

SAN SALVADOR.

SAN SALVADOR, 1850.

TREATY OF AMITY, NAVIGATION, AND COMMERCE, BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF SAN SALVADOR, CONCLUDED AT LEON JANUARY 2, 1850; RATIFICATION ADVISED BY SENATE SEPTEMBER 24, 1850; RATIFIED BY PRESIDENT NOVEMBER 14, 1850; TIME FOR EXCHANGE OF RATIFICATIONS EXTENDED BY SENATE SEPTEMBER 27, 1850, TO APRIL 1, 1851; RATIFICATIONS EXCHANGED AT CITY OF SAN SALVADOR JUNE 2, 1852; EXCHANGE OF RATIFICATIONS CONSENTED TO BY SENATE APRIL 4, 1853; PROCLAIMED APRIL 18, 1853.

January 2, 1850.

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.

Contracting parties.

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:

Negotiators.

ARTICLE I.

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.

Peace and friendship.

ARTICLE II.

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.

Favors granted to other nations to become common.

ARTICLE III.

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

Freedom of commerce and navigation.

Rights of residence and business.

Coasting trade.

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.

ARTICLE IV.

Vessels upon equal footing.

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 re-exported in the vessels of the other country; and the same bounties, duties, and drawbacks shall be allowed and collected, whether such exportation or re-exportation be made in vessels of the United States or of the Republic of San Salvador.

ARTICLE V.

Equality of duties on produce of either country.

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.

ARTICLE VI.

Applicability of stipulations.

[See Articles III-V.]

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.

ARTICLE VII.

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.

Management of
business, &c.

ARTICLE VIII.

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.

Embargo or de-
tention.

ARTICLE IX.

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.

Vessels seeking
refuge.

ARTICLE X.

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.

Captures by
pirates.

ARTICLE XI.

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.

Wrecked or
damaged vessels.

ARTICLE XII.

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

Disposal and in-
heritance of
estates.

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.

ARTICLE XIII.

Protection to persons and property.

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.

ARTICLE XIV.

Security of conscience.

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 anywise, nor upon any account.

Rights of burial.

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.

ARTICLE XV.

Neutral trade.

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

Free ships make free goods.

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 recognize 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.

Limitation of the principle.

ARTICLE XVI.

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 vessel 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.

Neutral property on enemy's vessel.

ARTICLE XVII.

This liberty of navigation and commerce shall extend to all kinds of merchandise, excepting those only which are distinguished by the name of contraband; and under this name of contraband or prohibited goods shall be comprehended—

Contraband articles.

1st. 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.

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

3d. Cavalry belts and horses, with their furniture.

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

5th. Provisions that are imported into a besieged or blockaded place.

ARTICLE XVIII.

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.

Other goods free.

Definition of blockade.

ARTICLE XIX.

Confiscation of
contraband arti-
cles.

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 judgment, according to law.

ARTICLE XX.

Blockaded ports.

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.

ARTICLE XXI.

Regulation of
visits at sea.

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.

ARTICLE XXII.

Sea-letters or
passports.

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.

ARTICLE XXIII.

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.

Vessels under
convoy.

ARTICLE XXIV.

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 judgment 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.

Prize courts and
decrees.

ARTICLE XXV.

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.

Regulation in
case of war.

ARTICLE XXVI.

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.

Letters of
marque.

ARTICLE XXVII.

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-conduct 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

Rights of resi-
dents in time of
war.

this protection, which, in consideration of humanity, the contracting parties engage to give them.

ARTICLE XXVIII.

Debts, &c., not
to be confiscated.

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.

ARTICLE XXIX.

Envoys, ministers,
&c.

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.

ARTICLE XXX.

Consuls and Vice-
Consuls.

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.

ARTICLE XXXI.

Exequaturs.

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.

ARTICLE XXXII.

Immunities of
consular officers.

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.

ARTICLE XXXIII.

Deserters from
vessels.

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.

ARTICLE XXXIV.

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.

Consular convention.

ARTICLE XXXV.

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:

1st. 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.

Duration of treaty.

2d. 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.

Infringement of treaty.

3d. 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.

Reprisals and declarations of war.

ARTICLE XXXVI.

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.

Ratifications.

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.

Signatures.

Date.

E. GEO. SQUIER. [L. S.]
AGUSTIN MORALES. [L. S.]