

## COMMERCE AND NAVIGATION

*Convention signed at Washington May 8, 1848, supplementing articles X and XI of treaty of August 27, 1829*

*Ratified by Austria January 31, 1849*

*Senate advice and consent to ratification February 13, 1850*

*Ratified by the President of the United States February 15, 1850*

*Ratifications exchanged at Washington February 23, 1850*<sup>1</sup>

*Entered into force February 23, 1850*

*Proclaimed by the President of the United States February 25, 1850*

*Article IV abrogated July 1, 1916, in accordance with Seamen's Act of March 4, 1915*<sup>2</sup>

*Not revived after World War I*<sup>3</sup>

9 Stat. 944; Treaty Series 8<sup>4</sup>

### CONVENTION FOR THE EXTENSION OF CERTAIN STIPULATIONS, CONTAINED IN THE TREATY OF COMMERCE AND NAVIGATION OF 27 AUGUST 1829 BETWEEN THE UNITED STATES OF AMERICA AND HIS MAJESTY THE EMPEROR OF AUSTRIA

The United States of America and His Majesty the Emperor of Austria having agreed to extend to all descriptions of property the exemption from dues, taxes or charges, which was secured to the personal goods of their respective citizens and subjects by the eleventh article of the Treaty of Commerce and Navigation which was concluded between the Parties on the twenty-seventh of August 1829;<sup>5</sup> and also for the purpose of increasing the powers granted to their respective Consuls by the tenth article of said treaty of commerce and Navigation, have named for this purpose their respective Plenipotentiaries, namely, the President of the United States of America has conferred full powers on James Buchanan, Secretary of State of the United

<sup>1</sup> The Senate resolution of advice and consent agreed to exchange of ratifications "any time prior to the fourth day of July next . . . the limitation contained in said Convention to the contrary notwithstanding" (see art. VI).

<sup>2</sup> 38 Stat. 1164.

<sup>3</sup> See art. 241 of Treaty of St. Germain-en-Laye signed Sept. 10, 1919 (*post*, p. 277), the benefits of which were secured to the United States by the treaty establishing friendly relations dated Aug. 24, 1921 (TS 659, *post*, p. 215).

<sup>4</sup> For a detailed study of this convention, see 5 Miller 445.

<sup>5</sup> TS 7, *ante*, p. 202.

States, and His Majesty the Emperor of Austria upon his Chargé d'affaires to the United States, John George Hülsemann; who, after having exchanged their said full Powers, found in due and proper form, have agreed to, and signed, the following articles:

#### ARTICLE I

The citizens or subjects of each of the contracting Parties shall have power to dispose of their personal property within the States of the other, by testament, donation, or otherwise; and their heirs, legatees and donees, being citizens or subjects of the other contracting Party, 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 inhabitants of the country where the said property lies, shall be liable to pay in like cases.

#### ARTICLE II

Where, on the death of any person holding real property, or property not personal, within the territories of one Party, such real property would, by the laws of the land, descend on 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 two years to sell the same; which term may be reasonably prolonged, according to circumstances; and to withdraw the proceeds thereof, without molestation, and exempt from any other charges than those which may be imposed in like cases upon the inhabitants of the country from which such proceeds may be withdrawn.

#### ARTICLE III

In case of the absence of the heirs, the same care shall be taken, provisionally, of such real or personal property as would be taken in a like case of property belonging to the natives of the country, until the lawful owner, or the person who has a right to sell the same according to Article II may take measures to receive or dispose of the inheritance.

#### ARTICLE IV <sup>6</sup>

The high contracting Parties grant to each other the liberty of having, each in the ports of the other, Consuls, Vice Consuls, Commercial Agents and Vice Commercial Agents, of their own appointment, who shall enjoy the same privileges and Powers, as those of the most favoured Nations; but if any of the said Consuls shall carry on trade, they shall be subjected to the same laws and usages to which private individuals of their nation are subjected in the same place.

---

<sup>6</sup> Abrogated by the United States July 1, 1916, in accordance with Seamen's Act of Mar. 4, 1915 (38 Stat. 1164).

The said Consuls, Vice Consuls, Commercial and Vice Commercial Agents, shall have the right, as such, to sit as judges and arbitrators in such differences as may arise between the masters and crews of the vessels belonging to the nation whose interests are committed to their charge, without the interference of the local authorities, unless the conduct of the crews or of the captain should disturb the order or tranquillity of the country; or the said Consuls, Vice Consuls, commercial Agents or Vice Commercial Agents should require their assistance in executing or supporting their own decisions. But this species of judgment or arbitration shall not deprive the contending parties of the right they have to resort, on their return, to the judicial authority of their own country.

The said Consuls, Vice Consuls, commercial Agents and Vice Commercial Agents are authorized to require the assistance of the local authorities for the search, arrest and imprisonment, of the deserters from the ships of war and merchant vessels of their country. For this purpose they shall apply in writing to the competent tribunals, judges and officers, and shall demand said deserters, proving by the exhibition of the registers of the vessels, the muster rolls of the crews, or by any other official documents, that such individuals form legally part of the crews; and on such claim being substantiated, the surrender shall not be refused.

Such deserters, when arrested, shall be placed at the disposal of the said Consuls, Vice Consuls, commercial Agents and Vice commercial Agents, and may be confined in the public prisons, at the request and cost of those who shall claim them, in order to be sent to the vessels to which they belong, or to others of the same country. But if not sent back within three months from the day of their arrest, they shall be set at liberty, and shall not be again arrested for the same cause. If, however, the deserter shall be found to have committed any crime or offence requiring trial, his surrender may be delayed, until the tribunal before which his case shall be pending, shall have pronounced its sentence, and such sentence shall have been carried into effect.

#### ARTICLE V

The present Treaty shall continue in force for two years, counting from the day of the exchange of its ratifications; and if, twelve months before the expiration of that period, neither of the high contracting Parties shall have announced, by an official notification to the other, its intention to arrest the operation of said treaty, it shall remain binding for one year beyond that time, and so on, until the expiration of the twelve months which will follow a similar notification, whatever the time at which it may take place.

#### ARTICLE VI

This convention is concluded subject to the ratification of the President of the United States of America, by and with the advice and consent of the

Senate thereof, and of His Majesty the Emperor of Austria; and the ratifications thereof shall be exchanged in Washington, within the term of one year from the date of the signature thereof, or sooner, if possible.<sup>7</sup>

In witness whereof, the respective Plenipotentiaries have signed the above articles, as well in German as in English, and have thereto affixed their seals.

Done in the City of Washington on the eighth day of May, one thousand eight hundred and forty-eight, in the seventy-second year of the independence of the United States of America, and in the 14th year of the reign of His Majesty the Emperor of Austria.

JAMES BUCHANAN [SEAL]

HÜLSEMANN [SEAL]

---

<sup>7</sup> See footnote 1, p. 207.