65 and 69 of 1947).

IV.—Measures relating to a moratorium on debts—

- (i) Decree of 22nd January, 1946 (Journal of Laws No. 4 of 1946, item 32).
- (ii) Decree of 9th January 1947 (Journal of Laws No. 5 of 1947, item 24).
- (iii) Decree of 28th October, 1947 (Journal of Laws No. 66 of 1947, item 411).