

## **Austria Friendship, Commerce and Consular Rights Treaty**

Treaty signed at Vienna June 19, 1928

Ratified by Austria January 17, 1929

Senate advice and consent to ratification, with a reservation and understanding, February 11, 1929<sup>1</sup>

Article XXIV supplemented by agreement of January 20, 1931<sup>2</sup>

Reservation and understanding ratified by Austria March 28, 1931

Ratified by the President of the United States, with a reservation and understanding, April 29, 1931

Ratifications exchanged at Vienna May 27, 1931

Entered into force May 27, 1931

Proclaimed by the President of the United States May 28, 1931

47 Stat. 1876; Treaty Series 838

1 The Senate gave its advice and consent to ratification "subject to the following reservation and understanding to be set forth in an exchange of notes between the high contracting parties so as to make it plain that this condition is understood and accepted by each of them:

"That the sixth paragraph of Article VII shall remain in force for twelve months from the date of exchange of ratifications, and if not then terminated on ninety days' previous notice shall remain in force until either of the high contracting parties shall enact legislation inconsistent therewith when the same shall automatically lapse at the end of sixty days from such enactment, and on such lapse each high contracting party shall enjoy all the rights which it would have possessed had such paragraph not been embraced in this treaty."

The reservation and understanding was accepted by the two governments in an exchange of notes dated Jan. 20, 1931.

2 TS 839, post, p. 372.

### TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF AUSTRIA

The United States of America and the Republic of Austria, desirous of strengthening the bond of peace which happily prevails between them, by arrangements designed to promote friendly intercourse between their respective territories through provisions responsive to the spiritual, cultural, economic and commercial aspirations of the peoples thereof, have resolved to conclude a Treaty of Friendship, Commerce and Consular Rights and for that purpose have appointed as their plenipotentiaries:

The President of the United States of America, Mr. Albert Henry Washburn, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Austria, and

The Federal President of the Republic of Austria, Monsignore Ignatius Seipel, Doctor of Theology, Federal Chancellor,

Who, having communicated to each other their full powers found to be in due form, have agreed upon the following articles: **C**

## ARTICLE I

tio ls of c of t Hig Co tr cti g P rti s s ll b p rmitt d to t r, tr v l d r sid i t t rritori s of t ot r to x rcis lib rty of co sci c d fr dom of wors ip to g g i prof ssio l, sci tific, r ligious, p il t ropic, ma uf cturi g d commerci l work of v ry ki d wit out i t rf r c to c rry o v ry form of commerci l ctivity whic is ot forbid d by t loc ll w to mploy g ts of t ir c oic , d g r lly to do yt i gi cid t l to or c ss ry for t joyme t of y of t for goi g privil g s upo t s met rms s tio ls of t st t of r sid c or s tio ls of t tio r ft r to b most f vor d by it, submitti g t ms lv s to ll loc ll ws d r gul tio s duly st blis d. ;

tio ls of c of t Hig Co tr cti g P rti s wit i t t rritori s of t ot r s ll b p rmitt d to own, ; r ct or l s d occupy ppropri t buildi gs d to l s l ds for r sid ti l, sci tific, r ligious, p il t ropic, ma uf cturi g, commerci l d mortu ry purpos s upo t s met rms s tio ls of t cou try.

As r g rds t cquisitio , poss ssio , d dispositio of immov bl prop rty, xc pt s r g rds t l si g of l ds for sp cifi d purpos s provid d for i t for goi g p r gr p , t tio ls of c of t Hig Co tr cti g P rti s s ll joy i t t rritory of t ot r, subj ct to r ciprocit y, t tr tme t g r lly ccord d to for ig rs by t l ws of t pl c wh r t prop rty is situ t d. ;

tio ls of it r Hig Co tr cti g P rty wit i t t rritori s of t ot r s ll ot b subj ct d to t p yme t of y i t r l c rg sort x sot r or ig r t t os t t r x ct d of d p id by its tio ls. ;

tio ls of c Hig Co tr cti g P rty s ll joy fr dom of cc ss to t courts of justic of t ot r o co formi g to t loc ll ws, s well for t pros cutio s for t d f s of t ir rig ts, di ll d gr s of jurisdictio st blis d by l w.

tio ls of c Hig Co tr cti g P rty s ll r c iv wit i t t rritori s of t ot r, upo submitti g to co ditio s impos d upo its tio ls, t most co st t prot ctio d s curity for t ir p rso s d prop rty, d s ll joy i t is r sp ct t t d gr of prot ctio t t is r quir d by i t r tio ll w. ir prop rty s ll ot b t k wit out du proc ss of l w d wit out p yme t of just comp s tio .

Not i g co t i di t is r ty s ll b co stru d to ff ct xisti g st tut s of it r of t Hig Co tr cti g P rti s i r l tio to t immigr tio of li sort rig t of it r of t Hig Co tr cti g P rti s to ct suc st tut s.

## ARTICLE II

Wit r sp ct to t t form of prot ctio gr t d by N tio l, St t or Provi ci ll ws st blis i g civil li bility for i juri s or for d t , d givi g to r l tiv s or irs or d p d ts of i jur d p rty rig t of ctio or p cu i ry b fit, suc r l tiv s or irs or d p d ts of t i jur d p rty, ims lf tio l of it r of t Hig Co tr cti g P rti s d wit i y of t t rritori s of t ot r, s ll r g rdl ss of t ir li g or r sid c outsid of t t rritory wh r t i jury occur d, joy t s me rig ts d privil g s s r or may b gr t d to tio ls, d u d rlik co ditio s. ;

## ARTICLE III

dw dli gs, w rous s, ma uf cturi s, s ops d ot r pl c s of busi ss, d ll pr mis st r to pp rt i i g of t tio ls of c of t Hig Co tr cti g P rti s i t t rritori s of t ot r, us d for y ; purpos s s t fort i Articl I, s ll b r sp ct d. It s ll ot b llowabl to mak domicili ry visit to, or s rc of y suc buildi gs d pr mis s, or t r to x mi di sp ct books, p p rs or ccou ts, xc pt u d r t co ditio s di co formity wit t forms pr scrib d by t l ws, ordi c s d r gul tio s for tio ls.

## ARTICLE IV

Wh r , o t d t of y p rso oldi g r l or ot r immov bl prop rty or i t r sts t r i wit i t t rritori s of o Hig Co tr cti g P rty, suc prop rty or i t r sts t r i would, by t l ws of t cou try or ;

by a testame ta y s os to , esce o ass to a at o al of the othe H igh Co t act g Pa ty, whethe es e t o o - es e t, we e he ot squal fe by the laws of the cou t y whe e such o e ty o te ests the e s o a e s tuate , such at o al shall be allowe a te m of th ee yea s wh ch to sell the same, th s te m to be easo ably olo ge f c cumsta ces e e t ecessa y, a with aw the ocee s the eof, without est a t o te fe e ce, a exempt f om a y success o , obate o a mi st at ve ut es o cha ges othe tha those wh ch may be mpose l ke cases u o the at o als of the cou t y f om wh ch such ocee s may he aw n.

at o als of e the H igh Co t act g Pa ty may have full owe to s ose of the e so al o e ty of eve y k with the te to es of the othe , by testame t, o at o , o othe wise, a the he s, legatees a o ees, of whatsoeve at o al ty, whethe es e t o o - es e t, shall succee to such e so al o e ty, a may take N ossess o the eof, e the by themselves o by othe s act g fo them, a eta o s ose of the same at the leasu e subject to the ayme t of such ut es o cha ges o ly as the at o als of the H igh Co t act g Pa ty with whose te to es such o e ty may be o belo g shall be l able to ay l ke cases.

## ARTICLE V

The at o als of each of the H igh Co t act g Pa tes the exe cse of the ght of fee om of wo sh , with the te to es of the othe , as he e above ove , may, without a oya ce o molestat o of a y k by easo of the el gous bel ef o othe wise, co uct se vces e the with the own houses o with a ya o ate bul gs wh ch they may be at l be ty to e ect a ma ta co ve e t s tuat o s, ove the teach gs a act ces a e ot co sste t with ubl co e o ubl c mo als a ove fu the they co fo m to all laws a egulat o s uly establ she these te to es; a they may also be e mitte to bu y the ea acco g N to the el gous customs su table a co ve e t laces establ she a ma ta e fo the u ose, subject to the establ she mo tua y a sa ta y laws a egulat o s of the lace of bu al.

## ARTICLE VI

I the eve t of wa betwe e the H igh Co t act g Pa ty a ath State, such Pa ty may aft fo compulso y mil ta y se vce at o als of the othe hav ga e ma e t es e ce with ts te to es a who have fo mally, acco g to ts laws, ecla e a te to to a o t ts at o al ty by atu al zat o , u less such v uals e a t f om the te to es of sa bell ge e t Pa ty with s xty ays afte a ecla at o of wa .

## ARTICLE VII

Betwe the te to es of the H igh Co t act g Pa tes the e shall be fee om of comme ce a av gat o . The at o als of each of the H igh Co t act g Pa tes equally with those of the most favo e at o , shall have l be ty feeely to come with the vessels a ca goes to all laces, o ts a wate s of eve y k with the te to al l mits of the othe wh ch a e o may be o e to fo e g comme ce a av gat o . oth g th s T eaty shall be co st ue to est ct the ght of e the H igh Co t act g Pa ty to mpose, o such te ms as t may see ft, oh b to so est ct o s of a sa ta y cha acte es g e to otect huma , a mal o la t l fe, o egulat o s fo the e fo ceme t of ol ce o eve ue laws.

Each of the H igh Co t act g Pa tes b s tself u co t o ally to mpose o h ghe o othe ut es o cha ges, a o co to s, oh b to so est ct o s, o the mpo tat o of a ya t cle, the g owth, o uce o ma ufactu e of the te to es of the othe Pa ty, f om whateve lace a v g, tha a e o shall be mpose o the mpo tat o of a y l ke a t cle, the g owth, o uce o ma ufactu e of a y othe fo e g cou t y; o shall a y such ut es, cha ges, co to s, oh b to s, o est ct o s o mpo tat o s be ma e effect ve et oact vely.

Each of the H igh Co t act g Pa tes also b s tself u co t o ally to mpose o h ghe o othe cha ges o othe est ct o s o oh b to so goo s ex o te to the te to es of the othe H igh Co t act g Pa ty tha a e mpose o goo s ex o te to a y othe fo e g cou t y.

I the eve t of l ce ses be g ssue by e the of the H igh Co t act g Pa tes fo the mpo tat o to o ex o tat o f om ts te to es of a t cles the mpo tat o o ex o tat o of wh ch s est cte o oh b te , the co to su e wh ch such l ce ses may be obta e shall be ubl cly a ou ce a clea ly state a such a ma e as to e able ta e s te este to become acqua te with them; the metho of l ce s g shall be as mple a u va y g as oss ble a a l cat o s fo l ce ses shall be ealt with as s ee ly as oss ble. N



its laws. All judgments of the courts of law and equity, or conforming to the laws regulating matters, as well for the prosecution as for the defence of rights in all the degrees of jurisdiction established by law.

Right of succession and associations of the High Contracting Parties recognized by the treaty established in its territories, established by the official and fulfillment of its duties in all the provinces, and by the government of the territory, as prescribed by its National, State or Provincial laws.

## ARTICLE X

Articles of the High Contracting Parties shall justify the territories of the treaty, reciprocally and upon compliance with the conditions imposed, such rights and privileges as are available or may be after the accorded to the articles of the treaty Statute with respect to the organization of a participation in limited liability and other corporations and associations, for peculiar profit of others, including rights of promotion, incorporation, purchase and ownership of shares and olding of executive or official positions therein. It is the object of the foregoing articles and with respect to the regulation or procedure concerning organization or conduct of such corporations or associations, such articles shall be subject to the conditions in favor of the territories which are available or may be after the imposition upon the articles of the most favorable. Rights of a corporation or association as may be organized or participated in by the articles of the High Contracting Parties with the territories of the treaty to the extent of their duties, shall be governed by the laws and regulations, articles, state or provincial, which are in force or may be after the establishment with the territories of the Parties where the proposed business for going stipulations do not apply to the organization of a participation in political associations.

Articles of the High Contracting Parties shall, moreover, justify the territories of the treaty, reciprocally and upon compliance with the conditions imposed, such rights and privileges as are available or may be after the accorded to the articles of the treaty with respect to the mining of coal, peat, oil, oil shale, gas, and sodium or other public domain of the treaty.

## ARTICLE XI

Commercial travellers residing in manufacturing, mercantile and trading domicile in the territories of the High Contracting Parties shall be treated as if they were in the territories of the treaty with respect to the duties of the territory from which they depart and most favorable treatment with respect to customs and other privileges and of all charges and taxes of whatever denomination applicable to them or to their samples.

If the High Contracting Parties require the presentation of an authentic document established in the territory of an authority of a commercial traveller, a certificate issued by an authority following the contract of the territory shall be accepted as satisfactory:

- a) the authority designated for the purpose;
- b) the chamber of commerce;
- c) a trading or commercial association recognized for the purpose by the diplomatic representation of the Contracting Parties requiring such certificates.

## ARTICLE XII

It shall be permitted for the territories to include territorial waters of the High Contracting Parties on the route most convenient for international trade, by rail, navigable waters, and canal, other than Panama Canal waters and canals which constitute the territorial boundaries of the United States, to pass the goods coming from or going to the territories of the High Contracting Parties, except such passes as may be forbidden admission to its territories or goods of which importation may be prohibited by law. Passes for goods in transit shall not be subject to a transit duty, or to a customs clearance or restrictions, and shall be given treatment as regards charges, facilities, and all other matters.

Goods in transit must be treated as property of the consignor, but shall be exempt from all customs or other similar duties.

All charges imposed on transportation shall be reasonable, having regard to the condition of the traffic.

### ARTICLE XIII

Each of the foregoing Contracting Parties agrees to receive from the other, consular officers in the territory, facilities, which may be convenient and which are open to consular representatives of any foreign country.

Consular officers of each of the foregoing Contracting Parties shall, after entering upon their duties, enjoy reciprocally the same rights of the other, all the rights, privileges, exemptions and immunities which are enjoyed by officers of the same grade of the most favored nation. A consular agent, such officer shall be entitled to the highest consideration of all official, national or local, with whom they have official intercourse in the territory which receive them.

The Government of each of the foregoing Contracting Parties shall furnish free of charge the necessary quarters of such consular officers of the other, regular consuls on grounds by the chief executive of the appointing state and under the general; and the latter shall be subject to the subordination of such consular officers duly appointed by an authorized consular officer with the approval of the Government, or by any other competent officer of that Government, such documents according to the laws of the respective countries shall be required for their exercise by the appointing consular function. On the execution of an execution, or other documents under the subordination, such consular officers shall be entitled to return on their duties and to enjoy the rights, privileges and immunities granted by the Treaty.

### ARTICLE XIV

Consular officers, national of the state by which they are appointed, shall be exempt from arrest except when charged with the commission of offenses locally designated as crimes other than misdemeanors and subjecting the individual guilty thereof to punishment. Such officers shall be exempt from military billeting, and from service of any military or naval, administrative or police character whatsoever.

In criminal cases the attendance at the trial by a consular officer shall be waived by the respective government. The defendant shall be provided with all possible legal aid for the consular dignity and the duties of the officer; and the latter shall have complete independence of the consular officer.

Consular officers shall be subject to the jurisdiction of the courts in the territory which receive them in civil cases, subject to the proviso, however, that when the officer is a national of the state which a contract has made and engaged in no private occupation for gain, he shall be taken orally or in writing at his residence or office and with due regard for his convenience. The officer should, however, voluntarily give testimony at the trial when voluntarily obliged to do so without interference with his official duties.

### ARTICLE XV

Consular officers, including consuls, national of the State by which they are appointed other than those engaged in private occupation for gain with the State where they exercise their functions shall be exempt from all taxes, National, State, Provincial, and Municipal, levied upon their person or upon their property, except taxes levied on account of the ownership of movable property situated there, or income derived from sources within the territory of the State within which they exercise their functions. All consular officers and consuls, national of the State appointing them shall be exempt from the payment of tax on their salary, fees or wages received by them in connection with their consular service.

Land and buildings situated in the territory of the foregoing Contracting Parties, of which the other foregoing Contracting Parties the legal or equitable owners and which are used exclusively for diplomatic or consular purposes by that owner, shall be exempt from taxation of every kind, National, State, Provincial and Municipal, other than a limited levied for service or local public purposes by which the respective countries are benefited.

### ARTICLE XVI

Consular officers may place over their threshold the respective vessels of the State with an appropriate designation of the vessel. Such officers may also host the flag of the country on their vessels including those situated in the capitals of the two countries. They may likewise host such flag over any boat or vessel employed in their service on the consular mission.

The consular officers and their vessels shall at all times be inviolable. They shall under no circumstances be subject to invasion by any authority so any harassment within the country where such officers are located. Nor shall the authorities under any pretext make any examination or seizure of papers or other property deposited with a consular officer. Consular officers shall not be used as places of asylum. No consular officer shall be required to produce official vessels in court or testify as to their contents.

Upon the death, incapacity, or absence of a consular officer having no subordinate consular officer at his post, secretaries or hangers, whose official harassment may have previously been made known to the government of the State where the consular mission was exercised, may temporarily exercise the consular mission on the day as directed or appointed or absent consular officer; and while so acting shall enjoy all the rights, prerogatives and immunities granted to the incumbent.

## ARTICLE XVII

Consular officers, nationals of the State by which they are appointed, may, with the respective consular districts, address the authorities, National, State, Provincial or Municipal, for the purpose of protecting the countrymen in the enjoyment of their rights arising by treaty or otherwise. Complaint may be made for the violation of those rights. Failure upon the part of the proper authorities to grant redress or to afford protection may justify representation through the diplomat in charge, and in the absence of a diplomat in person, a consular general or the consular officer stationed at the capital may apply directly to the government of the country.

## ARTICLE XVIII

Consular officers may, in pursuance of the laws of their own country, take, at any appropriate place within their respective districts, the depositions of any occupants of vessels of their own country, or of any national of, or of any person having permanent residence within their territory so, their own country. Such officers may draw up, attest, certify and authenticate unilateral acts, deeds, and testamentary dispositions of their countrymen, and also contracts to which a countryman is a party. They may draw up, attest, certify and authenticate written instruments of any kind purporting up to express or embody the conveyance or transmission of property of any kind within the territory of the State by which such officers are appointed, and unilateral acts, deeds, testamentary dispositions and contracts relating to property situated, or business to be transacted, within the territory of the State by which they are appointed, embracing unilateral acts, deeds, testamentary dispositions or agreements executed solely by nationals of the State with which such officers exercise their functions.

Instruments and documents thus executed and deposited and translations thereof, when duly authenticated and under his official seal by the consular officer, shall be received as valid in the territory of the contracting parties as original documents or authenticated copies, as they may be, and shall have the same or and as drawn by and executed by or a notary or other public officer duly authorized in the country by which the consular officer was appointed; provided always that such documents shall have been drawn and executed in conformity to the laws and regulations of the country where they are designated to take effect.

## ARTICLE XIX

In case of the death of a national of the other High Contracting Party in the territory of the other without having in the territory of his domicile as any known heirs or testamentary executors by him appointed, the competent local authorities shall at once inform the nearest consular officer of the State of which the deceased was a national of the aforesaid death, in order that necessary information may be forwarded to the parties interested.

In case of the death of a national of the other High Contracting Party without will or testament, in the territory of the other High Contracting Party, the consular officer of the State of which the deceased was a national and with which the deceased had his home at the time of death, shall, so far as the laws of the

the count **R**e and ending the appointment of an administrator and until letters of administration have been granted, be deemed qualified to take charge of the estate left by the decedent for the use and protection of the same. Such consular office shall have the right to be appointed as administrator within the discretion of a tribunal or other agency controlling the administration of estates provided the laws of the place where the estate is administered so permit.

Whenever a consular office accepts the office of administrator of the estate of a deceased citizen, he subjects himself as such to the jurisdiction of the tribunal or other agency making the appointment for all necessary purposes to the same extent as a national of the country where he was appointed.

## ARTICLE XX

A consular office of the High Contracting Parties on behalf of his non-resident citizen collect and remit for the debit but vestiges derived from the estates necessary to operate or accue under the provisions of so-called Wok's Consular Laws or other like statutes, for transit through channels established by his Government to the debit but vestiges.

## ARTICLE XXI

Each of the High Contracting Parties agrees to exempt the entire fee of all duties without exemption of any kind, of all furniture, equipment and supplies intended for official use in the consular offices of the other, and to extend to such consular offices of the other and the families and suites as a nationals, the privilege of exemption of duties of the personal or household effects actually in use which accompany such consular offices, the families or suites, of which a vestige shall be exempt, provided, nevertheless, that no article, the importation of which is prohibited by the law of the other of the High Contracting Parties, may be brought into territories.

It is understood, however, that this privilege shall not be extended to consular offices who are engaged in an active occupation for gain in the countries to which the above applied, save with respect to governmental supplies.

## ARTICLE XXII

Subject to an limitation on exception hereabove set forth, the other party to be agreed upon, the territories of the High Contracting Parties to which the provisions of this Treaty extend shall be understood to comprise all areas of land, water, and above which the Parties claim and exercise dominion as sovereign territory, except the Panama Canal Zone.

## ARTICLE XXIII

Nothing in the present Treaty shall be construed to limit or restrict in any way the rights, privileges and advantages accorded to the United States citizens nationals or to Austria citizens nationals by the Treaty between the United States and Austria establishing friendly relations concluded on August 24, 1921.<sup>5</sup>

<sup>5</sup> TS 659, art. . 215.

## ARTICLE XXIV

6 For an agreement of Jan. 20, 1931, supplementing article XXIV (TS 839), see post, . 372.

The present Treaty shall remain in full force for the term of six years from the date of the exchange of ratifications, on which date it shall begin to take effect in all of its provisions.

If within one year before the expiration of the aforesaid term of six years the High Contracting Parties not parties to the other agreement of modification, change or revision, any of the provisions of any of the articles in this Treaty or of the ratification on the expiration of the aforesaid term, the Treaty shall remain in full force and effect after the aforesaid term and until one year from such a term as the other of the High Contracting Parties shall **R** have notified to the other agreement of modification or termination of the Treaty.

## ARTICLE XXV

The present Treaty shall be ratified, and the ratifications hereof shall be exchanged in Vienna as soon as possible.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the same and have affixed their seals hereof.  
DONE in duplicate in the English and German languages in Vienna, this 19th day of June 1928.

ALBERT HENRY WASHBURN [SEAL]

SEIPEL [SEAL] F

friendship, Commerce and Consular Rights

Agreement signed in Vienna, January 20, 1931, supplementing the Treaty of June 19, 1928

Senate and Consensus Resolution of June 20, 1931

Ratified in Austria March 28, 1931

Ratified by the President of the United States April 29, 1931

Ratifications exchanged in Vienna May 27, 1931

Entered into force May 27, 1931

Proclaimed by the President of the United States May 28, 1931

47 Stat. 1899; Treaty Series 839

#### SUPPLEMENTARY AGREEMENT

TO THE TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF AUSTRIA, SIGNED ON JUNE 19, 1928

The United States of America and the Republic of Austria, the undersigned Mr. Christopher Barker Stockton, Envoy Extraordinary and Minister Plenipotentiary of the United States of America in Vienna, and Dr. Johann Schober, Vice-Chancellor and Federal Minister for Foreign Affairs of the Republic of Austria, their duly empowered plenipotentiaries, agree, as follows:

Notwithstanding the provisions of the first paragraph of Article XXIV of the Treaty of Friendship, Commerce and Consular Rights, between the United States of America and the Republic of Austria, signed June 19, 1928, the effect of the said Treaty shall remain in force for the term of six years from the date of the exchange of ratifications, it is agreed that the said Treaty shall be terminated on June 11, 1935, or on the date hereafter, no notice given by either high contracting party to the other party herebefore the date on which it is desired that such termination shall become effective.

1 TS 838, note, p. 351.

DONE in duplicate, in the English and German languages, in Vienna, this 20th day of June One Thousand Nine Hundred and Thirtieth.

G. B. STOCKTON [SEAL]

SCHOBER [SEAL]

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