

## *El Salvador*

### AMITY, NAVIGATION, AND COMMERCE

*Treaty signed at León, Nicaragua, January 2, 1850*

*Senate advice and consent to ratification September 24, 1850*

*Senate advice and consent September 27, 1850 to exchange of ratifications at any time prior to April 1, 1851*

*Ratified by the President of the United States November 14, 1850*

*Proclaimed by the President of the United States April 18, 1853*

*Ratified by El Salvador May 28, 1852*

*Ratifications exchanged at San Salvador June 2, 1852*

*Entered into force June 2, 1852*

*Senate advice and consent to exchange of ratifications April 4, 1853*

*Superseded March 11, 1874, by treaty of December 6, 1870<sup>1</sup>*

10 Stat. 891; Treaty Series 308<sup>2</sup>

#### A GENERAL TREATY OF AMITY, NAVIGATION AND COMMERCE BETWEEN THE UNITED STATES OF NORTH AMERICA AND THE REPUBLIC OF SAN SALVADOR

The United States of North America and the Republic of San Salvador, desiring to make lasting and firm the friendship and good understanding which happily exists between both nations have resolved to fix in a manner clear distinct and positive the rules which shall in future be religiously observed between each other by means of a treaty or general convention of peace and friendship, commerce and navigation.

For this desirable object the President of the United States of America has conferred full powers upon E. G. Squier, a citizen of the said States and their Chargé d'Affaires to Guatemala, and the President of the Republic of San Salvador has conferred similar and equal powers upon Señor Licenciado Don Augustin Morales, who after having exchanged their said full powers in due form, have agreed to the following articles:

<sup>1</sup> TS 310, *post*, p. 478.

<sup>2</sup> For a detailed study of this treaty, see 5 Miller 629.

ART. 1<sup>st</sup>

There shall be a perfect, firm and inviolable peace, and sincere friendship between the United States of America and the Republic of San Salvador, in all the extent of their possessions and territories, and between their citizens respectively without distinction of persons or places.

ART. 2<sup>d</sup>

The United States of America and the Republic of San Salvador desiring to live in peace, and harmony with all the nations of the earth, by means of a policy frank and equally friendly with all engage mutually not to grant any particular favor to other nations in respect of commerce and navigation, which shall not immediately become common to the other party who shall enjoy the same freely if the concession was freely made, or on allowing the same compensation if the concession was conditional.

ART. 3<sup>d</sup>

The two high contracting parties being likewise desirous of placing the commerce and navigation of their respective countries on the liberal basis of perfect equality and reciprocity, mutually agree that the citizens of each may frequent all the coasts and countries of the other, and reside therein and shall have the power to purchase and hold lands, and all kinds of real estate, and to engage in all kinds of trade, manufactures and mining upon the same terms with the native citizen, and shall enjoy all the privileges and concessions, in these matters which are or may be made to the citizens of any country, and shall enjoy all the rights, privileges and exemptions, in navigation commerce and manufactures which native citizens do or shall enjoy, submitting themselves to the laws, decrees, or usages there established to which native citizens are subjected. But it is understood that this article does not include the coasting trade of either country, the regulation of which is reserved by the parties respectively according to their own separate laws.

ART. 4<sup>th</sup>

They likewise agree that whatever kind of produce, manufacture, or merchandise, of any foreign country can be from time to time, lawfully imported into the United States in their own vessels, may be also imported in vessels of the Republic of San Salvador, and that no higher or other duties upon the tonnage of the vessel and her cargo shall be levied and collected, whether the importation be made in vessels of the one country or of the other; And, in like manner, that whatever kind of produce, manufactures, or merchandise of any foreign country, can be, from time to time, lawfully imported into the Republic of San Salvador in its own vessels, may be also imported in vessels of the United States: and that no higher or other duties upon the tonnage of the vessel and her cargo shall be levied or collected whether the importation be made in vessels of the one country or the other.

And they further agree that whatever may be lawfully exported or re-exported from one country in its own vessels to any foreign country may in like manner be exported or reexported in the vessels of the other country: and the same bounties, duties and drawbacks shall be allowed and collected whether such exportation or reexportation be made in vessels of the United States or of the Republic of San Salvador.

ART. 5<sup>th</sup>

No higher or other duties shall be imposed on the importation into the United States of any articles the produce or manufactures of the Republic of San Salvador, and no higher or other duties shall be imposed on the importation into the Republic of San Salvador of any articles the produce or manufactures of the United States, than are or shall be payable on the like articles, being the produce or manufactures of any foreign country; nor shall any higher or other duties or charges be imposed in either of the two countries on the exportation of any articles to the United States or to the Republic of San Salvador, respectively than such as are payable on the exportation of the like articles to any other foreign country: nor shall any prohibition be imposed on the exportation or importation of any articles the produce or manufactures of the United States or of the Republic of San Salvador, to or from the territories of the United States, or to or from the territories of the Republic of San Salvador which shall not equally extend to all other nations.

ART. 6<sup>th</sup>

In order to prevent the possibility of any misunderstanding, it is hereby declared that the stipulations contained in the three preceding articles are to their full extent applicable to the vessels of the United States and their cargoes arriving in the ports of San Salvador and reciprocally to the vessels of the said Republic of San Salvador and their cargoes arriving in the ports of the United States, whether they proceed from the ports of the country to which they respectively belong or from the ports of any other foreign country; and in either case no discriminating duty shall be imposed or collected in the ports of either country on said vessels or their cargoes whether the same shall be of native or foreign produce or manufacture.

ART. 7<sup>th</sup>

It is likewise agreed that it shall be wholly free for all merchants, commanders of ships and other citizens of both countries, to manage by themselves or agents, their own business in all the ports and places subject to the jurisdiction of each other as well with respect to the consignments and sale of their goods and merchandise by wholesale or retail as with respect to the loading, unloading and sending off their ships: they being in all these cases,

to be treated as citizens of the country in which they reside or at least to be placed on an equality with the subjects or citizens of the most favored nation.

ART. 8<sup>th</sup>

The citizens of neither of the contracting parties shall be liable to any embargo, nor be detained with their vessels, cargoes, merchandise or effects for any military expedition, nor for any public or private purpose whatever without allowing to those interested an equitable and sufficient indemnification.

ART. 9<sup>th</sup>

Whenever the citizens of either of the contracting parties shall be forced to seek refuge or asylum in the rivers, bays, ports or dominions of the other, with their vessels whether merchant or war, public or private through stress of weather, pursuit of pirates or enemies, or want of provisions or water they shall be received and treated with humanity giving to them all favor and protection for repairing their ships, procuring provisions and placing themselves in a situation to continue their voyage without obstacle or hindrance of any kind.

ART. 10<sup>th</sup>

All the ships, merchandise and effects belonging to the citizens of one of the contracting parties, which may be captured by pirates, whether within the limits of its jurisdiction or on the high seas, and may be carried or found in the rivers, roads, bays, ports or dominions of the other, shall be delivered up to the owners they proving in due and proper form their rights before the competent tribunals: it being well understood that the claim shall be made within the term of one year, by the parties themselves, their attorneys or agents of their respective governments.

ART. 11<sup>th</sup>

When any vessels belonging to the citizens of either of the contracting parties shall be wrecked or foundered, or shall suffer any damage on the coasts or within the dominions of the other there shall be given to them all assistance and protection in the same manner which is usual and customary with the vessels of the nation where the damage happens: permitting them to unload the said vessel, if necessary of its merchandise and effects, without exacting for it any duty, impost or contribution whatever unless they may be destined for consumption or sale in the country of the port where they may have been disembarked.

ART. 12<sup>th</sup>

The citizens of each of the contracting parties shall have power to dispose of their personal goods or real estate within the jurisdiction of the other by

sale, donation, testament, or otherwise; and their representatives being citizens of the other party, shall succeed to their said personal goods or real estate, whether by testament or ab intestato, and they may take possession thereof, either by themselves or others acting for them and dispose of the same at their will, paying such dues only as the inhabitants of the country wherein said goods are shall be subject to pay in like cases.

ART. 13<sup>th</sup>

Both contracting parties promise and engage formally to give their special protection to the persons and property of the citizens of each other of all occupations who may be in the territories subject to the jurisdiction of one or the other transient or dwelling therein, leaving open and free to them the tribunals of justice for their judicial recourse on the same terms which are usual and customary with the natives or citizens of the country, for which purpose they may either appear in proper person, or employ in the prosecution or defence of their rights such advocates, solicitors, notaries, agents and factors as they may judge proper in all their trials at law, and such citizens or agents shall have free opportunity to be present at the decisions or sentences of the tribunals in all cases which may concern them and shall enjoy in such cases all the rights and privileges accorded to the native citizen.

ART. 14<sup>th</sup>

The citizens of the United States residing in the territories of the Republic of San Salvador shall enjoy the most perfect and entire security of conscience without being annoyed, prevented or disturbed, on the proper exercise of their religion in private houses, or on the chapels or places of worship appointed for that purpose provided that in so doing they observe the decorum due to divine worship, and the respect due to the laws, usages and customs of the country. Liberty shall also be granted to bury the citizens of the United States who may die in the territories of the Republic of San Salvador in convenient and adequate places, to be appointed and established for that purpose with the knowledge of the local authorities, or in such other places of sepulture as may be chosen by the friends of the deceased nor shall the funerals or sepulchres of the dead be disturbed in any wise, nor upon any account.

In like manner the citizens of San Salvador shall enjoy within the government and territories of the United States a perfect and unrestrained liberty of conscience and of exercising their religion, publicly or privately, within their own dwelling houses or on the chapels and places of worship appointed for that purpose, agreeably to the laws, usages and customs of the United States.

ART. 15<sup>th</sup>

It shall be lawful for the citizens of the United States of America and of the Republic of San Salvador to sail with their ships with all manner of

liberty and security no distinction being made who are the proprietors of the merchandise laden thereon, from any port to the places of those who now are or shall be at enmity with either of the contracting parties. It shall likewise be lawful for the citizens aforesaid to sail with the ships and merchandise before mentioned, and to trade with the same liberty and security from the places, ports and havens of those who are the enemies of both or either party without any opposition or disturbance whatsoever, not only from the places of the enemy before mentioned to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy whether they be under the jurisdiction of one power or under several. And it is hereby stipulated that free ships shall also give freedom to goods, and that everything which shall be found on board the ships belonging to the citizens of either of the contracting parties shall be deemed to be free and exempt although the whole lading or any part thereof should appertain to the enemies of either (contraband goods being always excepted).

It is also agreed in like manner, that the same liberty shall be extended to persons who are on board a free ship with this effect, that altho they be enemies to both or either party, they are not to be taken out of that free ship unless they are officers and soldiers, and in the actual service of the enemies: provided however, and it is hereby agreed, that, the stipulations in this article contained, declaring that the flag shall cover the property shall be understood as applying to those powers only who recognise this principle; but if either of the two contracting parties shall be at war with a third, and the other remains neutral the flag of the neutral shall cover the property of enemies whose governments acknowledge this principle and not of others.

#### ART. 16<sup>th</sup>

It is likewise agreed that in the case where the neutral flag of one of the contracting parties shall protect the property of one of the enemies of the other by virtue of the above stipulation it shall always be understood that the neutral property found on board such enemy's vessels shall be held and considered as enemy's property and as such shall be liable to detention and confiscation, except such property as was put on board such vessel before the declaration of war or even afterwards if it were done without the knowledge of it: but the contracting parties agree that two months having elapsed after the declaration of war, their citizens shall not plead ignorance thereof.

On the contrary, if the flag of the neutral does not protect the enemy's property, in that case the goods and merchandise of the neutral embarked on such enemy's ships shall be free.

#### ART. 17<sup>th</sup>

This liberty of navigation and commerce shall extend to all kinds of merchandise excepting those only which are distinguished by the name of "con-

traband", and under this name of contraband, or prohibited goods shall be comprehended.

1<sup>st</sup> Cannons, mortars, howitzers, swivels, blunderbusses, muskets, rifles, carbines, pistols, pikes, swords, sabres, lances, spears, halberts, hand grenades, bombs, powder, matches, balls, and all other things belonging to the use of these arms.

2<sup>d</sup> Bucklers, helmets, breastplates, coats of mail, infantry belts, and clothes made up in the form, and for the military use.

3<sup>d</sup> Cavalry belts, and horses with their furniture.

4<sup>th</sup> And generally all kinds of arms and instruments of iron, steel, brass, and copper, or of any other materials manufactured, prepared and formed expressly to make war by sea or land.

5<sup>th</sup> Provisions that are imported into a besieged or blockaded place.

#### ART. 18<sup>th</sup>

All other merchandise, and things not comprehended in the articles of contraband, explicitly enumerated and classified as above shall be held and considered as free and subjects of free and lawful commerce, so that they may be carried and transported in the freest manner by the citizens of both the contracting parties, even to places belonging to an enemy excepting those places only which are at that time besieged or blockaded; and to avoid all doubt in this particular, it is declared that those places only are besieged or blockaded which are actually attacked by a belligerent force capable of preventing the entry of the neutral.

#### ART. 19<sup>th</sup>

The articles of contraband before enumerated and classified, which may be found in a vessel bound for an enemy's port, shall be subject to detention and confiscation leaving free the rest of the cargo and the ship, that the owners may dispose of them as they see proper. No vessel of either of the two nations shall be detained on the high seas on account of having on board articles of contraband whenever the master, captain or supercargo of said vessels will deliver up the articles of contraband to the captor, unless the quantity of such articles be so great and of so large a bulk they cannot be received on board the capturing ship without great inconvenience; but in this and all other cases of just detention the vessel detained shall be sent to the nearest convenient and safe port for trial and judgement according to law.

#### ART. 20<sup>th</sup>

And whereas it frequently happens that vessels sail for a port or place belonging to an enemy without knowing that the same is besieged or blockaded or invested, it is agreed that every vessel so circumstanced may be turned

away from such port or place but shall not be detained nor shall any part of her cargo if not contraband, be confiscated unless after warning of such blockade or investment from the commanding officer of the blockading forces she shall again attempt to enter; but she shall be permitted to go to any other port or place she shall think proper. Nor shall any vessel that may have entered into such port before the same was actually besieged, blockaded or invested by the other, be restrained from quitting that place with her cargo; nor if found therein after the reduction and surrender shall such vessel or her cargo be liable to confiscation but they shall be restored to the owners thereof.

ART. 21<sup>st</sup>

In order to prevent all kind of disorder in the visiting and examination of the ships and cargoes of both the contracting parties on the high seas, they have agreed mutually that whenever a national vessel of war, public or private shall meet with a neutral of the other contracting party the first shall remain out of cannon shot unless in stress of weather, and may send its boat with two or three men only, in order to execute the said examination of the papers concerning the ownership and cargo of the vessel, without causing the least extortion, violence or ill treatment, for which the commanders of said armed ships, shall be responsible with their persons and property; for which purpose the commanders of private armed vessels shall, before receiving their commissions give sufficient security to answer for all the damage they may commit. And it is expressly agreed that the neutral party shall in no case be required to go on board the examining vessel for the purpose of exhibiting her papers or for any other purpose whatever.

ART. 22<sup>d</sup>

To avoid all kinds of vexation and abuse in the examination of the papers relating to the ownership of the vessels belonging to the citizens of the two contracting parties, they have agreed, and do hereby agree, that in case one of them should be engaged in war the ships and vessels belonging to the citizens of the other, must be furnished with sea letters or passports expressing the name, property and bulk of the ship as also the name and place of habitation of the master and commander of the said vessel in order that it may thereby appear, that the ship really and truly belongs to the citizens of one of the parties, they have likewise agreed that when such ships have a cargo they shall also be provided besides the said sea letters or passports with certificates containing the several particulars of the cargo and the place whence the ship sailed so that it may be known whether any forbidden or contraband goods are on board the same: which certificates shall be made out by the officers of the place whence the ship sailed in the accustomed form; without which requisites said vessel may be detained to be adjudged by the competent tribunal and may be declared lawful prize unless the said defect shall be proved

to be owing to accident and shall be satisfied or supplied by testimony entirely equivalent.

ART. 23<sup>d</sup>

It is further agreed, that the stipulations above expressed relative to the visiting and examination of vessels shall apply only to those which sail without convoy; and when said vessels shall be under convoy the verbal declaration of the commander of the convoy, on his word of honor, that the vessels under his protection belong to the nation whose flag he carries and when they may be bound to an enemy's port, that they have no contraband goods on board, shall be sufficient.

ART. 24<sup>th</sup>

It is further agreed that in all cases the established courts for prize causes, in the country to which the prizes may be conducted shall alone take cognizance of them. And whenever such tribunals of either party shall pronounce judgement against any vessel or goods or property claimed by the citizens of the other party, the sentence or decree shall mention the reasons or motives upon which the same shall have been founded, and an authenticated copy of the sentence or decree and of all the proceedings in the case, shall, if demanded be delivered to the commander or agent of said vessel without any delay he paying the legal fees for the same.

ART. 25<sup>th</sup>

For the purpose of lessening the evils of war the two high contracting parties further agree that in case a war should unfortunately take place between them hostilities shall only be carried on by persons duly commissioned by the government and by those under their orders, except in repelling an attack or invasion and in the defence of property.

ART. 26<sup>th</sup>

Whenever one of the contracting parties shall be engaged in war with another State no citizen of the other contracting party shall accept a commission or letter of marque for the purpose of assisting or co-operating hostilely with the said enemy against the said parties so at war under the pain of being treated as a pirate.

ART. 27<sup>th</sup>

If by any fatality, which cannot be expected and God forbid—the two contracting parties should be engaged in a war with each other, they have agreed, and do agree, now for then, that there shall be allowed the term of six months to the merchants residing on the coasts and in the ports of each other, and the term of one year to those who dwell in the interior to arrange their business and transport their effects wherever they please, giving to them the safe con-

duct necessary for it, which may serve as a sufficient protection until they arrive at the designated port. The citizens of all other occupations who may be established in the territories or dominions of the United States or of San Salvador shall be respected and maintained in the full enjoyment of their personal liberty and property unless their particular conduct shall cause them to forfeit this protection, which, in consideration of humanity the contracting parties engage to give them.

ART. 28<sup>th</sup>

Neither the debts due from individuals of the one nation to the individuals of the other, nor shares nor money which they may have in public funds nor in public or private banks, shall ever, in any event of war or of national difference be sequestered or confiscated.

ART. 29<sup>th</sup>

Both the contracting parties being desirous of avoiding all inequality in relation to their public communications and official intercourse have agreed and do agree, to grant to the envoys, ministers, and other public agents, the same favors, immunities, and exemptions which those of the most favored nations do or shall enjoy; it being understood that whatever favors, immunities, or privileges the United States of America or the Republic of San Salvador may find it proper to give to the ministers and public agents of any other power, shall, by the same act, be extended to those of each of the contracting parties.

ART. 30<sup>th</sup>

To make more effectual the protection which the United States and the Republic of San Salvador shall afford in future to the navigation and commerce of the citizens of each other, they agree to receive and to admit consuls and vice consuls in all the ports open to foreign commerce, who shall enjoy in them all the rights, prerogatives and immunities of the consuls and vice consuls of the most favored nation; each contracting party however remaining at liberty to except those ports and places in which the admission and residence of such consuls may not seem convenient.

ART. 31<sup>st</sup>

In order that the consuls and vice consuls of the two contracting parties, may enjoy the rights, prerogatives and immunities which belong to them by their public character, they shall, before entering on the exercise of their functions, exhibit their commission or patent, in due form, to the government to which they are accredited; and having obtained their Exequatur, they shall be held and considered as such by all the authorities, magistrates and inhabitants, in the consular district in which they reside.

ART. 32<sup>d</sup>

It is likewise agreed, that the consuls, their secretaries, officers and persons attached to the service of consuls, they not being citizens of the country in which the consul resides, shall be exempt from all public service; and also from all kind of taxes, imposts and contributions, except those which they shall be obliged to pay on account of commerce or their property, to which the citizens and inhabitants, native and foreign, of the country in which they reside are subject, being in everything besides subject to the laws of the respective States. The archives and papers of the consulates shall be respected inviolably and under no pretext whatever, shall any magistrate seize, or in any way interfere with them,

ART. 33<sup>d</sup>

The said consuls shall have power to require the assistance of the authorities of the country for the arrest, detention, and custody of deserters from the public and private vessels of their country; and for that purpose they shall address themselves to the courts, judges and officers competent, and shall demand in writing the said deserters proving by an exhibition of the registers of the vessels, or ship's roll or other public documents that those men were part of the said crews; and on this demand so proved (saving however where the contrary is proved by other testimonies) the delivery shall not be refused. Such deserters when arrested shall be put at the disposal of the said consuls and may be put in the public prisons, at the request and expense of those who reclaim them to be sent to the ships to which they belonged or to others of the same nation. But if they be not sent back within two months, to be counted from the day of arrest, they shall be set at liberty and shall be no more arrested for the same cause.

ART. 34<sup>th</sup>

For the purpose of more effectually protecting their commerce and navigation, the two contracting parties do hereby agree to form, as soon hereafter as circumstances will permit, a consular convention, which shall declare specially the powers and immunities of the consuls and vice consuls of the respective parties.

ART. 35<sup>th</sup>

The United States of North America and the Republic of San Salvador, desiring to make as durable as possible the relations which are to be established by virtue of this treaty, have declared solemnly and do agree to the following points:

1<sup>st</sup> The present treaty shall remain in full force and vigor for the term of twenty years from the day of the exchange of the ratifications; and if

neither party notifies the other of its intention of reforming any or all the articles of this treaty, twelve months before the expiration of the twenty years stipulated above, the said treaty shall continue binding on both parties beyond the said twenty years until twelve months from the time that one of the parties notifies the other of its intention of proceeding to a reform.

2<sup>d</sup> If any one or more of the citizens of either party shall infringe any of the articles of this treaty, such citizens shall be held personally responsible for the same and the harmony and good correspondence between the nations shall not be interrupted thereby; each party engaging in no way to protect the offender or sanction such violation.

3<sup>d</sup> If unfortunately any of the articles contained in this treaty should be violated or infringed in any way whatever it is expressly stipulated that neither of the two contracting parties shall ordain or authorize any acts of reprisal, nor shall declare war against the other, on complaints of injuries or damages until the said party, considering itself offended shall have laid before the other a statement of such injuries or damages, verified by competent proofs, demanding justice and satisfaction, and the same shall have been denied in violation of the laws and of international right.

#### ART. 36<sup>th</sup>

The present treaty of peace, amity, commerce and navigation shall be approved and ratified by the President of the United States by and with the advice and consent of the Senate thereof; and by the President of the Republic of San Salvador with the consent and approbation of the Congress of the same, and the ratifications shall be exchanged in the city of Washington or San Salvador within eight months from the date of the signature thereof, or sooner if possible.

In faith whereof we the plenipotentiaries of the United States of America and of the Republic of San Salvador have signed and sealed these presents in the city of Leon on the second day of January in the year of our Lord one thousand eight hundred and fifty, and of the Independence of the United States the seventy fourth.

E. GEO. SQUIER [SEAL]  
AGUSTIN MORALES [SEAL]