

FRIENDSHIP AND GENERAL RELATIONS

Treaty signed at Madrid July 3, 1902

Senate advice and consent to ratification December 16, 1902

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Articles XXIII and XXIV abrogated by the United States July 1, 1916, in accordance with Seamen's Act of March 4, 1915¹

33 Stat. 2105; Treaty Series 422

TREATY OF FRIENDSHIP AND GENERAL RELATIONS BETWEEN THE UNITED STATES OF AMERICA AND SPAIN

The United States of America and His Catholic Majesty the King of Spain, desiring to consolidate on a permanent basis the friendship and good correspondence which happily prevail between the two Parties, have determined to sign a Treaty of Friendship and General Relations, the stipulations whereof may be productive of mutual advantage and reciprocal utility to both Nations, and have named with this intention:

The President of the United States of America, Bellamy Storer, a citizen of the United States, and their Envoy Extraordinary and Minister Plenipotentiary to His Catholic Majesty;

And His Catholic Majesty the King of Spain, Don Juan Manuel Sanchez y Gutierrez de Castro, Duke of Almodóvar del Rio, Marquis of Puebla de los Infantes, Grandee of Spain, His Most Catholic Majesty's Chamberlain, Knight Professed of the Order of Alcántara, Knight Grand Cross of the Royal Order of Ysabela the Catholic, of the Legion of Honor, of the Red Eagle of Prussia, etc., etc., etc., His Minister of State;

¹ 38 Stat. 1164. The U.S. notice of abrogation was accepted by Spain with the understanding that only such provisions of these articles as were in conflict with the act should be abrogated and all other provisions, especially those concerning the arrest, detention, and imprisonment of deserters from war vessels, should continue in force; and that American consuls in Spain should not exercise the powers of which Spanish consuls in the United States were deprived by the provisions of the act.

Who having communicated to each other their Full Powers, found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

There shall be a firm and inviolable peace and sincere friendship between the United States and its citizens on the one part, and His Catholic Majesty and the Spanish Nation on the other part, without exception of persons or places under their respective dominion.

ARTICLE II

There shall be a full, entire and reciprocal liberty of commerce and navigation between the citizens and subjects of the two High Contracting Parties, who shall have reciprocally the right, on conforming to the laws of the country, to enter, travel and reside in all parts of their respective territories, saving always the right of expulsion which each Government reserves to itself, and they shall enjoy in this respect, for the protection of their persons and their property, the same treatment and the same rights as the citizens or subjects of the country or the citizens or subjects of the most favored Nation.

They can freely exercise their industry or their business, as well wholesale as retail, without being subjected as to their persons or their property, to any taxes, general or local, imposts or conditions whatsoever, other or more onerous than those which are imposed or may be imposed upon the citizens or subjects of the country or the citizens or subjects of the most favored Nation.

It is, however, understood that these provisions are not intended to annul or prevent, or constitute any exception from the laws, ordinances and special regulations respecting taxation, commerce, health, police, and public security, in force or hereafter made in the respective countries and applying to foreigners in general.

ARTICLE III

Where, on the death of any person holding real property (or property not personal), within the territories of one of the Contracting Parties, such real property would, by the laws of the land, pass to a citizen or subject of the other, were he not disqualified by the laws of the country where such real property is situated, such citizen or subject shall be allowed a term of three years in which to sell the same, this term to be reasonably prolonged if circumstances render it necessary, and to withdraw the proceeds thereof, without restraint or interference, and exempt from any succession, probate or administrative duties or charges other than those which may be imposed in like cases upon the citizens or subjects of the country from which such proceeds may be drawn.

The citizens or subjects of each of the Contracting Parties shall have full power to dispose of their personal property within the territories of the other, by testament, donation, or otherwise; and their heirs, legatees, and donees, being citizens or subjects of the other Contracting Party, whether resident or nonresident, shall succeed to their said personal property, and may take possession thereof either by themselves or by others acting for them, and dispose of the same at their pleasure, paying such duties only as the citizens or subjects of the country where the property lies, shall be liable to pay in like cases.

In the event that the United States should grant to the citizens or subjects of a third Power the right to possess and preserve real estate in all the States, territories and dominions of the Union, Spanish subjects shall enjoy the same rights; and, in that case only, reciprocally, the citizens of the United States shall also enjoy the same rights in Spanish Dominions.

ARTICLE IV

The citizens or subjects of each of the two High Contracting Parties shall enjoy in the territories of the other the right to exercise their worship, and also the right to bury their respective countrymen according to their religious customs in such suitable and convenient places as may be established and maintained for that purpose, subject to the Constitution, Laws and Regulations of the respective countries.

ARTICLE V

The citizens or subjects of each of the High Contracting Parties shall be exempt in the territories of the other from all compulsory military service, by land or sea, and from all pecuniary contributions in lieu of such, as well as from all obligatory official functions whatsoever.

Furthermore, their vessels or effects shall not be liable to any seizure or detention for any public use without a sufficient compensation, which, if practicable, shall be agreed upon in advance.

ARTICLE VI

The citizens or subjects of each of the two High Contracting Parties shall have free access to the Courts of the other, on conforming to the laws regulating the matter, as well for the prosecution as for the defense of their rights, in all the degrees of jurisdiction established by law. They can be represented by lawyers, and they shall enjoy, in this respect and in what concerns arrest of persons, seizure of property and domiciliary visits to their houses, manufactories, stores, warehouses, etc., the same rights and the same advantages which are or shall be granted to the citizens or subjects of the most favored Nation.

ARTICLE VII

No higher or other duties of tonnage, pilotage, loading, unloading, lighthouse, quarantine or other similar or corresponding duties whatsoever, levied in the name or for the profit of the Government, public functionaries, private individuals, corporations or establishments of any kind shall be imposed in the ports of the territories of either country than those imposed in the like cases on national vessels in general or vessels of the most favored Nation. Such equality of treatment shall apply, reciprocally, to the respective vessels from whatever port or place they may arrive and whatever may be their place of destination, except as hereinafter provided in Article IX of this Convention.

ARTICLE VIII

All the articles which are or may be legally imported from foreign countries into ports of the United States, in United States vessels, may likewise be imported into those ports in Spanish vessels, without being liable to any other or higher duties or charges whatsoever than if such articles were imported in United States vessels; and, reciprocally, all articles which are or may be legally imported from foreign countries into the ports of Spain, in Spanish vessels, may likewise be imported into these ports in United States vessels without being liable to any other or higher duties or charges whatsoever than if such were imported from foreign countries in Spanish vessels.

In the same manner there shall be perfect equality of treatment in regard to exportation to foreign countries, so that the same export duties shall be paid and the same bounties and drawbacks allowed in the territories of either of the High Contracting Parties on the exportation to foreign countries of any article which is or may be legally exported from the said territories, whether such exportation shall take place in United States or in Spanish vessels, and whatever may be the place of destination, whether a port of either of the Contracting Parties or of any third Power.

It is, however, understood that neither this article nor any other of the articles of the present Convention shall in any way affect the special treaty stipulations which exist or may hereafter exist with regard to the commercial relations between Spain and the Philippine Islands.

ARTICLE IX

The coasting trade of both the High Contracting Parties is excepted from the provisions of the present Treaty, and shall be regulated according to the Laws, Ordinances and Regulations of the United States and Spain respectively.

Vessels of either country shall be permitted to discharge part of their cargoes at any port open to foreign commerce in the territory of either of the High Contracting Parties, and to proceed with the remainder of their

cargo to any other port or ports of the same territory open to foreign commerce, without paying other or higher tonnage dues or port charges in such cases than would be paid by national vessels in like circumstances and they shall be permitted to load in like manner at different ports in the same voyage outward.

ARTICLE X

In cases of shipwreck, damages at sea, or forced putting in, each party shall afford to the vessels of the other, whether belonging to the State or to individuals, the same assistance and protection and the same immunities which would have been granted to its own vessels in similar cases.

ARTICLE XI

All vessels sailing under the flag of the United States, and furnished with such papers as their laws require, shall be regarded in Spain as United States vessels, and reciprocally, all vessels sailing under the flag of Spain and furnished with the papers which the laws of Spain require, shall be regarded in the United States as Spanish vessels.

ARTICLE XII

The High Contracting Parties desiring to avoid all inequality in their public communications and official intercourse agree to grant to the Envoys, Ambassadors, Ministers, Chargés d'affaires and other diplomatic agents of each other, the same favors, privileges, immunities and exemptions which are granted or shall be granted to the agents of the most favored Nation, it being understood that the favors, privileges, immunities and exemptions granted by the one party to the Envoys, Ambassadors, Ministers, Chargés d'affaires, or any other diplomatic agents of the other party or to those of any other Nation, shall be reciprocally granted and extended to those of the other High Contracting Party.

ARTICLE XIII

Each of the High Contracting Parties pledges itself to admit the Consuls-General, Consuls, Vice-Consuls and Consular Agents of the other in all its ports, places and cities, except where it may not be convenient to recognize such functionaries.

This reservation, however, shall not be applied by one of the High Contracting Parties to the other unless in like manner applied to all other Powers.

ARTICLE XIV

Consular officers shall receive, after presenting their commissions, and according to the formalities established in the respective countries, the exequatur required for the exercise of their functions, which shall be furnished to them free of cost; and on presentation of this document, they shall be

admitted to the enjoyment of the rights, privileges and immunities granted to them by this Treaty.

The Government granting the exequatur shall be at liberty to withdraw the same on stating the reasons for which it has thought proper so to do. Notice shall be given, on producing the commission, of the extent of the district allotted to the consular officer, and subsequently of the changes that may be made in this district.

ARTICLE XV

All consular officers, citizens or subjects of the country which has appointed them, shall be exempted from military billetings and contributions, and shall enjoy personal immunity from arrest or imprisonment, except for acts constituting crimes or misdemeanors by the laws of the country to which they are commissioned. They shall also be exempt from all National, State, Provincial and Municipal taxes except on real estate situated in, or capital invested in the country to which they are commissioned. If, however, they are engaged in professional business, trade, manufacture or commerce, they shall not enjoy such exemption from taxes, but shall be subject to the same taxes as are paid under similar circumstances by foreigners of the most favored Nation, and shall not be entitled to plead their consular privilege to avoid professional or commercial liabilities.

ARTICLE XVI

If the testimony of a consular officer, who is a citizen or subject of the State by which he was appointed, and who is not engaged in business, is needed before the Courts of either country, he shall be invited in writing to appear in Court, and if unable to do so, his testimony shall be requested in writing, or be taken orally at his dwelling or office.

To obtain the testimony of such consular officer before the Courts of the country where he may exercise his functions, the interested party in civil cases, or the accused in criminal cases, shall apply to the competent judge, who shall invite the consular officer in the manner prescribed above, to give his testimony.

It shall be the duty of said consular officer to comply with this request, without any delay which can be avoided. Nothing in the foregoing part of this article, however, shall be construed to conflict with the provisions of the sixth article of the amendments to the Constitution of the United States, or with like provisions in the Constitutions of the several States, whereby the right is secured to persons charged with crimes, to obtain witnesses in their favor, and to be confronted with the witnesses against them.

ARTICLE XVII

Consuls-General, Consuls, Vice-Consuls, and Consular Agents may place over the outer door of their office the arms of their Nation with this inscrip-

tion "Consulate", "Vice-Consulate", or "Consular Agency of the United States" or "Spain".

They may also hoist the flag of their country over the house in which the Consular Office is, provided they do not reside in the Capital in which the Legation of their country is established; and also upon any vessel employed by them in port in the discharge of their official duties.

ARTICLE XVIII

The consular offices and archives shall be at all times inviolable. The local authorities shall not be allowed to enter such offices under any pretext, nor shall they in any case examine or take possession of the official papers therein deposited. These offices, however, shall never serve as place of asylum.

When the consular officer is engaged in trade, professional business or manufacture, the papers and archives relating to the business of the Consulate must be kept separate and apart from all others.

ARTICLE XIX

In case of death, incapacity or absence of the Consuls-General, Consuls, Vice-Consuls, and Consular Agents, their respective Chancellors or Secretaries whose official character shall have been previously made known to the Department of State at Washington or the Ministry of State in Spain, shall be permitted to discharge their functions *ad interim*, and they shall enjoy, while thus acting, the same rights, privileges and immunities as the officers whose places they fill, under the same conditions prescribed in the case of these officers.

ARTICLE XX

Consuls-General and Consuls may, so far as the laws of their country allow, with the approbation of their respective Governments, appoint Vice-Consuls and Consular Agents in the cities, ports and places within their consular jurisdiction. These Agents may be selected from among citizens of the United States or among subjects of Spain or those of other Countries. They shall be furnished with a regular commission and shall enjoy the privileges, rights and immunities stipulated for consular officers in this Convention, subject to the exceptions specified in articles XV and XVI.

ARTICLE XXI

The Consuls-General, Consuls, Vice-Consuls and Consular Agents of the two High Contracting Parties, shall have the right to address the authorities of the respective countries, national or local, judicial or executive, within the extent of their respective consular districts, for the purpose of complaining of any infraction of the treaties or conventions existing between the two countries, or for purposes of information, or for the protection of the rights

and interests of their countrymen, whom, if absent, such consular officers shall be presumed to represent.

If such application shall not receive proper attention, such consular officers may, in the absence of the diplomatic agent of their country, apply directly to the Government of the country to which they are commissioned.

ARTICLE XXII

Consuls-General, Consuls, Vice-Consuls, and Consular Agents of the respective countries or their deputies shall, as far as compatible with the laws of their own country, have the following powers:

1. To take at their offices, their private residence, at the residence of the parties concerned or on board ship, the depositions of the captains and crews of vessels of their own country and of passengers thereon, as well as the depositions of any citizen or subject of their own country.

2. To draw up, attest, certify and authenticate all unilateral acts, deeds, and testamentary dispositions of their countrymen, as well as all articles of agreement or contracts to which one or more of their countrymen are a party.

3. To draw up, attest, certify and authenticate all deeds or written instruments which have for their object the conveyance or encumbrance of real or personal property situated in the territory of the country by which said consular officers are appointed, and all unilateral acts, deeds, testamentary dispositions, as well as articles of agreement or contracts relating to property situated, or business to be transacted, in the territory of the Nation by which the said consular officers are appointed; even in cases where said unilateral acts, deeds, testamentary dispositions, articles of agreement or contracts are executed solely by citizens or subjects of the country to which said consular officers are commissioned.

All such instruments and documents thus executed and all copies and translations thereof when duly authenticated by such Consul-General, Consul, Vice-Consul or Consular-Agent under his official seal, shall be received as evidence in the United States and in Spain, as original documents or authenticated copies as the case may be, and shall have the same force and effect as if drawn up by and executed before a notary or public officer duly authorized in the country by which said consular officer was appointed; provided always that they have been drawn and executed in conformity to the Laws and Regulations of the country where they are intended to take effect.

ARTICLE XXIII ²

Consuls-General, Consuls, Vice-Consuls and Consular-Agents shall have exclusive charge of the internal order of the merchant vessels of their Nation and shall alone take cognizance of differences which may arise, either at

² Abrogated by the United States July 1, 1916, in accordance with Seamen's Act of Mar. 4, 1915 (38 Stat. 1164).

sea or in port, between the captains, officers and crews without exception, particularly in reference to the adjustment of wages and the execution of contracts. In case any disorder should happen on board of vessels of either party in the territorial waters of the other, neither the Federal, State or Municipal Authorities in the United States, nor the Authorities or Courts in Spain, shall on any pretext interfere, except when the said disorders are of such a nature as to cause or be likely to cause a breach of the peace or serious trouble in the port or on shore, or when in such trouble or breach of the peace, a person or persons shall be implicated not forming a part of the crew. In any other case, said Federal, State or Municipal Authorities in the United States, or Authorities or Courts in Spain, shall not interfere, but shall render forcible aid to consular officers, when they may ask it, to search for, arrest and imprison all persons composing the crew, whom they may deem it necessary to confine. Those persons shall be arrested at the sole request of the Consul addressed in writing to either the Federal, State or Municipal Authorities in the United States, or the Authorities or Courts in Spain, and supported by an official extract from the register of the ship or the list of the crew, and the prisoners shall be held during the whole time of their stay in the port at the disposal of the consular officers. Their release shall be granted at the mere request of such officers made in writing. The expenses of the arrest and detention of those persons shall be paid by the consular officers.

ARTICLE XXIV ^a

The Consuls-General, Consuls, Vice-Consuls and Consular-Agents of the two countries may respectively cause to be arrested and sent on board or cause to be returned to their own country, such officers, seamen or other persons forming part of the crew of ships of war or merchant vessels of their Nation, who may have deserted in one of the ports of the other.

To this end they shall respectively address the competent national or local authorities in writing, and make request for the return of the deserter and furnish evidence by exhibiting the register, crew list or other official documents of the vessel, or a copy or extract therefrom, duly certified, that the persons claimed belong to said ship's company. On such application being made, all assistance shall be furnished for the pursuit and arrest of such deserters, who shall even be detained and guarded in the gaols of the country pursuant to the requisition and at the expense of the Consuls-General, Consuls, Vice-Consuls or Consular Agents, until they find an opportunity to send the deserters home.

If, however, no such opportunity shall be had for the space of three months from the day of the arrest, the deserters shall be set at liberty, and shall not again be arrested for the same cause. It is understood that persons who are citizens or subjects of the country within which the demand is made shall be exempted from the provisions of this article.

^a See footnote 2, p. 635.

If the deserter shall have committed any crime or offence in the country within which he is found, he shall not be placed at the disposal of the Consul until after the proper Tribunal having jurisdiction in the case shall have pronounced sentence, and such sentence shall have been executed.

ARTICLE XXV

In the absence of an agreement to the contrary between the owners, freighters and insurers, all damages suffered at sea by the vessels of the two countries, whether they enter port in the respective countries voluntarily, or are forced by stress of weather or other causes over which the officers have no control, shall be settled by the Consuls-General, Consuls, Vice-Consuls and Consular Agents of the respective countries; in case, however, any citizen or subject of the country to which said consular officers are commissioned, or any subject of a third Power be interested and the parties cannot come to an amicable agreement, the competent local authorities shall decide.

ARTICLE XXVI

In case of the death of a citizen or subject of one of the parties within the territories or dominion of the other, the competent local authorities shall give notice of the fact to the Consuls or Consular Agents of the Nation to which the deceased belongs, to the end that information may be at once transmitted to the parties interested.

ARTICLE XXVII

The Consuls-General, Consuls, Vice-Consuls or Consular Agents of the respective High Contracting Parties shall have, under the laws of their country and the instructions and regulations of their own Government so far as compatible with local laws, the right of representing the absent, unknown or minor heirs, next of kin or legal representatives of the citizens or subjects of their country, who shall die within their consular jurisdictions; as well as those of their countrymen dying at sea whose property is brought within their consular district; and of appearing either personally or by delegate in their behalf in all proceedings relating to the settlement of their estate until such heirs or legal representatives shall themselves appear.

Until such appearance the said consular officers shall be permitted, so far as compatible with local laws, to perform all the duties prescribed by the laws of their country and the instructions and regulations of their own Government for the safe-guarding of the property and the settlement of the estate of their deceased countrymen.

In every case the effects and property of such deceased citizens or subjects shall be retained within the consular district for twelve calendar months by said Consuls-General, Consuls, Vice-Consuls or Consular Agents or by the legal representatives or heirs of the deceased during which time the creditors, if any, of the deceased shall have the right to present their claims and de-

mands against the said effects and property, and all questions arising out of such claims or demands shall be decided by the local judicial authorities in accordance with the laws of the country to which said officers are commissioned.

ARTICLE XXVIII

The Consuls-General, Consuls, Vice-Consuls and Consular Agents, as likewise the Consular Chancellors, Secretaries or Clerks of the High Contracting Parties shall reciprocally enjoy in both countries all the rights, immunities and privileges which are or may hereafter be granted to the officers of the same grade of the most favored Nation.

ARTICLE XXIX

All treaties, agreements, conventions and contracts between the United States and Spain prior to the Treaty of Paris ⁴ shall be expressly abrogated and annulled, with the exception of the Treaty signed the seventeenth of February 1834 ⁵ between the two countries for the settlement of claims between the United States of America and the Government of His Catholic Majesty, which is continued in force by the present Convention.

ARTICLE XXX

The present Treaty of Friendship and General Relations shall remain in full force and vigor for the term of ten years from the day of the exchange of ratifications. Notwithstanding the foregoing, if neither Party notifies to the other its intention of reforming any of, or all, the articles of this Treaty, or of terminating it twelve months before the expiration of the ten years stipulated above, the said Treaty shall continue binding on both Parties beyond the said ten years, until twelve months from the time that one of the Parties notifies its intention of proceeding to its reform or of terminating it.

ARTICLE XXXI

The present Convention shall be ratified and the ratifications thereof shall be exchanged at the City of Madrid as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the same and have affixed thereto the seal of their arms.

Done in duplicate at Madrid this third day of July in the year of Our Lord one thousand nine hundred and two.

BELLAMY STORER [SEAL]
EL DUQUE DE ALMODÓVAR DEL RIO [SEAL]

⁴ TS 343, *ante*, p. 615.

⁵ TS 328, *ante*, p. 537.