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ARGENTINA : JULY 27, 1853

Treaty of Friendship, Commerce, and Navigation, signed at San José July 27, 1853. Original in English and Spanish.

Submitted to the Senate December 20, 1853. (Message of December 12, 1853.) Resolution of advice and consent June 13, 1854. Ratified by the United States June 29, 1854. Ratified by the Argentine Confederation July 30, 1853, and December 20, 1854. Ratifications exchanged at Paraná December 20, 1854. Proclaimed April 9, 1855.

Treaty of Friendship, Commerce and Navigation, between the United States and the Argentine Confederation.

Tratado de Amistad, Comercio y Navegacion, entre la Confederacion Argentina y los Estados Unidos.

Commercial intercourse having been for some time established between the United States and the Argentine Confederation, it seems good for the security as well as the encouragement of such commercial intercourse and for the maintenance of good understanding between the two governments, that the relations now subsisting between them should be regularly acknowledged and Confirmed by the signing of a Treaty of Friendship, Commerce and Navigation. For this purpose they have nominated their Respective Plenipotentiaries, that is to say:

The President of the United States, Robert C. Schenck, Envoy Extraordinary and Minister Plenipotentiary of the United States to Brazil, and John S. Pendleton, Chargé d'Affaires of the United

Hallándose establecidas hace tiempo relaciones comerciales entre la Confederacion Argentina y los Estados Unidos, ha parecido conveniente, asi para la seguridad y fomento de aquella correspondencia comercial, como para mantener la buena inteligencia entre ambos Gobiernos, que las relaciones que ahora existen entre ellos, sean regularmente conocidas y confirmadas por un Tratado de Amistad, Comercio y Navegacion. Con este ohgeto han nombrado sus respectivos Plenipotenciarios á saber:

El Exño. Señor Director Provisorio de la Confederacion Argentina, al Doctor Don Salvador Maria del Carril, y al Doctor Don José Benjamin Gorostiaga, y el Presidente de los Estados Unidos

States to the Argentine Confederation;

And His Excellency the Provisional Director of the Argentine Confederation, Doctor Don Salvador Maria del Carril and Doctor Don José Benjamin Gorostia-ga;

Who, after having communicated to each other their full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I.

There shall be perpetual amity between the United States and their citizens on the one part, and the Argentine Confederation and its citizens on the other part.

ARTICLE II.

There shall be between all the territories of the United States and all the territories of the Argentine Confederation a reciprocal freedom of Commerce. The citizens of the two countries respectively shall have liberty, freely and securely, to come with their ships and cargoes to all places, ports and rivers, in the territories of either, to which other foreigners, or the ships or cargoes of any other foreign nation or state, are or may be permitted to come; to enter into the same, and to remain and reside in any part thereof, respectively; to hire and occupy houses and warehouses for the purposes of their residence and commerce; to trade in all kinds

á Roberto C. Schenk Enviado Extraordinario y Ministro Plenipotenciario de los Estados Unidos á la Corte del Brasil y á Juan S. Pendleton Encargado de Negocios de los Estados Unidos cerca de la Confederacion Argentina.

Quienes, despues de haberse comunicado sus respectivos plenos poderes, hallados en buena y debida forma, han convenido en los articulos siguientes:

ARTÍCULO I.

Habrá amistad perpétua entre la Confederacion Argentina y sus ciudadanos por una parte, y los Estados Unidos y sus ciudadanos por la otra parte.

ARTÍCULO II.

Habrá una libertad recíproca de comercio entre todos los territorios de la Confederacion Argentina y todos los territorios de los Estados Unidos. Los ciudadanos de ambos paises podrán libremente y con toda seguridad ir con sus buques y cargas á todos aquellos parages, puertos y rios en sus respectivos territorios, á donde sea ó fuese permitido llegar á los buques ó cargas de cualquier otra nacion ó estado; podrán entrar, permanecer y residir en cualquiera parte de los dichos territorios respectivamente; podrán alquilar y ocupar casas y almacenes para su residencia y comercio; podrán negociar en toda clase de productos, manufacturas y mercancías de

of produce, manufactures and merchandize of lawful commerce; and generally to enjoy in all their business the most complete protection and security, subject to the general laws and usages of the two countries respectively. In like manner the respective ships of war, and post-office or passenger packets of the two countries shall have liberty, freely and securely, to come to all harbors, rivers and places, to which other foreign ships of war and packets are or may be permitted to come; to enter into the same, to anchor and remain there and refit, subject always to the laws and usages of the two countries respectively.

ARTICLE III.

The two high contracting parties agree that any favor, exemption, privilege or immunity whatever, in matters of commerce or navigation, which either of them has actually granted, or may hereafter grant, to the citizens or subjects of any other government, nation, or state, shall extend, in identity of cases and circumstances, to the citizens of the other contracting party, gratuitously, if the concession in favor of that other government, nation or state shall have been gratuitous—or, in return for an equivalent compensation, if the concession shall have been conditional.

comercio legal; y gozarán en todas sus ocupaciones de la mas completa proteccion y seguridad, sujetas á las leyes generales y costumbres de las dos naciones respectivas. Los buques de guerra de ambas naciones, buques correos y paquetes podrán asi mismo llegar libremente y con toda seguridad á todos los puertos, rios y puntos á donde entren ó les sea permitido entrar á los buques de guerra ó paquetes de cualquiera otra nacion; podrán entrar, anclar, permanecer y repararse, sujetos siempre á las leyes y costumbres de las dos naciones respectivas.

ARTÍCULO III.

Las dos altas partes contratantes, convienen que cualquier favor, exencion, privilegio ó inmunidad que una de ellas haya concedido ó conceda mas adelante en punto á comercio ó navegacion á los ciudadanos ó súbditos de cualquier otro Gobierno, nacion ó estado, será estensivo en igualdad de casos y circunstancias á los ciudadanos de la otra parte contratante, y gratuitamente, si la concesion en favor de ese otro Gobierno, nacion ó estado ha sido gratuita, ó por una compensacion equivalente, si la concesion fué condicional.

ARTICLE IV.

No higher or other duties shall be imposed on the importation into the territories of either of the two contracting parties, of any article, of the growth, produce or manufacture of the territories of the other contracting party, than are or shall be payable on the like article of any other foreign country; nor shall any other or higher duties or charges be imposed in the territories of either of the contracting parties on the exportation of any article to the territories of the other, than such as are or shall be payable on the exportation of the like article to any other foreign country; nor shall any prohibition be imposed upon the importation or exportation of any article of the growth, produce or manufacture of the territories of either of the contracting parties, to or from the territories of the other, which shall not equally extend to the like article of any other foreign country.

ARTICLE V.

No other or higher duties or charges on account of tonnage, light or harbor dues, pilotage, salvage in case of average or shipwreck, or any other local charges, shall be imposed, in the ports of the two contracting parties, on the vessels of the other, than those payable in the same ports on its own vessels.

ARTÍCULO IV.

No se impondrán ningunos otros ni mayores derechos, en los territorios de cualquiera de las dos partes contratantes á la importacion de los artículos de produccion natural, industrial ó fabril de los territorios de la otra parte contratante, que los que se pagan ó pagáren por iguales artículos de cualquier otro pais extranjero: ni se impondrá otros ni mas altos derechos en los territorios de cualquiera de las partes contratantes á la exportacion de cualquier artículo á los territorios de la otra, que los que se pagan ó pagáren por la exportacion de iguales artículos á cualquier otro pais extranjero; ni se impondrá prohibicion alguna á la importacion de cualesquiera artículos de produccion natural, industrial ó fabril de los territorios de una de las partes contratantes á los territorios ó de los territorios de la otra, que no se esticndan tambien á iguales artículos de cualquier otro pais extranjero.

ARTÍCULO V.

No se impondrán otros ni mas altos derechos por tonelage, farola, puerto, práctico, salvamento en caso de averia ó naufragio, ó cualesquiera otros gastos locales en ninguno de los puertos de cualquiera de las dos partes contratantes á los buques de la otra, que aquellos que se pagan en los mismos puertos por sus propios buques.

ARTICLE VI.

The same duties shall be paid and the same drawbacks and bounties allowed upon the importation or exportation of any article into or from the territories of the United States, or, into or from the territories of the Argentine Confederation, whether such importation or exportation be made in vessels of the United States, or, in vessels of the Argentine Confederation.

ARTÍCULO VI.

Se pagarán los mismos derechos, y se concederán los mismos descuentos y premios por la importacion ó exportacion de cualquier artículo al territorio ó del territorio de la Confederacion Argentina, ó al territorio ó del territorio de los Estados Unidos, ya sea que dicha importacion ó exportacion se efectuó en buques de la Confederacion Argentina ó en buques de los Estados Unidos.

ARTICLE VII.

The contracting parties agree to consider and treat as vessels of the United States and of the Argentine Confederation, all those which, being furnished by the competent authority with a regular passport or sea-letter, shall, under the then existing laws and regulations of either of the two governments, be recognized fully and *bona fide* as national vessels by that country to which they respectively belong.

ARTÍCULO VII.

Las partes contratantes se convienen en considerar y tratar como buques de la Confederacion Argentina, y de los Estados Unidos, todos aquellos que hallándose munidos por la competente autoridad, con un pasavante en debida forma ó patente, puedan, segun las leyes y reglamentos entonces existentes, ser reconocidos plenamente y *bona fide* como buques nacionales por aquel pais al que respectivamente pertenezcan.

ARTICLE VIII.

All merchants, commanders of ships and others, citizens of the United States, shall have full liberty, in all the territories of the Argentine Confederation, to manage their own affairs themselves, or, to commit them to the management of whomsoever they please, as broker, factor, agent or interpreter; nor shall they be obliged to employ any other per-

ARTÍCULO VIII.

Todos los Comerciantes, Comandantes de buque y demas Ciudadanos de la Confederacion Argentina, tendrán plena libertad en todos los territorios de los Estados Unidos, para cuidar por si mismos de sus propios negocios, ó para confiarlos á la direccion de quien mejor les parezca como corredor factor, agente ó intérprete; y no serán obligados á em-

sons in those capacities, than those employed by citizens of the Argentine Confederation, nor to pay them any other salary or remuneration than such as is paid in like cases by citizens of the Argentine Confederation. And absolute freedom shall be allowed in all cases to the buyer and seller to bargain and fix the price of any goods, wares or merchandize imported into or exported from the Argentine Confederation, as they shall see good, observing the laws and established customs of the country. The same rights and privileges, in all respects, shall be enjoyed in the territories of the United States, by the citizens of the Argentine Confederation. The citizens of the two contracting parties shall reciprocally receive and enjoy full and perfect protection for their persons and property and shall have free and open access to the Courts of justice in the said countries respectively for the prosecution and defence of their just rights, and they shall be at liberty to employ in all cases such advocates, attorneys or agents as they may think proper, and they shall enjoy in this respect the same rights and privileges therein as native citizens.

ARTICLE IX.

In whatever relates to the police of the ports, the lading and unloading of ships, the safety of the merchandize, goods and effects,

plear otras personas para aquellos obgetos, que aquellas empleadas por los Ciudadanos de los Estados Unidos, ni á pagarles otro salario ó remuneracion que aquella que, en iguales casos se paga por los Ciudadanos de dichos Estados Unidos. Y se concede absoluta libertad en todos los casos al comprador y vendedor para tratar y fijar el precio, como mejor les parezca, de cualquier efecto, género ó mercancia importado ó exportado de los Estados Unidos, con observancia de las leyes y usos establecidos en el pais. Los mismos derechos y privilegios en todos respectos se conceden en los territorios de la Confederacion Argentina á los Ciudadanos de los Estados Unidos. Los Ciudadanos de las dos partes contratantes recibirán y disfrutarán recíprocamente la mas completa y perfecta proteccion para sus personas y bienes, y tendrán acceso franco y libre á los tribunales de justicia en los respectivos paises para la prosecucion y defenza de sus justos derechos, y tendrán la libertad de emplear en todos casos los abogados, apoderados ó agentes que mejor les parezca, y á este respecto tendrán los mismos derechos y privilegios que los Ciudadanos nacionales.

ARTÍCULO IX.

En todo lo relativo á la policia de puertos, carga y descarga de buques, seguridad de las mercaderias, géneros y efectos á la adquisi-

and to the acquiring and disposing of property of every sort and denomination either by sale, donation, exchange, testament, or in any other manner whatsoever, as also to the administration of justice, the citizens of the two contracting parties shall reciprocally enjoy the same privileges, liberties and rights, as native citizens, and they shall not be charged, in any of those respects, with any higher imposts or duties than those which are paid or may be paid by native citizens, submitting of course to the local laws and regulations, of each country respectively. If any citizen of either of the two contracting parties shall die without will or testament, in any of the territories of the other, the Consul general or Consul of the nation to which the deceased belonged, or the representative of such Consul general or Consul, in his absence, shall have the right to intervene in the possession, administration and judicial liquidation of the estate of the deceased, conformably with the laws of the country, for the benefit of the creditors and legal heirs.

ARTICLE X.

The citizens of the United States residing in the Argentine Confederation, and the citizens of the Argentine Confederation residing in the United States, shall be exempted from all com-

cion y disposicion de la propiedad de toda clase y denominacion, ya sea por venta, donacion, permuta, testamento ó de cualquier otro modo que sea, como tambien á la administracion de justicia, los ciudadanos de las partes contratantes gozarán reciprocamente de los mismos privilegios, prerrogativas y derechos que los ciudadanos nacionales; y no se les gravará en ninguno de esos casos con impuestos ó derechos mayores que aquellos que pagan ó pagáren los Ciudadanos nacionales, sujetos siempre á las leyes locales y reglamentos de cada pais respectivamente. Si algun Ciudadano de cualquiera de las dos partes contratantes falleciera intestado en alguno de los territorios de la otra, el Consul General ó Consul de la nacion á la que pertenezca el finado, ó sea el representante de dicho Consul General ó Consul, en ausencia de estos, tendrá el derecho de intervenir en la posesion, administracion y liquidacion judicial de los bienes del finado, conforme á las leyes del pais, en beneficio de sus acreedores y herederos legales.

ARTÍCULO X.

Los Ciudadanos de la Confederacion Argentina residentes en los Estados Unidos, y los Ciudadanos de los Estados Unidos residentes en la Confederacion Argentina, serán exentos de todo

pulsory military service whatsoever, whether by sea or by land, and from all forced loans, requisitions or military exactions; and they shall not be compelled, under any pretext whatever, to pay any ordinary charges, requisitions or taxes greater than those that are paid by native citizens of the contracting parties respectively.

ARTICLE XI.

It shall be free for each of the two contracting parties to appoint Consuls, for the protection of trade, to reside in any of the territories of the other party; but, before any Consul shall act as such, he shall, in the usual form, be approved and admitted by the Government to which he is sent; and either of the contracting parties may except from the residence of Consuls such particular places as they judge fit to be excepted.

The archives and papers of the Consulates of the respective governments shall be respected inviolably, and under no pretext whatever shall any magistrate, or, any of the local authorities, seize, or in any way interfere with them.

The Diplomatic agents and Consuls of the Argentine Confederation shall enjoy in the territories of the United States, whatever privileges, exemptions and immunities are, or shall be granted

servicio militar obligatorio, ya sea por mar ó por tierra, asi como de todo empréstito forzoso, requisiciones y auxilios militares; ni serán compelidos por ningun pretesto que sea, á pagar ningunas cargas ordinarias, requisiciones ó impuestos mayores que los que pagan los Ciudadanos naturales de las partes contratantes respectivamente.

ARTÍCULO XI.

Cada una de las dos partes contratantes podrá nombrar Consules para la proteccion de su comercio, con residencia en cualquiera de los territorios de la otra parte; pero antes de funcionar como tales, serán aprobados y admitidos en la forma de costumbre, por el gobierno cerca del que están acreditados; y cualquiera de las partes contratantes podrá exceptuar de la residencia de Consules, aquellos lugares particulares que juzgue conveniente exceptuar.

Los archivos y papeles de los Consulados de los respectivos gobiernos, serán inviolablemente respetados, y bajo ningun pretesto podrá magistrado alguno, ni autoridad local alguna apoderarse de dichos archivos ó papeles, ni tener, de modo alguno, la menor ingerencia en ellos.

Los Agentes Diplomáticos y Consules de los Estados Unidos gozarán en los territorios de la Confederacion Argentina, de todos los privilegios, exenciones é inmunidades que se conceden á

to agents of the same rank belonging to the most favored nation; and in like manner, the diplomatic agents and Consuls of the United States, in the territories of the Argentine Confederation, shall enjoy, according to the strictest reciprocity, whatever privileges exemptions and immunities, are, or may be granted in the Argentine Confederation to the diplomatic agents and Consuls of the most favored nation.

ARTICLE XII.

For the better security of commerce between the United States and the Argentine Confederation, it is agreed, that if at any time any interruption of friendly commercial intercourse, or any rupture, should unfortunately take place between the two contracting parties, the citizens of either of them residing in the territories of the other, shall have the privilege of remaining and continuing their trade or occupation therein, without any manner of interruption, so long as they behave peaceably and commit no offence against the laws; and their effects and property, whether entrusted to individuals or to the state, shall not be liable to seizure or sequestration, or to any other demands than those which may be made upon the like effects or property belonging to the native inhabitants of the state in which such citizens may reside.

los agentes del mismo rango de la nacion mas favorecida; y de igual modo, los Agentes Diplomáticos y Consules de la Confederacion Argentina en los territorios de los Estados Unidos gozarán, conforme á la mas escrupulosa reciprocidad, de todos los privilegios, exenciones é inmunidades que se concede ó se concedan á los diplomáticos ó Consules de la nacion mas favorecida.

ARTÍCULO XII.

Para la mayor seguridad del comercio entre la Confederacion Argentina y los Estados Unidos, se estipula que, en cualquier caso en que por desgracia aconteciese alguna interrupcion de las amigables relaciones de comercio, ó un rompimiento entre las dos partes contratantes, los Ciudadanos de cualquiera de ellas, residentes en los territorios de la otra, tendrán el privilegio de permanecer y continuar su tráfico ú ocupacion en ellos, sin interrupcion alguna, en tanto que se condujeran con tranquilidad, y no quebrantaren las leyes de modo alguno; y sus efectos y propiedades, ya fuesen confiados á particulares ó al Estado, no estarán sujetas á embargo ni secuestro, ni á ninguna otra exaccion que aquellas que puedan hacerse á igual clase de efectos ó propiedades pertenecientes á los naturales habitantes

del Estado en que dichos ciudadanos residiesen.

ARTICLE XIII.

The citizens of the United States, and the citizens of the Argentine Confederation, respectively, residing in any of the territories of the other party, shall enjoy in their houses, persons and properties, the full protection of the government.

They shall not be disturbed, molested, nor annoyed in any manner on account of their religious belief, nor in the proper exercise of their peculiar worship, either within their own houses, or, in their own Churches or chapels; which they shall be at liberty to build and maintain, in convenient situations, to be approved of by the local government, interfering in no way with, but respecting the religion and customs of the country in which they reside. Liberty shall also be granted to the citizens of either of the contracting parties, to bury those who may die in the territories of the other, in burial places of their own, which in the same manner may be freely established & maintained.

ARTICLE XIV.

The present Treaty shall be ratified on the part of the Government of the United States within fifteen months from the date; and within three days by His Excellency the Provisional Director of

ARTÍCULO XIII.

Los Ciudadanos de la Confederacion Argentina y los Ciudadanos de los Estados Unidos residentes respectivamente en el territorio de una de las partes contratantes, gozarán en sus casas, personas y propiedades de la proteccion completa del gobierno.

No serán inquietados, molestados, ni incomodados de manera alguna con motivo de sus creencias religiosas, ni en el ejercicio de su culto particular, ya sea dentro de sus propias casas, ó en sus propias iglesias ó capillas, las que podrán libremente edificar y mantener en los sitios convenientes que sean aprobados por el gobierno local, respetando la religion y costumbres del pais donde tengan su residencia. Tambien será permitido enterrar á los ciudadanos que murieren de ambas partes contratantes, en el territorio de la otra, en sus propios cementerios, que podrán del mismo modo libremente establecer y conservar.

ARTÍCULO XIV.

El presente Tratado será ratificado por el Exelentísimo Señor Director Provisorio de la Confederacion Argentina, á los tres dias de la fecha, debiendo presentarlo para su aprobacion al primer

the Argentine Confederation, who will also present it to the first Legislative Congress of the Confederation for their approval.

The ratifications shall be exchanged at the seat of Government of the Argentine Confederation within the term of eighteen months.

In witness whereof the respective Plenipotentiaries have signed this Treaty, and affixed thereto their seals.

Done at San José on the twenty seventh day of July in the year of Our Lord one thousand eight hundred & fifty three.

[Seal] ROB^t C. SCHENCK
[Seal] JN^o PENDLETON
[Seal] SALVADOR M^a DEL CARRIL
[Seal] JOSÉ B GOROSTIAGA

Congreso Legislativo de la Confederacion, y por parte del gobierno de los Estados Unidos, dentro de quince meses.

Las ratificaciones deberán canjearse á los diez y ocho meses en el lugar de la residencia del Gobierno de la Confederacion Argentina.

En fé de lo cuál, los Plenipotenciarios respectivos han firmado este Tratado y le han puesto sus sellos.

Hecho en San José el dia veintisiete de Julio del año de nuestro Señor, mil ochocientos cincuenta y tres. (Nota—En el renglon quince del Artículo doce “*aquellas que*” entrerrenglores—vale.)¹

[Seal] SALVADOR M^a DEL CARRIL
[Seal] JOSÉ B. GOROSTIAGA
[Seal] ROB^t C. SCHENCK
[Seal] JN^o PENDLETON

NOTES

This treaty of July 27, 1853, and the one preceding (Document 160), also with the Argentine Confederation, the Treaty for the Free Navigation of the Rivers Paraná and Uruguay, signed at San José de Flores July 10, 1853, are so intimately connected in respect both of time and of circumstance that the two are considered together in the editorial notes to Document 160.

Neither of the two treaties contains any clause of termination or denunciation; and both remain (January 1, 1941) in force.

ARTICLE 9

In an opinion citing conflicting decisions of various State courts, the Supreme Court held in *Rocca v. Thompson*, 223 U.S. 317-34, at page 334 (decided February 19, 1912), that “there was no purpose in the Argentine treaty to take away from the States the right of local administration provided by their laws, upon the estates of

¹ This note of the interlineation of two words in the fifteenth line of Article 12 of the original, refers to the last two words in the twenty-second line of the Spanish of that article as above printed.

deceased citizens of a foreign country, and to commit the same to the consuls of such foreign nation, to the exclusion of those entitled to administer as provided by the local laws of the States within which such foreigner resides and leaves property at the time of decease”.

PROPOSED ADDITIONAL ARTICLE

An additional article (on the subject of deserting seamen) to the treaty of July 27, 1853, was signed at Buenos Aires on June 23, 1884; and a protocol of an additional clause to that additional article was there signed on June 25, 1885, after the additional article had been submitted to the Senate and withdrawn (see Executive Journal, XXIV, 443; XXV, 47). The additional article and the additional clause were submitted to the Senate on December 14, 1886, after they had been approved by the Congress and President of the Argentine Republic (*ibid.*, 623; texts and other papers are in Senate Confidential Executive Document A, 49th Congress, 2d session, 85 Regular Confidential Documents, 941-46); advice and consent of the Senate were given on January 7, 1887, subject to nine amendments of minor importance, seven of which were to strike out the character “&” and insert in lieu thereof the word “and” (Executive Journal, XXV, 686-87); and ratification by the United States followed on January 29, 1887. The additional article with the additional clause failed to go into force (D.S., Unperfected A).