

## COMMERCIAL CONVENTION BETWEEN HUNGARY AND POLAND, SIGNED AT BUDAPEST, MARCH 26, 1925

THE PRESIDENT OF THE POLISH REPUBLIC and His SERENE HIGHNESS THE REGENT OF HUNGARY, being equally desirous of encouraging and developing commercial relations between Poland and Hungary, have decided, for this purpose, to conclude a Commercial Convention, and have appointed as their Plenipotentiaries:

THE PRESIDENT OF THE POLISH REPUBLIC:

His Excellency Sigismond MICHAŁOWSKI, Polish Envoy Extraordinary and Minister Plenipotentiary at Budapest, and M. Otto WĘCŁAWOWICZ, Head of Department in the Polish Ministry of Commerce, and

His SERENE HIGHNESS THE REGENT OF HUNGARY:

His Excellency Coloman DE KÁNYA, Envoy Extraordinary and Minister Plenipotentiary; M. Alexandre DE MOLDOVÁNYI, Counsellor of Legation at the Royal Hungarian Ministry for Foreign Affairs,

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions:

### **Article 1.**

The nationals of either of the High Contracting Parties, established or temporarily resident in the territory of the other Contracting Party, shall enjoy, as regards the establishment and carrying on of trade and industry in the territory of the other Contracting Party, the same rights, privileges, immunities, benefits and exemptions as the nationals of the most favoured nation.

### **Article 2.**

(1) The nationals of each Contracting Party shall receive in the territory of the other Party, as regards their legal status, their movable and immovable property and their rights and interests, the same treatment as that at present or hereafter accorded to the nationals of the most favoured nation.

(2) They shall be at liberty to transact their business in the territory of the other Contracting Party either in person or through some agent of their own choice and, provided that they conform to the laws of the country, they shall have the right to appear in the courts and shall have free access to the authorities. They shall enjoy all the rights and immunities possessed by the nationals of the country itself and, like the latter, they shall be entitled to employ counsel or agents of their own choice to safeguard their interests.

(3) They shall not be subject in respect of the commerce or industry carried on by them in the territory of the other Party to any imposts, taxes, duties or charges of any kind whatever, other or higher than those which are or may hereafter be imposed upon nationals.

(4) They shall be exempt from the payment of forced loans or compulsory national levies which may be imposed for war requirements or as a result of exceptional circumstances.

(5) The nationals of each of the Contracting Parties, shall be exempted in the territories of the other from all compulsory personal military service and from all compulsory official, administrative or judicial duties other than the duty of guardianship, as well as from all contributions, whether pecuniary or in kind, imposed in lieu of compulsory personal military service. Moreover, they shall not be prevented in any way from fulfilling their military duties in their own State. They shall not be subjected in peace or war to any exactions or requisitions for military purposes other than those to which nationals are liable, and such exactions and requisitions shall only be made to the same extent and in accordance with the same principles as are applicable to nationals. They shall be subject to the same regulations as regards compensation as the nationals of the other Party.

### **Article 3.**

(1) Registered joint stock companies and other associations legally constituted in accordance with the laws of one of the Contracting Party and having their headquarters within its territory, shall be recognised as legal entities in the territory of the other Contracting Party, provided that they are engaged in no illegal or unlawful pursuits, and they shall have free and unimpeded access to the courts of justice either as plaintiffs or defendants, provided that they conform to the laws and regulations of the country.

(2) Any joint stock companies and other associations of each of the Contracting Parties thus recognised may, provided that they conform to the laws of the other country, establish themselves in the territory of the latter, set up offices and agencies and carry on their trade and industry there. This stipulation does not, however, apply to those associations, such as insurance companies and financial houses, which by reason of their public character would be subjected to special restrictions applicable to all countries.

(3) When these bodies or corporations have been recognised in accordance with the laws and regulations which are or may be in force in the territory of the country concerned they shall not be subject to any charges, taxes or fiscal dues of any kind other or higher than those which are imposed on the bodies or corporations of any third State.

(4) They shall be exempt from the payment of forced loans or compulsory national levies which may be imposed to meet war requirements or as a result of exceptional circumstances.

(5) They shall only be taxed in respect of such part of their assets as is actually situated in the country in which the imposts, taxes and contributions are levied, and in respect of the business which they transact therein.

### **Article 4.**

Internal duties and taxes levied for the benefit of the State, provinces, communes or public institutions which affect or may affect the production and manufacture of goods or the consumption of any article in the territory of one of the High Contracting Parties shall not for any reason constitute a higher or more burdensome charge on products, goods or articles of the other Party than that placed on similar products, goods or articles of the most favoured nation.

### **Article 5.**

All products of the soil or of industry originating in and coming from the Customs territory of either Contracting Party, which are imported into the Customs territory of the other Party with a view to their being consumed, warehoused, re-exported, or carried in transit, shall

be subject, so long as the present Convention is in force, to the treatment accorded to the most favoured nation. Particularly, they shall not be subject, in any case, to restrictions other than those imposed in respect of products or goods of the most favoured nation.

Each of the Contracting Parties accordingly undertakes to grant the other Party, immediately and without further conditions, the benefit of any favour, privilege, or reduction of duties or taxes which it has already conceded or may hereafter concede, whether permanently or temporality, to any third nation in regard to the matters referred to above.

**Article 6.**

Without prejudice to the provisions of Article 5, the natural or manufactured products originating in and coming from Polish Customs territory enumerated in List A, annexed hereto shall obtain the benefit, on their importation into the Customs territory of the Kingdom of Hungary, of the reduced tariff shown in the said list.

Without prejudice to the provisions of Article 5, the natural or manufactured products originating in and coming from the Kingdom of Hungary enumerated in List B, annexed hereto shall obtain the benefit, on their importation into Polish Customs territory, of the reduction percentages shown in the said list. These percentages shall remain the same whatever increases or reductions may be made in the tariff and shall apply to the surtaxes and coefficients which Poland has established or may establish in the future in respect of these products.

**Article 7.**

The provisions of Articles 5 and 6 shall not apply:

- (a) To privileges which are or may subsequently be granted by one of the Contracting Parties in respect of frontier traffic with neighbouring countries;
- (b) To special concessions made in consequence of a Customs Union;
- (c) To the provisional Customs regime in force between the Polish and German parts of Upper Silesia.

**Article 8.**

No export duties or taxes shall be imposed in Hungary on goods exported to Poland or in Poland on goods exported to Hungary other or higher than those imposed in respect of like goods when exported to the country which is most favoured in this respect.

**Article 9.**

In order to reserve the benefits of the provisions of Articles 5 and 6 for products originating in their respective countries, the Contracting Parties may require that the products and goods imported into their territories should be accompanied by certificates of origin.

**Article 10.**

1. Articles liable to duty which are employed as samples shall, except in the case of prohibited goods, be granted temporary free admission by both Parties, subject to compliance with such Customs formalities as may be necessary to ensure the re-exportation of such articles in their entirety within a period of twelve months.

2. The marks of identification placed upon samples by the authorities of one of the Contracting Parties shall be accepted for the purpose of establishing their identity by the authorities of the other Party, it being understood, however, that the latter may also affix their own identification marks in all cases where they think this measure necessary.

3. The benefits of temporary free admission may be withdrawn from commercial travellers or firms failing to comply with the conditions laid down.

#### **Article 11.**

1. Merchants, manufacturers and other producers of either Contracting Party who show, by means of special identity cards issued by the competent authorities of their country, the form of which the Contracting Parties shall communicate to each other, that they are authorised to carry on their trade or industry in that country and that they pay the taxes and dues imposed by the laws, shall be entitled, without paying any trader's licence fees, to effect purchases, either personally or through travellers employed by them, from merchants or producers or in the public market in the territory of the other Party. Similarly, they may also solicit orders from merchants or other persons who make use, for their own trade or industry, of the goods in question. They may take with them samples or models. Nevertheless, the Contracting Parties reserve the right to refuse to allow them to carry about and offer wares for sale unless they have obtained an authorisation to do so in accordance with the law of the country in which they travel.

2. The Parties shall communicate to each other the names of the authorities responsible for the issue of identity certificates and the regulations which commercial travellers must observe when conducting their business.

(3) The above provision shall not be applicable to itinerant merchants, nor to hawking or the soliciting of orders from persons who are not engaged in trade or industry, each Party reserving full legislative freedom in this respect.

#### **Article 12.**

Vessels belonging to nationals or companies of each of the Contracting Countries, and also their crews and cargoes, shall enjoy in the territory of the other country treatment at least as favourable as that accorded to vessels, crews and cargoes belonging to nationals of the country or of the most favoured nation.

This provision shall not, however, apply to the coasting trade or to shipping enterprises which deal with the transport of emigrants.

#### **Article 13.**

The railway and transit questions which are of importance to the two Contracting Parties form the subject of special arrangements set forth in Annexes C and D to the present Convention.

#### **Article 14.**

(1) The Contracting Parties guarantee to grant each other most-favoured-nation treatment in their respective territories in respect of everything relating to the various administrative or other formalities which are found to be necessary in consequence of the application of the provisions contained in the present Convention.

(2) It is nevertheless understood that the stipulations set forth in the preceding articles, in so far as they guarantee most-favoured-nation treatment, shall not in any way affect the laws, decrees and special regulations concerning trade, industry, policing and the maintenance of order generally, or the exercise of certain occupations or professions, which are or which may be in force in either of the two countries and which are applicable to all foreigners.

**Article 15.**

The Polish Government, which is responsible for the conduct of the foreign relations of the Free City of Danzig in virtue of Article 104 of the Treaty of Versailles, and of Articles 2 and 6 of the Paris Convention, concluded between Poland and the Free City of Danzig on November 9, 1920, reserves the right to declare that the Free City is a Contracting Party to the present Treaty and that it accepts the obligations and acquires the rights resulting therefrom.

This reservation does not apply to the provisions of the present Treaty which the Polish Republic contracts on behalf of the Free City of Danzig in conformity with its rights under the treaties relating thereto.

**Article 16.**

(1) The present Convention shall be ratified, and the ratifications shall be exchanged at Warsaw as soon as possible.

(2) It shall come into force ten days after the exchange of ratifications.

(3) The Convention is concluded for a period of fifteen months. If, however, it is not denounced three months before the expiration of that period, it shall be prolonged for an indefinite period by tacit agreement, but may be denounced at any time.

Should it be denounced, it shall continue in force for a period of three months reckoned from the date on which one of the High Contracting Parties notifies the other of its intention to terminate the Convention.

The Contracting Parties declare their readiness, one year after the coming into force of this Convention, to enter into negotiations without delay for the purpose of effecting any modifications they may think it desirable to introduce therein.

In faith whereof the Plenipotentiaries have signed the present Convention.

Done in duplicate at Budapest on March 26, 1925.

(L.S.) (Signed) S. MICHAŁOWSKI.  
(Signed) O. WĘCŁAWOWICZ.

(L.S.) (Signed) COLOMAN DE KÁNYA.  
(Signed) ALEXANDRE DE MOLDOVÁNYI.

**ANNEX A.** [nicht abgedruckt]

**ANNEX B.** [nicht abgedruckt]

**ANNEX C.**

**AGREEMENT CONCERNING THE REGULATION OF RAILWAY RATES AND  
TRANSPORT QUESTIONS BETWEEN POLAND AND HUNGARY.**

***Article A.***

As regards forwarding, the cost of transport and public taxes or duties, the Contracting Parties declare that, all other circumstances being equal, no distinction shall be made in the matter of railway traffic, either passenger or goods traffic, between the inhabitants of the territories of the two Parties.

***Article B.***

(1) Goods sent from or consigned to the territory of one of the Contracting Parties shall, on the railways of the other Contracting Party, in the same direction and on the same line in the case of similar articles under the same conditions, enjoy the lowest transport rates in force, based on the local tariffs or combined tariffs, no discrimination being made on account of their place of origin or destination.

(2) Every prohibitive clause excluding the application of reduced tariffs shall be regarded as null and void in respect of the above-mentioned traffic.

(3) The lowest transport rates calculated in conformity with the provisions of the first paragraph of this article, except transport rates on the basis of tariffs drawn up for a definite period, shall, at the request of one of the Contracting Parties, be incorporated in the through tariff.

(4) As regards the above-mentioned traffic, no discrimination shall be made – all other circumstances being the same – on account of the place of origin or destination, either as regards forwarding or as regards the taxes levied on the traffic.

***Article C.***

The provisions of Articles A and B shall not be applicable in the case of reductions in rates granted to charitable, scientific or humanitarian organisations; or to relieve temporary distress; or to persons in the public service, including the railway service, and the members of their families, or to articles belonging to the State administration; or to goods required for the exploitation of the railways.

***Article D.***

The two Contracting Parties give an undertaking that in their relations with one another they will follow a friendly policy in the matter of railway rates.

***Article E.***

The two Contracting Parties will, as far as exchange conditions allow and taking into account existing needs, endeavour to establish through rates applicable to passenger and goods traffic between their territories or between the territory of one Party and that of a third Power when such traffic has to pass through the territory of the other Party. In order to decide whether a through tariff is really necessary in any particular case, either as regards passenger or goods traffic, the opinion of the administration proposing the through

tariff shall under normal circumstances prevail. The two Governments will exert their influence to ensure that such proposals are only made when strictly necessary, in view of the work and expenditure which they entail. In this connection, should a dispute arise between the two railway administrations, the two Governments shall decide the question by mutual agreement.

The two Contracting Parties shall take steps to ensure that the railway administrations reach an agreement as soon as possible concerning the settlement of accounts arising out of the passenger and goods traffic.

#### **ANNEX D.**

### **AGREEMENT CONCERNING THE SETTLEMENT OF TRAFFIC QUESTIONS BETWEEN POLAND AND HUNGARY.**

As regards the transit of persons, baggage and goods of every kind, the provisions of the Convention and Statute on the freedom of transit concluded at Barcelona on April 20, 1921, and those of the Geneva Convention of December 8, 1923, shall apply, with the following addenda.

#### ***Ad Article 2 of the Statute.***

As long as the frontier between the territory of one of the Contracting Parties and the territory of a third State is closed to persons and goods, the Government of the Contracting Party concerned shall be released from the obligation of granting, on the frontier in question, the facilities provided for in the present article.

#### ***Ad Article 4 of the Statute.***

As regards the transit traffic of the two States, the provisions of Articles A and B of the Agreement, constituting Annex C of the Commercial Convention, shall be applicable to the railways of the Contracting Parties.

#### ***Ad Articles 5 to 7 of the Statute.***

(1) The two Governments agree to enter into negotiations as soon as possible concerning the facilities to be granted in respect of goods the transport of which is allowed under certain conditions, provided the stipulations of paragraph 1 (3) of the regulations for the execution of the Berne International Convention on the transport of goods by rail be observed.

The two Governments shall communicate to each other any special regulations which may be in force in the respective countries as regards packing and other technical transport conditions.

Consignments arriving at the station of entry in wagons sealed by the Customs at the place of despatch shall be admitted in transit without further Customs examination.

(2) The two Governments undertake to grant, at the request of either of the Contracting Parties, all transit permits required, in a spirit of the utmost friendliness and without delay.

***Ad Article 10 of the Statute.***

The Polish Government reserves the right to forbid or restrict the transit of arms, munitions and implements of war consigned to Russia through Poland, in conformity with Article 22, paragraph 4, of the Treaty of Peace of Riga of March 18, 1921.

**FINAL PROTOCOL.**

Before signing the Commercial Convention between Poland and Hungary, the undersigned Plenipotentiaries have agreed as follows.

(1) As regards Articles 2 and 3.

It is understood that the provisions of Article 2, according to which the nationals of one High Contracting Party shall have the right to appear in the Courts of the other country on the same terms as the nationals of that country, and also the provisions of Article 3, concerning free access of joint stock and other companies to the Courts of Justice, do not apply to free legal assistance nor to exemption from giving security for costs.

(2) As regards Articles 4, 5 and 6.

It is understood that the provisions of Articles 4, 5 and 6 do not apply to products of the soil or industry, originating in the territory of one of the High Contracting Parties, if these products have been passed through the Customs of a third State.

(3) As regards Articles 5, 6 and 14.

The system of import and export prohibitions and restrictions being still in force in Poland, the Polish Government undertakes to accord the most favourable treatment possible to requests for the import and export licences required for traffic between the two countries.

(4) As regards Annex A.

It is understood that petroliferous products from Poland enumerated in Item 322 of the Hungarian Customs tariff shall, on entering Hungary, be passed through the Customs on the basis of the net weight of the goods, that is to say, the weight of the tank wagons or other receptacles shall be deducted.

(5) As regards Annex C, Article B.

The Contracting Parties agree that the term „prohibitive clause“ shall be taken to mean tariff provisions introduced for the sole purpose of preventing foreign goods of a certain category from enjoying reduced rates. On the other hand, tariff provisions drawn up with a view to meeting the requirements of the home market in certain articles, with a view to developing fluvial and maritime ports, or with a view to affording reasonable assistance to the railways in obtaining new freights or reducing running expenses, shall not be held to constitute prohibitive clauses.

In accordance with the above definition the following shall be regarded as:

(1) Prohibitive clauses:

(a) A condition to the effect that goods must be of home origin (the requirements of the clause to this effect being, in view of the nature of the goods, incapable of fulfilment by the other High Contracting Party);

(b) A condition to the effect that the goods must be despatched on the actual spot unless they are to be brought by water.

(c) A condition to the effect that the raw material or half-finished products required for goods subject to special rates must, either wholly or in part, have been forwarded over national lines of communication.

(2) Admissible clauses:

(a) A condition concerning the consumption of goods within the country;

(b) A condition concerning transfer from boat to rail or vice versa;

(c) A condition fixing minimum amount for a consignor during a certain stated period.

(d) A condition that consignments must be sent in complete trains.

(6) As regards Annex D, Article 7 of the Barcelona Statute.

In principle, no transport facility shall be accorded to goods consigned for transport in one of the Contracting States, if a similar facility is not available for goods consigned for transport in the territory of the other State. In particular, in the case of traffic restrictions, no greater restriction shall be placed either on traffic between the territories of the two Parties or on traffic in transit from one of the Contracting Parties passing through the territory of the other Contracting Party, than the restrictions imposed on the home traffic of the country of destination or the country through which transit takes place.

The present Protocol, which shall be regarded as approved and sanctioned by the Contracting Parties, without any special ratification, by the mere fact of the exchange of the ratifications of the Commercial Convention to which it refers, has been drawn up in duplicate at Budapest on March 26, 1925.

(Signed) S. MICHAŁOWSKI.

(Signed) O. WĘCŁAWOWICZ.

(Signed) COLOMAN DE KÁNYA.

(Signed) ALEXANDRE DE MOLDOVÁNYI.

## **PROTOCOL OF SIGNATURE.**

Present:

FOR POLAND:

His Excellency Sigismond MICHAŁOWSKI, Polish Envoy Extraordinary and Minister Plenipotentiary at Budapest; M. Otto WĘCŁAWOWICZ, Head of Department in the Polish Ministry of Commerce.

FOR HUNGARY:

His Excellency Coloman de KÁNYA, Envoy Extraordinary and Minister Plenipotentiary; M. Alexandre DE MOLDOVÁNYI, Counsellor of Legation in the Royal Hungarian Ministry for Foreign Affairs.

On the occasion of the signature of the Commercial Convention between Poland and Hungary, concluded on March 26, 1925, the delegates of the two Governments have made the following declarations:

(1) The Polish delegation, at the request of the Hungarian delegation, declares that, as regards the importation of Hungarian wine into Poland, „the most favourable treatment possible“ referred to in the Final Protocol, paragraph 3, means, in practice, that all requests for such licences, accompanied by certificates of origin, will be accepted and granted by Poland in full.

(2) At the request of the Polish delegation the Hungarian delegation accepts the following definition for gas oil:

(a) Transparent and of a colour varying from yellowish to dark brown.

(b) Specific weight at 15° Centigrade 840-880;

(c) Viscosity at 20° Centigrade below 2.6 according to Engler's Viscosometer;

(d) Flashpoint in open crucible, 45-130° Centigrade;

(e) Gas oil must be a product obtained by distillation but not refined and not suitable for lighting;

(3) The Hungarian Government declares that the licences required for the importation of the articles set out in the observations to Item 322 shall be issued in all cases in which the special conditions laid down in the regulations relating thereto remain in force.

Done at Budapest, in duplicate, March 26, 1925.

(Signed) S. MICHAŁOWSKI.

(Signed) O. WĘCŁAWOWICZ.

(Signed) COLOMAN DE KÁNYA.

(Signed) ALEXANDRE DE MOLDOVÁNYI.

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