

N° 1701.

ITALIE ET LITHUANIE

Convention commerciale, avec protocole final. Signés à Rome, le 17 septembre 1927.

ITALY AND LITHUANIA

Commercial Convention, with Final Protocol. Signed at Rome, September 17, 1927.

¹ TRADUCTION. — TRANSLATION.No. 1701. — COMMERCIAL CONVENTION ² BETWEEN THE KINGDOM OF ITALY AND THE LITHUANIAN REPUBLIC. SIGNED AT ROME, SEPTEMBER 17, 1927.

French official text communicated by the Italian Minister for Foreign Affairs. The registration of this Convention took place May 7, 1928.

HIS MAJESTY THE KING OF ITALY and HIS EXCELLENCY THE PRESIDENT OF THE LITHUANIAN REPUBLIC, being equally desirous of promoting the development of economic relations between the two countries, have agreed to conclude a Commercial Convention, and have for this purpose appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF ITALY :

His Excellency Chevalier Benito MUSSOLINI, Head of the Government, Prime Minister and Secretary of State, Secretary of State for Foreign Affairs ;

THE PRESIDENT OF THE LITHUANIAN REPUBLIC :

His Excellency M. Augustinas VOLDEMARAS, Prime Minister, Minister for Foreign Affairs ;

Who, having exchanged their full powers, found in good and due form, have agreed upon the following Articles :

Article 1.

There shall be full and complete freedom of commerce and navigation between the territories of the two High Contracting Parties.

The nationals of the two High Contracting Parties shall, provided they conform to the laws of the country, be free to enter, travel, stay or establish themselves anywhere within the territory of the other Party, and exercise their trade, industry and professions in that country without being subject, either as regards their person or property, or in respect of commerce, industry or professions, to duties, taxes, rates or licence fees other or higher than those which are or may hereafter be levied on the nationals of the country.

The rights, privileges, exemptions, immunities or any other favours whatsoever, which may be enjoyed in respect of commerce, navigation or industry by the nationals of one of the two High Contracting Parties, shall be extended equally to the nationals of the other.

The stipulations of this Article do not invalidate the special laws, decrees and regulations with regard to commerce, industry and professions which are in force in the two countries, and are also applicable to the nationals of any other Power.

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.

² The exchange of ratifications took place at Rome, February 22, 1928.

Article 2.

The nationals of each of the High Contracting Parties shall, in the territory of the other Party, enjoy full and complete protection for their persons, property and interests, provided they conform to the laws of the country. In this respect they shall enjoy the same rights and privileges as are or may hereafter be accorded to the nationals or citizens of the most-favoured-nation.

They shall likewise have freedom and facility of access to the law courts of any instance or jurisdiction in order to substantiate their rights and to provide for their defence, if they conform to the laws of the country.

For this purpose they may employ counsel, notaries and agents of any grade whom they may judge to defend their interests, and who may be authorised by the laws of the country, and they shall enjoy, as regards legal matters, the same rights and privileges as are or may hereafter be accorded to the nationals or citizens of the most favoured nation.

Article 3.

Commercial, industrial, navigation or financial companies (including insurance companies, and public life-insurance institutions) domiciled in the territories of one of the two High Contracting Parties, and having been validly constituted in that country in accordance with its laws, shall be recognised as having legal existence in the territories of the other Party, subject to the formalities and restrictions of the laws in force, and may there carry on their business, establish branches, and appear in the courts, either as plaintiffs or defendants.

In any case the said associations shall enjoy in the territory of the other Contracting Party the same rights as are or may hereafter be accorded to similar companies of any other country whatsoever.

The said associations and institutions shall not be required to pay, in respect of the exercise of commercial or industrial activities in the territory of the other Party, other or higher rates, duties or taxes, than those which are or may hereafter be levied on nationals of the country.

Article 4.

While enjoying the greatest advantages that may be derived from most-favoured-nation treatment, the merchants, manufacturers and other producers of one of the two countries, as well as their commercial travellers, shall have the right, on producing an identity card, and on observing the formalities prescribed in the territory of the other country, to make purchases in that country for their trade, manufacture or other business, and to solicit orders, with or without samples, from producers and merchants therein, without being on this account liable to any duties or taxes. They may have with them samples or models, but not goods.

The above-mentioned identity card shall be drawn up in conformity with the specimen given in the International Convention¹ for the Simplification of Customs Formalities, signed at Geneva on November 3rd, 1923.

The High Contracting Parties shall inform each other of the authorities competent to issue identity cards.

Such documents shall be valid for the duration of the calendar year for which it was issued.

As regards itinerant industries, hawking or soliciting orders from persons who are not engaged in either industry or commerce, the above-mentioned provisions shall not be applicable, and the High Contracting Parties reserve to themselves complete liberty for their legislation in this respect.

¹ Vol. XXX, page 371 ; Vol. XXXV, page 324 ; Vol. XXXIX, page 208 ; Vol. XLV, page 140 ; Vol. L, page 161 ; Vol. LIV, page 398 ; Vol. LIX, page 365 ; and Vol. LXIX, page 79, of this Series.

Articles imported as samples for the purposes above mentioned shall, in each of the two countries, be admitted temporarily free of duty, in conformity with the Customs regulations and formalities which have been established for ensuring their re-exportation within the time-limit provided by law. The said privilege, however, shall not extend to articles which by reason of their quantity or value, cannot be considered as samples, or which by their nature cannot be identified on re-exportation.

Article 5.

Natural or manufactured products originating in and coming from Lithuania shall, on importation into Italy, receive most-favoured-nation treatment, both in regard to tariff duties properly so-called, and in regard to coefficients of increase.

Article 6.

Natural or manufactured products originating in and coming from Italy shall, on importation into Lithuania, receive most-favoured-nation treatment, both in regard to tariff duties properly so-called, and in regard to coefficients of increase.

Article 7.

On exportation to Italy no other or higher export duties or other taxes shall be levied in Lithuania, and on exportation to Lithuania no other or higher export duties or other taxes shall be levied in Italy, than those levied on the export of the same products to the nation most favoured in this respect.

Similarly, any other privilege accorded by one of the High Contracting Parties to a third Power in respect of export shall immediately and unconditionally be extended to the other.

Article 8.

The two High Contracting Parties shall grant each other most-favoured-nation treatment in all matters that concern guarantees, the levying of duties and other Customs formalities connected with the import, export, warehousing, re-export, trans-shipment and transit of goods.

Each of the two Parties consequently undertakes, immediately and without other conditions, to extend to the other the benefit of any favour, privilege and reduction of duties, supplementary taxes, coefficients of increase, accessory and local taxes and duties that it has already accorded or may hereafter accord permanently or temporarily to a third Power in the above respects.

In all cases where one of the High Contracting Parties subjects the import or export of certain products or goods to price conditions involving control by the Government or by any organisation it may appoint, the conditions applicable to the other Party shall be the most favourable which are or may hereafter be applied to any third Power or to the nationals of any third Power.

Article 9.

The provisions of Articles 5, 6, 7 and 8 shall not prejudice :

(a) Benefits already granted or which may hereafter be granted to contiguous countries in order to facilitate frontier commerce;

(b) Obligations incurred by Italy in respect of a Customs union contracted or which may hereafter be contracted;

(c) Preferential treatment which Lithuania has granted or may hereafter grant to Latvia and Estonia in virtue of special conventions or Customs agreements. Nevertheless, it is understood that Italy shall be entitled to claim the same advantages immediately if they have been or should be extended by Lithuania to any third State;

(d) Preferential treatment which Italy has granted or may hereafter grant to her colonies, protectorates or possessions.

Article 10.

The High Contracting Parties undertake not to impede trade between the two countries in any way by import, export or transit prohibitions or restrictions. Exceptions to this rule, provided they are applied to all countries, or to such countries as are subject to identical conditions, may only be made in the following cases :

- (1) In exceptional circumstances, in relation to war supplies ;
- (2) For reasons of public safety ;
- (3) In regard to State monopolies actually in force or which may hereafter be established ;
- (4) For the application to foreign goods of prohibitions or restrictions which have been or may hereafter be established by national legislation with regard to the production, sale, transport or consumption within the country of similar native goods ;
- (5) Measures with regard to health supervision and the protection of useful animals or plants against disease, noxious insects and parasites, and particularly in the interests of public health and in conformity with international principles in this respect.

Article 11.

Each of the High Contracting Parties may, in order to establish the origin of imported goods, require the importer to produce a certificate attesting that the said article is a national product or manufacture or that it is to be considered as such in view of the transformation which it has undergone in its country of origin.

Certificates of origin shall be issued either by the Chambers of Commerce and Industry to which the consignor is subject, or by any organisation or body approved by the country of destination, or by the Customs office of despatch within the country or at its frontier.

Where such certificates are not issued by a Government authority appointed for the purpose, the Government of the importing country shall be entitled to demand their endorsement by the competent diplomatic or consular authorities in the place from which the goods came. The two Governments agree to fix the fees for such visas on a basis of reciprocity.

Certificates of origin shall be dispensed with in the case of postal packets.

Article 12.

No duty which is or may hereafter be levied within the country on behalf of the State, local authorities or corporations, on the production, manufacture or consumption of any production within the territory of either of the High Contracting Parties shall, for any reason whatsoever,

be higher or more burdensome in the case of products originating in and coming from the territory of the other than in the case of similar national products.

Article 13.

The two High Contracting Parties grant reciprocal freedom of transit through their territories for persons, luggage, goods, railways waggons, vessels and the postal service.

Goods of any kind coming from or going to the territory of one of the Contracting Parties shall be reciprocally exempt in the territory of the other from any transit duty, whether they are despatched in direct transit or must be unloaded, warehoused, re-loaded and re-conditioned during transit.

It is moreover agreed that goods, whatsoever their place of origin, which cross the territory of one of the High Contracting Parties in transit, or which are stored in its free ports or bonded warehouses, shall not be subject on importation into the territory of the other Party to any Customs duties or taxes other or higher than those which would be levied if the goods were imported direct from the country of origin. The present provision shall apply to goods in direct transit as well as to those in transit after having been transhipped or reconditioned in a bonded warehouse.

Article 14.

Questions relating to the mutual protection of industrial, literary and artistic property, of patents for commercial and industrial trade-marks, of samples and models, and of the trade names of nationals of the two High Contracting Parties are reserved for treatment in special conventions which shall be concluded as soon as possible.

Pending the conclusion of the said conventions, the above-mentioned rights of industrial, literary and artistic property shall, as from the entry into force of the present Convention, be exercised, in the respective territories of the two Contracting Parties, by the nationals of the other Party, within the limits and according to the provisions of the municipal laws of the country and of the international conventions, agreements or treaties, concluded with States most favoured in this respect.

Article 15.

There shall be reciprocal freedom of navigation between the two High Contracting Parties. The nationals of each of the High Contracting Parties shall have full freedom to proceed with their vessels and cargoes to localities and ports within the territory of the other, under the same conditions as the nationals or citizens of the most favoured nation; they shall always be obliged, however, to comply with the laws of the country to which they come.

The merchant ships belonging to nationals or to companies of each of the contracting countries, together with their crews, passengers and cargoes, shall, on arrival in the territory of the other country, either directly from the country of origin or from another country, and whatsoever may be the place of origin or destination of their passengers and cargoes, enjoy in all respects treatment at least as favourable as that granted to national vessels, crews, passengers and cargoes, or to those of the most favoured nation.

Article 16.

Each of the two High Contracting Parties shall permit the import or export in vessels of the other Party of all goods which may be legally imported or exported, and also the transport of passengers arriving in or leaving their respective territories.

Article 17.

In all matters concerning the stay and mooring of vessels, and their loading in the ports, docks, berths, wharves, roadsteads and maritime canals of the territories of the High Contracting Parties, all the privileges and facilities which may be accorded by one of the two Parties to national vessels or to vessels of any third Power whatsoever shall be extended to the vessels of the other Party.

Article 18.

Lithuanian vessels entering a port within the territory of the Kingdom of Italy and, conversely, Italian vessels entering a port of Lithuania with the intention of unloading only a part of their cargoes in that port shall, subject at all times to compliance with the laws and regulations of the respective States, be able to retain on board such part of their cargo coming from abroad as is intended for another port either of the same or of another country, and to re-export it without being required to pay on this part of their cargo any Customs duty, except supervision charges, which, moreover, may only be levied at the rates fixed for vessels belonging to nationals or to citizens of the most favoured nation.

Article 19.

No tonnage, transit, canal, port, pilotage, lighthouse, quarantine or other similar duty or charge of any denomination whatsoever, levied in the name of and for the benefit of the Government, public officials, private persons, and any corporations or establishments whatsoever, shall be imposed on the vessels of the other without such charges being likewise imposed under the same conditions on national vessels or vessels of the most favoured nation.

This equality of treatment shall be applied reciprocally to the respective vessels from whatever place they may come, and whatever may be their destination.

Article 20.

The treatment of national vessels or vessels of the most favoured nation does not extend :

(1) To coasting traffic, which continues to be governed by the laws which are or may hereafter be in force in each of the two countries. In all cases Italian and Lithuanian vessels may proceed from a port belonging to one of the two contracting countries to one or more ports of the same country, either in order to discharge therein all or part of their cargoes transported from abroad, or in order to make up or complete their cargoes for a foreign destination.

(2) To facilities which are or may hereafter be granted to the national mercantile marine.

(3) To special concessions granted to nautical sporting societies and to pleasure yachts.

(4) To the pursuit of fishing in the territorial waters of the High Contracting Parties and to the performance of the maritime service of the ports, roadsteads and shores. The maritime service includes towage, maritime assistance and salvage.

(5) To emigration and the transport of emigrants, it being understood that, if necessary, the two High Contracting Parties may conclude an agreement on this subject.

Article 21.

In the case of shipwreck, damage at sea, or the forced putting-in of a vessel, each of the High Contracting Parties shall give vessels of the other Party, whether belonging to the State or to individuals, the same assistance and protection and the same immunities as are accorded under similar circumstances to ships sailing under the national flag, or under the flag of the most favoured nation.

Article 22.

Merchant vessels sailing under the Lithuanian or Italian flag, and having on board the documents required by their national laws and regulations to establish their nationality, shall be considered in Italy and in Lithuania as Lithuanian or Italian vessels, respectively.

The tonnage certificates and other documents relating to tonnage issued by either of the High Contracting Parties shall be recognised as valid by the other Party, the respective laws of the two countries in regard to ship measurement having been found to coincide.

Except in the case of sale by order of the Court, the vessels of either of the High Contracting Parties may not acquire the nationality of the other without a declaration of the withdrawal of the flag issued by the authority of the State to which the vessels belong.

Article 23.

Should a dispute arise between the two High Contracting Parties as to the interpretation or application of the present Convention, and should either of the High Contracting Parties demand that the question be submitted to the decision of a Court of Arbitration, the other Party shall be obliged to consent, even as regards the preliminary question as to whether the dispute is of a nature to be referred to a Court of Arbitration.

The Court of Arbitration shall be instituted for each dispute in such a manner that each of the High Contracting Parties shall appoint one of its nationals as an arbitrator, and that the two Parties shall choose as a third arbitrator a national of a third friendly Power.

The High Contracting Parties reserve the right to agree in advance and for a fixed period on the person who may, in case of disputes, fulfil the duties of third arbitrator. The decision of the arbitrators shall have binding force.

Article 24.

The present Convention shall be ratified, and the instruments of ratification shall be exchanged at Rome as soon as possible.

It shall come into force fifteen days after the exchange of ratifications, and shall remain in force for one year as from the date of its coming into force. Should it not be denounced six months before the expiration of this period, it shall be prolonged by tacit consent for an indefinite period, and shall then be denounceable at any time, but shall remain in force for six months from the date of denunciation.

In faith whereof the Plenipotentiaries have signed the present Convention and have thereto affixed their seals.

Done at Rome, September the seventeenth one thousand nine hundred and twenty-seven.

(L. S.) Benito MUSSOLINI.

(L. S.) Professor A. VOLDEMARAS.

FINAL PROTOCOL.

On signing the Commercial Convention concluded on to-day's date between Italy and Lithuania, the undersigned Plenipotentiaries have made the following declarations, which shall form an integral part of the said Convention :

Ad Articles 5-6.

I. The two High Contracting Parties agree to complete the present Convention as soon as possible by a Customs Convention with a view to fixing the reductions in Customs duties that each of them is able to concede to the other.

II. The two Contracting Parties agree that the most-favoured-nation clause set forth in Articles 5-6 of the Convention shall be interpreted as meaning that foodstuffs and raw materials from overseas (e.g. coffee, tea, tobacco, cotton, wool, oil-seeds), whatever their place of origin, imported into one of the two countries through the territory of the other, whether or not they have been stored or re-conditioned in the free ports or bonded warehouses of the latter country, shall not be subject to a treatment in any respect less favourable than that granted to similar products of like origin imported into either country through any third State, whether or not they have been stored or re-conditioned in the free ports or bonded warehouses of the said third State.

Ad Article 10.

I. It is agreed that the High Contracting Parties, with a view to carrying fully into effect as soon as possible the principle established in Article 10, paragraph 1, of the Commercial Convention concluded on to-days' date, shall not maintain or institute import or export prohibitions or restrictions unless these should be absolutely necessary, and then for no longer than the exceptional circumstances which have given rise to them shall continue.

In accordance with the spirit of the present regulation, any removal of import or export prohibitions granted by one of the High Contracting Parties in respect of the products of a third Power shall apply immediately and unconditionally to the same or similar products originating in and coming from the other Party.

Similarly, should either of the High Contracting Parties establish new prohibitions or restrictions either on import or export, it shall endeavour to arrange the granting of concessions or the fixing of quotas, on the other High Contracting Party's request, in such a manner as to prejudice as little as possible the commercial relations between the two countries.

II. The two High Contracting Parties agree to conclude as soon as possible a health convention concerning the methods of applying the stipulations of No. 5 of Article 10.

Ad Article 11.

The fee to be charged in cases where a visa may be required on certificates of origin shall not exceed one gold franc.

Benito MUSSOLINI.

Prof. A. VOLDEMARAS.