

Switzerland Friendship, Reciprocal Establishments, Commerce, and Extradition Convention

Convention signed at Bern November 25, 1850

Senate advice and consent to ratification, with amendments, March 7, 1851

Ratified by the President of the United States, with amendments, March 12, 1851

Senate advice and consent to ratification of "new draft", with amendments, May 29, 1851

Ratified by Switzerland July 30, 1855

"New draft" ratified by the President of the United States, with amendments, November 6, 1851

Ratifications exchanged at Washington November 8, 1855

Entered into force November 8, 1855

Proclaimed by the President of the United States November 9, 1855

Articles VIII to XII, inclusive, terminated March 23, 1900; 2 articles XIII to XVII, inclusive, superseded March 29, 1901, by treaty of May 14, 1903

11 Stat. 587; Treaty Series 353

The United States of America and the Swiss Confederation, equally animated by the desire to preserve and to draw more closely the bonds of friendship which so happily exist between the two Republics, as well as to augment, by all the means at their disposal, the commercial intercourse of their respective citizens, have mutually resolved to conclude a General Convention of Friendship, Reciprocal Establishments, Commerce, and for the Surrender of Fugitive Criminals.

For this purpose, they have appointed as their Plenipotentiaries, to wit:

The President of the United States, A. Dudley Mann, Special Agent of the United States on a mission to the Swiss Confederation, and

The Swiss Federal Council, Henry Druey, President of the Swiss Confederation, Director of the Political Department, and Frederick Frey-Herosée, Member of the Federal Council, Director of the Department of Commerce and of Tolls, who, after a communication of their respective full powers, have agreed to the following articles:

1 For texts of U.S. and Swiss amendments and for a detailed study of this convention, see 5 Miller 845. The text printed here is the amended text as proclaimed by the President.

2 Pursuant to notice of termination given by the United States Mar. 23, 1899.

3 TS 354, post, p. 904.

ARTICLE I

The citizens of the United States of America and the citizens of Switzerland shall be admitted and treated upon a footing of reciprocal equality in the two countries, where such admission and treatment shall not conflict with the Constitutional or legal provisions as well Federal as State and Cantonal of the contracting parties. The citizens of the United States and the citizens of Switzerland, as well as the members of their families, subject to the Constitutional and legal provisions aforesaid, and yielding obedience to the laws, regulations and usages of the

country wherein they reside, shall be at liberty to come, go, sojourn temporarily, domiciliate or establish themselves permanently, the former in the Cantons of the Swiss Confederation, the Swiss in the States of the American Union, to acquire, possess and alienate therein property (as is explained in Article V); to manage their affairs, to exercise their profession, their industry and their commerce, to have establishments, to possess warehouses, to consign their products and their merchandise, and to sell them by wholesale or retail, either by themselves, or by such brokers or other agents as they may think proper; they shall have free access to the Tribunals and shall be at liberty to prosecute and defend their rights before courts of Justice, in the same manner as native citizens, either by themselves, or by such advocates, attorneys or other agents as they may think proper to select. No pecuniary or other more burdensome condition shall be imposed upon their residence or establishment, or upon the enjoyment of the above-mentioned rights than shall be imposed upon citizens of the country where they reside, nor any condition whatever, to which the latter shall not be subject.

The foregoing privileges however shall not extend to the exercise of political rights nor to a participation in the property of communities, corporations or institutions of which the citizens of one party, established in the other, shall not have become members or co-proprietors.

ARTICLE II

The citizens of one of the two countries, residing or established in the other, shall be free from personal military service, but they shall be liable to the pecuniary or material contributions, which may be required, by way of compensation, from citizens of the country where they reside, who are exempt from the said service.

No higher impost, under whatever name, shall be exacted from the citizens of one of the two countries, residing or established in the other, than shall be levied upon citizens of the country in which they reside, nor any contribution whatsoever to which the latter shall not be liable.

In case of war or of expropriation for purposes of public utility, the citizens of one of the two countries residing or established in the other shall be placed upon an equal footing with the citizens of the country in which they reside, with respect to indemnities for damages they may have sustained.

ARTICLE III

The citizens of one of the two Republics, residing or established in the other, who shall desire to return to their country, or who shall be sent thither by a judicial decision, by an act of police, or in conformity with the laws and regulations on morals and mendicity, shall be received at all times and under all circumstances, they, their wives and their legitimate issue, in the country to which they belong, and in which they shall have preserved their rights, in conformity with the laws thereof.

ARTICLE IV

In order to establish their character as citizens of the United States of America or as citizens of Switzerland, persons belonging to the two contracting countries shall be bearers of pass-ports, or of other papers in due form, certifying their nationality as well as that of the members of their family, furnished or authenticated by a diplomatic or consular Agent of their nation, residing in the one of the two countries which they wish to inhabit.

ARTICLE V

The citizens of each one of the contracting parties shall have power to dispose of their personal property, within the jurisdiction of the other, by sale, testament, donation or in any other manner, and their heirs, whether by testament or ab intestato, or their successors, being citizens of the other party, shall succeed to the said property or inherit it, and they may take possession thereof, either by themselves or by others acting for them; they may dispose of the same as they may think proper, paying no other charges than those to which the inhabitants of the country wherein the said property is situated shall be liable to pay in a similar case. In the absence of such heir, heirs, or other successors, the same care shall be taken by the authorities, for the preservation of the property, that would be taken for the preservation of the property of a native of the same country, until the lawful proprietor shall have had time to take measures for possessing himself of the same.

The foregoing provisions shall be applicable to real estate, situated within the States of the American Union or within the Cantons of the Swiss Confederation in which foreigners shall be entitled to hold or inherit real estate.

But in case real estate, situated within the territories of one of the contracting parties, should fall to a citizen of the other party, who, on account of his being an alien, could not be permitted to hold such property, in the State or in the Canton in which it may be situated, there shall be accorded to the said heir or other successor such term as the laws of the State or Canton will permit to sell such property; he shall be at liberty at all times to withdraw and export the proceeds thereof without difficulty and without paying to the Government any other charges than those which, in a similar case would be paid by an inhabitant of the country in which the real estate may be situated.

ARTICLE VI

Any controversy that may arise among the claimants to the same succession, as to whom the property shall belong, shall be decided according to the laws and by the Judges of the country in which the property is situated.

ARTICLE VII

The contracting parties give to each other the privilege of having, each, in the large cities and important commercial places of their respective States, Consuls and Vice-Consuls of their own appointment, who shall enjoy the same privileges and powers, in the discharge of their duties, as those of the most favored nations. But before any Consul or Vice-Consul shall act as such, he shall, in the ordinary form, be approved of by the Government to which he is commissioned.

In their private and business transactions, Consuls and Vice-Consuls shall be submitted to the same laws and usages as private individuals, citizens of the place in which they reside.

It is hereby understood that in case of offense against the laws, by a Consul or a Vice-Consul, the government to which he is commissioned, may, according to circumstances, withdraw his exequatur, send him away from the country, or have him punished in conformity with the laws, assigning to the other government its reasons for so doing.

The archives and papers belonging to the Consulates shall be respected inviolably, and under no pretext whatever shall any magistrate, or other functionary, visit, seize, or in any way interfere with them.

ARTICLE VIII

In all that relates to the importation, exportation and transit of their respective products, the United States of America and the Swiss Confederation shall treat each other, reciprocally, as the most favored Nation, Union of Nations, State or Society, as is explained in the following articles.

ARTICLE IX

Neither of the contracting parties shall impose any higher or other duties upon the importation, exportation or transit of the natural or industrial products of the other, than are or shall be payable upon the like articles, being the produce of any other country, not embraced within its present limits.

ARTICLE X

In order the more effectually to attain the object contemplated in article VIII, each of the contracting parties hereby engages not to grant any favor in commerce to any Nation, Union of Nations, State, or Society, which shall not immediately be enjoyed by the other party.

ARTICLE XI

Should one of the contracting parties impose differential duties upon the products of any nation, the other party shall be at liberty to determine the manner of establishing the origin of its own products, destined to enter the country by which the differential duties are imposed.

ARTICLE XII

The Swiss territory shall remain open to the admission of articles arriving from the United States of America; in like manner, no port of the said States shall be closed to articles arriving from Switzerland, provided they are conveyed in vessels of the United States or in vessels of any country having free access to the ports of said States. Swiss merchandise arriving under the flag of the United States or under that of one of the nations most favored by them, shall pay the same duties as the merchandise of such nation; under any other flag, it shall be treated as the merchandise of the country to which the vessel belongs.

In case of ship-wreck and of salvage on the coasts of the United States, Swiss merchandise shall be respected and treated as that belonging to citizens of the said States.

The United States consent to extend to Swiss products, arriving or shipped under their flag, the advantages which are or shall be enjoyed by the products of the most favored nation, arriving or shipped under the same flag.

It is hereby understood that no stipulation of the present article shall in any manner interfere with those of the four foregoing articles, nor with the measures which have been or shall be adopted by either of the contracting countries in the interest of public morality, security or order.

ARTICLE XIII

The United States of America and the Swiss Confederation, on requisitions made in their name through the medium of their respective diplomatic or consular Agents, shall deliver up to justice persons who, being charged with the crimes enumerated in the following article, committed within the jurisdiction of the requiring party, shall seek asylum or shall be found within the territories of the other: Provided, That this shall be done only when the fact of the commission of the crime shall be so established as to justify their apprehension and commitment for trial, if the crime had been committed in the country where the persons, so accused, shall be found.

ARTICLE XIV

Persons shall be delivered up, according to the provisions of this Convention, who shall be charged with any of the following crimes, to wit;

Murder, (including assassination, parricide, infanticide and poisoning;) Attempt to commit murder; Rape; Forgery, or the emission of forged papers; Arson; Robbery with violence, intimidation, or forcible entry of an inhabited house; Piracy; Embezzlement by public officers, or by persons hired or salaried, to the detriment of their employers, when these crimes are subject to infamous punishment.

ARTICLE XV

On the part of the United States the surrender shall be made only by the authority of the Executive thereof, and on the part of the Swiss Confederation, by that of the Federal Council.

ARTICLE XVI

The expenses of detention and delivery, effected in virtue of the preceding articles, shall be at the cost of the party making the demand.

ARTICLE XVII

The provisions of the foregoing articles, relating to the Surrender of Fugitive Criminals, shall not apply to offenses committed before the date hereof, nor to those of a political character.

ARTICLE XVIII

The present Convention is concluded for the period of ten years, counting from the day of the exchange of the ratifications; and if one year before the expiration of that period, neither of the contracting parties shall have announced, by an official notification, its intention, to the other, to arrest the operations of said Convention, it shall continue binding for twelve months longer, and so on, from year to year, until the expiration of the twelve months which will follow a similar declaration, whatever the time at which it may take place.

ARTICLE XIX

This Convention shall be submitted, on both sides, to the approval and ratification of the respective competent authorities of each of the contracting parties, and the ratifications shall be exchanged at the City of Washington, as soon as circumstances shall admit.

In faith whereof the respective Plenipotentiaries have signed the above articles, under reserve of the abovementioned ratifications, both in the English and French languages, and they have thereunto affixed their seals.

Done, in quadruplicate, at the City of Berne, this twenty-fifth day of November, in the year of our Lord one thousand eight hundred and fifty.

A. DUDLEY MANN [SEAL]

H. DRUEY [SEAL]

F. FREY-HEROSEE [SEAL]

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