

Belgium Friendship Establishment and Navigation Treaty

BELGIUM

Friendship, Establishment and Navigation

Treaty and protocol signed at Brussels February 21, 1961;

Ratification advised by the Senate of the United States of America

September 11, 1961;

Ratified by the President of the United States of America

September 26, 1961;

Ratified by Belgium July 30, 1963;

Ratifications exchanged at Washington September 3, 1963;

Proclaimed by the President of the United States of America September 26, 1963;

Entered into force October 3, 1963.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS a treaty of friendship, establishment and navigation between the United States of America and the Kingdom of Belgium, together with a related protocol, was signed at Brussels on February 21, 1961, the originals of which treaty and protocol, in the English and French languages, are word for word as follows:

TREATY

of Friendship, Establishment and Navigation

between the United States of America

and The Kingdom of Belgium

TREATY of Friendship, Establishment and Navigation between the United States of America and The Kingdom of Belgium

The President of the United States of America, and

His Majesty the King of the Belgians,

Desirous of strengthening the bonds of peace and friendship traditionally existing between their two countries and of encouraging closer economic and cultural relations between the two peoples,

Being cognizant of the contributions which may be made toward these ends by arrangements specifying mutually accorded rights and privileges and promoting mutually advantageous commercial intercourse and investments,

Have resolved to conclude a Treaty of Friendship, Establishment and Navigation, and for that purpose have appointed as their Plenipotentiaries,

The President of the United States of America: ,

His Excellency. William A. Burde, Ambassador Extraordinary and Plenipotentiary of the United States of America in Brussels

His Majesty the King of the Belgians:

His Excellency. Pierre Wigny, Minister for Foreign Affairs

Who, having communicated to each other their full powers found to be in good and due form, have agreed as follows:

Article 1

Each Contracting Party shall at all times accord equitable treatment and effective protection to the persons, property, investments, rights and interests of nationals and companies of the other Party.

Article 2

1) Nationals of either Contracting Party, subject to the laws relating to the entry, sojourn and establishment of aliens, be permitted to enter the territories of the other Party, to travel therein freely, to reside and establish themselves at places of their choice. Nationals of either Party shall in particular be permitted to enter the territories of the other Party and reside therein:

a); for the purpose of carrying out trade between the two countries and engaging in related commercial activities

b) for the purpose of developing and directing the operations of an enterprise in which they have invested, or a enterprise in the process of investing, a substantial amount of capital.

2) Nationals of either Party and nationals of third countries en route to or from the territories of such Party, subject to the provisions in paragraph 1 of the present Article, be accorded freedom of transit for themselves and their baggage through the territories of the other Party by the routes most convenient for international transit. In particular, they shall be free from requirements that entail unnecessary delay and impediments. They shall be subject, however, to regulations with respect to their baggage that are applicable to aliens generally in order to prevent abuse of the transit privilege.

3); Nationals of either Party, within the territories of the other Party, shall enjoy freedom of conscience and they shall be at liberty to bond religious services, both public and private, at suitable places of their choice.

4) Nationals of either Party shall be permitted, within the territories of the other Party, to gather information for dissemination to the public abroad, and shall enjoy freedom of transmission of such information to be used for publication, press, radio, television, motion pictures and other means and they shall be permitted to communicate freely with other persons inside and outside such territories by mail, telegraph and other means; open to general public use.

5) The provisions of the present Article shall be subject to the right of either Party to apply measures that are necessary to maintain public order and protect the public health, morals and safety.

Article 3

1) Nationals of either Contracting Party within the territories of the other Party shall be accorded full and equal judicial protection for their persons, rights and interests. Such nationals shall be free from moral harassment and shall receive constant protection in no case less than that enjoyed by the nationals of the host country.

2) To this end they shall in particular have right of access, on the same basis and on the same conditions as nationals of such other Party, to the courts of justice and administrative tribunals and agencies in a degree of jurisdiction and shall have right to the services of competent persons of their choice.

3) The provisions of paragraphs 1 and 2 of the present Article shall extend and apply in the same manner to companies. It is understood, moreover, that the right of such access shall be enjoyed without any requirement of registration or domestication:

a) in the a e elgian mpanie n t engaged in a tivitie in the territ rie the United State Ameri a; and y

b) in the a e United State mpanie n t e tabli hed in the territ rie the Kingd m elgium.

4) I a nati nal either Part i taken int u t d within the territ rie the ther Part , the neare t n ular repre entative hi untr hall n the demand u h nati nal be immediatel n ti ed and hall have the right t vi it and mmuni ate with u h nati nal with ut arbitrar dela . Su h nati nal hall:

a) re eive rea nable and human treatment in n a e le than that required b internati nal law;

b) be rmall and immediatel in rmed the harge again t him; and

) be br ught t trial a rapidl a i n i tent with the pr per preparati n hi de en e, r whi h he hall enj all rea nable mean , in luding the ervi e mpetent un el,

5) The dwelling , i e , wareh u e , a t rie and ther premi e nati nal and mpanie either Part l ated within the territ rie the ther Part hall n t be ubje t t ear he r mea ure ther titan th e permitted b law and in exe uti n law. Ofi ial ear he and examinati n u h premi e and their ntent , when ne e ar , hall be made a rding t law and with are ul regard r the nvenien e the upant and the ndu t bu ine .

6) C ntra t entered int between nati nal and mpanie either Part and nati nal and mpanie the ther Part , that pr vide r the ettlement b arbitrati n ntr ver ie , hall n t be deemed unen r eable within the territ rie u h ther Part merel n the gr und that the pla e de igned r the arbitrati n pr eeding i ut ide u h territ rie r that the nati nalit ne r more the arbitrat r i n t that u h ther Part . N award dul rendered pur uant t an u h ntra t, and inal and en r eable under the laws the pla e where rendered, hall be deemed invalid and denied e e tive mean en r ement b the auth ritie either Part merel n the gr und that the pla e where u h award wa rendered i ut ide the territ rie u h Part r that the nati nalit ne r more the arbitrat r i n t that u h Part .

Article 4

1) Pr pert that nati nal and mpanie either C ntra ting Part wn within the territ rie the ther Part hall enj n tant e urit therein thr ugh ull legal and judi ial pr te ti n.

2) Neither Part hall take unrea nable r di riminat r mea ure that wuld impair the a quired right and intere t within it territ rie nati nal and mpanie the ther Part in the entrepri e whi h the have e tabli hed, in their apital, r in the kill , art r te hn l g whi h the have uplied.

3) Nati nal and mpanie either Part hall n t be expr priated their pr pert within the territ rie the ther Part ex ept r publi bene it and with the pr mpt pament ju t mpen ati n. Su h mpen ati n hall be an e e tivel realizabe rm and hall repre ent the ull equivalent the pr pert taken. Furthermore, adequate pr vi i n hall have been made n t later than the time taking r the determinati n and pa ment there .

4) Nati nal and mpanie either Part hall in n a e be a rded, within the territ rie the ther Part , le than nati nal treatment with re pe t t the matter et rth in paragraph 3 the pre ent Arti le and in paragraph 5 Arti le 3. Møre ver, entrepri e in whi h nati nal and mpanie either Part have a ub tantial intere t hall be a rded, within the territ rie the ther Part , n t le than nati nal treatment in all matter relating t the taking privatel wned entrepri e int publi wner hip and t the pla ing u h enterpri e under publi ntr l.

Article 5

1) Nati nal and mpanie either C ntra ting Part hall be a rded, within the territ rie the ther Part , nati nal treatment with re pe t t btaining and maintaining patent inventi n, and with re pe t t right in trade mark , trade name , trade label and indu trial pr pert all kind . y

2) The Pa e eem ha hghly e able o fu he , h ough coope a ve an o he app op a e mean , he n e change an u e of cen fc an echn cal knowle ge, pa cula ly n he n e e of nc ea ng p o uc v y an mp ov ng an a of l v ng wih n he e pec ve e o e .

Article 6

1) Na onal of e he Con ac ng Pa y hall be pe mi e , wih n he e o e of he o he Pa y, o o gan ze compan e fo gan upon he ame con on a na onal of uch o he Pa y. Na onal an compan e of e he Pa y hall be pe mi e o ma n a n ub a e , b anche , agence an off ce wih n he e o e of he o he Pa y upon con on no le favo able han ho eacco e na onal of uch o he Pa y.

2) Na onal an compan e of e he Pa y hall be acco e na onal ea men wih e pec o engag ng n all ype of comme cal, n u al, fnancal an o he ac v e fo gan wih n he e o e of he o he Pa y. The p ov on of he pe ce ng en ence hall apply n he ca e of na onal o ac v e n an n epen en o epen en capac y.

3) Compan e con u e un e he appl cable laws an egula on wih n he e o e of e he Pa y hall be eeme compan e he eof an hall have he ju cal a u ecogn ze wih n he e o e of he o he Pa y, p ov e ha no h ng n he cha e o co po a e pu po e con a y o he publ c pol cy of uch o he Pa y.

4) In he ca e of en e p e ua e wih n he e o e of e he Pa y an con olle by na onal an compan e of he o he Pa y, uch en e p e , whe he n he fo m of n v ual p op e o hp compan e o o he w i e, hall n all ha ela e o he con uc of he ac v e he eof be acco e ea men no le favo able han ha acco e l ke en e p e con olle by na onal o compan e of he coun y.

5) Each Pa y e e ve he gh o e e mine he ex en o wh ch al en may e abl h, acqu e n e e n, o ca y on en e p e engage wih n t e o e n commun ca on , a o wa e an po , bank ng nvol ng f uca y o epo o y func on , o he explo a on of lan o o he na u al e ou ce . Howeve , new l mi a on mpo e by e he Pa y on he ex en o wh ch al en a e acco e na onal ea men , wih e pec o ca y ng on uch ac v e wih n e o e , hall no be apple a agan en e p e wh ch a e egula ly engage n uch ac v e he en a he me uch new l mi a on a e a ope an wh ch a e owne o con olle by na onal an compan e of he o he Pa y. Mo e ove , ne he Pa y hall eny o an po a on, commun ca on an bank ng en e p e of he o he Pa y he gh o ma n a n b anche an agence o pe fo m func on nece a y fo e en ally n e na onal ope a on n wh ch hey a e pe mi e o engage.

6) The p ov on of he pe en A cle hall no p even e he Pa y fo m p e c b ng pecal fo mal e n connec on wih he e abl h men of compan e o en e p e wih n e o e wh ch a e manage o con olle by al en ; bu uch fo mal e may no mpa he ub ance of he gh e fo h n pa agaph 1, 2 an 4 of he pe en A cle.

7) Na onal an compan e of e he Pa y hall be acco e na onal ea men wih e pec o engag ng n cen fc, e uca onal, el gou an phlan h op cac v e wih n he e o e of he o he Pa y. They hall be acco e he gh o fo ma oca on , nclu ng nonp of a oca on , un e he laws of uch o he Pa y fo he pu po e of engag ng n he afo e a ac v e . No h ng n he pe en Tea y hall be eeme o gan o o mply any gh o engage n pol cal ac v e .

Article 7

1) The Con ac ng Pa e ecogn ze ha e able fo con on of compe ve equal y o be ma n a ne n ua on n wh ch publ cly owne o con olle a ng o manufac u ng en e p e a e n compe on wih n he e o e of e he Pa y wih p va ely owne an con olle en e p e of na onal o compan e of he o he Pa y.

2) Acco ngly, uch a e-owne en e p e houl no be g ven pecal economic p v lege wh ch coul nju e he compe ve po on of uch p va e en e p e . Howeve , h p n cple hall no be con ue o p even e he Pa y fo mak ng uch pecal conce on na of a e-owne en e p e a eems nece a y u ng t

periods of economic crisis especially to relieve unemployment. This principle moreover is without prejudice to special advantages given in connection with:

a) manufacturing goods or government use or supplying goods and services to the Government or government use; or

b) supplying at prices substantially below competitive prices the needs of particular population groups or essential goods and services not otherwise practically obtainable by such groups.

Article 8

1) Nationals and companies of either Contracting Party shall be permitted to engage with the territories of the other Party the services of accountants and technical experts of all kinds executive personnel attorneys agents and other specialists of their choice.

2) Nationals and companies of either Party shall be permitted to engage the services of accountants and other technical experts regardless of the extent to which they may have qualified or the practice of a profession with the territories of the other Party or the sole purpose of making exacting audits and technical investigations and rendering reports in the private interest of such states and companies in connection with the planning and operation of their enterprises and enterprises in which they have a financial interest with such territories.

Article 9

1) Nationals of either Contracting Party residing with the territories of the other Party and companies of either Party engaged in trade or other gainful pursuit or in scientific educational religious or philanthropic activities with the territories of the other Party shall not be subject to the payment of taxes fees or charges imposed upon or applied to income capital transactions activities or any other object or to requirements with respect to the levy and collection thereof with the territories of such other Party more burdensome than those borne by companies of such other Party in like situations.

2) With respect to companies of either Party who are either resident or engaged in trade or other gainful pursuit with the territories of the other Party and with respect to companies of either Party which are not engaged in trade or other gainful pursuit with the territories of the other Party it shall be the aim of such other Party to apply generally the principle set forth in paragraph 1 of the present Article.

3) Nationals and companies of either Party covered by paragraph 2 of the present Article shall not be subject with the territories of the other Party to the payment of taxes fees or charges imposed upon or applied to income capital transactions activities or any other object or to requirements with respect to the levy and collection thereof more burdensome than those borne by companies of any third country.

4) In the case of companies of either Party engaged in trade or other gainful pursuit with the territories of the other Party and in the case of companies of either Party engaged in trade or other gainful pursuit with the territories of the other Party but not resident therein such other Party shall not impose or apply any tax fee or charge upon any income capital or other basis in excess of that reasonably allocable or apportionable to its territories or grant deductions and exemptions less than those reasonably allocable or apportionable to its territories. A comparable rule shall apply also in the case of companies organized and operated exclusively for scientific educational religious or philanthropic purposes.

5) The provisions of the present Article shall not obligate either Party to extend to companies and companies of the other Party tax advantages accorded to companies of any third country on the basis of reciprocity or by virtue of agreements or the avoidance of double taxation. Furthermore each Party reserves the right to apply special provisions in extending advantages to its companies and residents in connection with joint tax returns by husband and wife and in allowing to residents of contiguous countries execution of a personal property in connection with income and inheritance taxes.

Article 10

1) Neither Party has a claim of either Contracting Party has been or by the other Party the same treatment as a claim of another Party with respect to payment, remittance or transfer of funds or financial interests between the territories of the two Parties as well as between the territories of another Party and of a y third country. This treatment has been not more favorable than that as or to a claim of another Party of a y third country in like situations.

2) Neither Party has imposed expropriation as defined in paragraph 5 of the present Article except to the extent necessary to maintain or restore a equality to its monetary reserve, particularly in relation to its external commercial financial requirements. It is understood that the provisions of the present Article do not alter the obligation either Party may have to the International Monetary Fund or pursue imposition by either Party of expropriation whenever the Fund may be authorized or requested.

3) If either Party imposes expropriation in accordance with paragraph 5 of the present Article, it has not failed, after making whatever provisions may be necessary to assure the availability of foreign exchange for essential goods and services, to make provisions to the fullest extent practicable in light of the value of the monetary reserve available as a source of payment, for the withdrawal of the other Party, of: a) the amount referred to in Article 4, paragraph 3, b) earnings, whether the form of salaries, interest, dividends, royalties, payments for technical services, or otherwise, c) amounts for amortization of obligations, d) payments for interest, and, to the extent feasible, capital transfers, gifts or inheritance payments for other transactions. If more than one rate of expropriation is for one, the rate applicable to such withdrawal shall be a rate which is approved by the International Monetary Fund for such transactions or, in the absence of a rate so approved, a effective rate which is a usual rate of a y tax or surcharge on expropriation transfers, in just and reasonable.

4) Expropriation shall not be imposed by either Party in a manner which is arbitrary or discriminatory to the claims, investments, transfers, transfers or other interests of the claimant as a claim of the other Party, or to the competitive position thereof.

5) The term "expropriation" as used in the present Article includes expropriation, regulation, expropriation, expropriation, or other requirements imposed by either Party which burden or interfere with payment, remittance, or transfer of funds or financial interests between the territories of the two Parties.

6) Questions arising under the present Treaty concerning expropriation matters shall be governed by the provisions of the present Article.

Article 11

Commercial travelers representing a claim of either Contracting Party engaged in business within the territories thereof has been or by the other Party treatment not more favorable than that as or to commercial travelers representing a claim of another Party with respect to the exercise of their functions.

Article 12

1) Between the territories of the two Contracting Parties there shall be, in accordance with the provisions of the present Treaty, freedom of navigation.

2) Vessels under the flag of either Party, according to the paper required by its laws in proof of nationality, shall be deemed to be vessels of that Party, both on the high seas and within the ports, passages and waters of the other Party.

3) The term "vessel" as used in the present Treaty, means a type of vessel, whether privately owned or operated, or publicly owned or operated, but this term does not include vessels of war.

Article 13

1) Vessels of either Contracting Party shall have liberty, on equal terms with vessels of the other Party and on equal terms with vessels of a y third country, to come with their cargoes to a port, passages and waters of a y

other Part of the territory of commerce and navigation. Such vessels and cargoes shall be permitted to trade in the ports, places and waters of such other Part be accorded all respects that would be accorded to a most-favored-nation treatment.

2) Vessels of either Part en route to or from the territories of the other Part shall be accorded national treatment and most-favored-nation treatment with respect to the right to carry all cargo that may be carried by vessel.

3) Goods carried by vessels under the flag of either Part to or from the territories of the other Part shall enjoy the same favors as when transported by vessels sailing under the flag of such other Part. This applies equally with regard to customs duties and all other fees and charges, to duties, drawbacks and other privileges of this nature, as well as to the administration of the customs and to transportation and from port to port and other measures of transportation.

4) The coasting trade and local navigation are excepted from the provisions of the present Article. However, the vessels of each Part shall be accorded by the other Part most-favored-nation treatment with respect to the coasting trade and local navigation. Moreover, it is understood that vessels of either Part shall be permitted to discharge or to receive cargoes at a port, place or waters of the other Part of the territory of commerce and navigation, and to proceed with the remaining portion of such cargoes to another such port, place or waters and they shall be permitted to load like material the same voyage outward, at the various ports, places and waters of the territory of commerce and navigation; but a right to engage in the coasting trade or local navigation may not thereby be claimed.

5) Neither Part shall impose a measure of a discriminatory nature that hinders or restricts the importer or exporter of products of either country from obtaining marine insurance on such products companies of either Part.

Article 14

If a vessel of either Contracting Party is aground or wrecked on the coasts of the other Part, or if it is distressed and must put to a port of the other Part, the latter Part shall extend to the vessel as well as to the crew, the passengers, the essential crew and passengers, and to the cargo of the vessel, the same protection and assistance as would have been extended to a vessel under its own flag in like circumstances; and shall permit the vessel and its crew to proceed with its voyage under its own flag in accordance with the laws applicable to vessels under its own flag. Articles salvaged from the vessel shall be exempt from all customs duties unless the vessel is a vessel of the latter Part; but articles of the latter Part shall be subject to measures of the latter Part of the revenue of the latter Part.

Article 15

1) If all ports of either Contracting Party the masters of vessels under the flag of the other Part, whose crews have ceased to be fully constituted on account of illness or for any other cause, shall be permitted to engage such seamen as may be necessary for the completion of the voyage.

2) Nationals of either Part who are seamen may be sent to ports of the other Part to join national vessels, care of consular officers, either dual or groups of the base of seamen's affairs issued in the respective ports. Likewise, nationals of either Part shall be permitted to travel through the territory of the other Part to the port to join vessels or to be attracted to the base of seamen's affairs used in the respective ports.

Article 16

The present Treaty shall not include the application of either Contracting Party of measures:

- regulating the importation or exportation of gold or silver;
- relative to its national currencies and to the products thereof;
- relative to taxable materials, to radioactive products of the utilization or processing thereof, or to materials that are the source of taxable materials; G

d) regul g e produc o of or rffc rms, mmu o d mpleme s of war, or rffc o er ma er ls c rred o d rec ly or d rec ly for e purpose of supply g mil ry es bl s me ;

e) ecess ry o fulfil e obl g o s of P ry for e ma e ce or res or o of er r o l pe ce d secur y, or ecess ry o pro ec s esse l secur y eres s;

f) for e pro ec o of o l re sures v g r s c, s or c l or rc eolog c l v lue; or

g) de y g o y comp y e owners p or d rec o of whc o ls of y rd cou ry or cou res ve d rec ly or d rec ly e co roll g eres, e dv ges of e prese Tre y, excep wi respec o recog o of jur d c l s us d wi respec o ccess o cour s. r

A ticle 17

1) T e erm ~ o l re me ~ me s re me c corded wi e err or es of Co r c g P ry upo erms o less f vor ble e re me c corded ere, l ke s u o s, o o ls, comp es, produc s, vessels of o er objec s, s e c se may be, of suc P ry. r

2) T e erm ~ mos -f vored- o re me ~ me s re me c corded wi e err or es of P ry upo erms o less f vor ble e re me c corded ere, l ke s u o s, o o ls, comp es, produc s vessels or o er objec s, s e c se may be, of y rd cou ry. r

3) As used e prese Tre y, e erm ~ comp es ~ me s corpor o s, p r ers ps, comp es d o er ssoc o s, whe er or o wi jur d c l s us, whe er or o wi l mi ed l bl y d whe er or o for pecu ry prof .

4) N o l re me c corded u der e prov s o s of e prese Tre y o comp es of e K gdom of Belg um s ll, y S e or possess o of e U ed S es of Amer c, be e re me c corded ere o comp es cre ed or org zed o er S es d possess o s of e U ed S es of Amer c .

A ticle 18

1) T e err or es o whc e prese Tre y ex e ds s ll compr se ll re s of l d d wa er u der e sovereg y or u or y of e c Co r c g P ry, o er e Trus Terr ory of Ru d -Uru d e c se of e K gdom of Belg um, d e P ma C l Zo e d e Trus Terr ory of e P c f c Isl ds e c se of e U ed S es of Amer c .

2) I s u ders ood e prese Tre y does o pply o err or es u der e u or y of e er P ry solely s mil ry b se or by re so of empor ry mil ry occup o .

A ticle 19

1) E c Co r c g P r y s ll c cord symp e c co s der o o, ds ll fford dequ e oppor u y for co sul o reg rd g, suc represe o s s e o er P ry may make wi respec o y ma er ffec g e oper o of e prese Tre y.

2) A y d spu e be wee e P r es s o e erpre o or pplc o of e prese Tre y, o s sf c or ly d jus ed by d plomacy, s ll be submi ed o e I er o l Cour of Jus ce, u less e P r es gree o se leme by some o er p c f c me s.

A ticle 20

T e prese Tre y s ll ermi e e Tre y of Commerce d N v g o s g ed Was g o Marc 8, 1875, [1] d e Co ve o co cer g Tr de Marks s g ed Was g o Apr l 7, 1884.[2] r

1 TS 28; 19 S . 628.

2 TS 31; 23 S . 766.

A ticle 21

7) The provisions of Article 6, paragraph 2, shall extend to the activity of peddlers and itinerant artists the exercise of the respective activity.

8) With reference to Article 6, paragraph 3, either party shall apply the term "public policy" as it may be defined in the laws of the other party, in which the former party permits a commercial activity with like purpose to be carried out under its laws.

9) The benefit of the provisions of Article 6, paragraph 3, and of Article 9, paragraph 4, shall be acquired with the territory of the Contracting Party whose law takes the main establishment of the contractor for the registration of the commercial enterprise, if such establishment is deemed to be within its territory.

10) The provisions of Article 6, paragraph 2 and 7, shall be considered to confer rights with respect to movable real property.

11) The treatment provided in Article 10, paragraph 1, does not preclude discrimination against the grounds of nationality but does not, for that reason, preclude differential treatment based upon residence requirements.

12) It is understood that the word "cargo" (or "cargoes") as used in Article 13 shall be deemed to comprehend passenger as well as goods.

13) The provisions of Article 13, paragraph 2, shall apply to postal services.

IN WITNESS WHEREOF the respective plenipotentiaries have signed their names and have affixed hereto their seals.

DONE at Brussels this 21st day of February 1958, at the hour of twelve, in duplicate, in the French and English languages, both equally authentic.

FOR THE UNITED STATES OF AMERICA:

WILLIAM A. M. BURDEN [SEAL]

FOR THE KINGDOM OF BELGIUM:

WIGNY [SEAL]

TANC offers these agreements electronically as a public service for general reference. Every effort has been made to ensure that the text presented is complete and accurate. However, copies needed for legal purposes should be obtained from official archives maintained by the appropriate agency.