

N° 2091.

AUTRICHE ET ESTONIE

Traité de commerce, avec protocole final, signés à Varsovie, le 11 décembre 1928, et échange de notes y relatif de la même date.

AUSTRIA AND ESTONIA

Treaty of Commerce, with Final Protocol, signed at Warsaw, December 11, 1928, and Exchange of Notes relating thereto of the same date.

¹ TRADUCTION. — TRANSLATION.No. 2091. — TREATY ² OF COMMERCE BETWEEN THE AUSTRIAN REPUBLIC AND THE ESTONIAN REPUBLIC. SIGNED AT WARSAW, DECEMBER 11, 1928.

French official text communicated by the Estonian Minister for Foreign Affairs. The registration of this Treaty took place July 18, 1929.

THE GOVERNMENT OF THE ESTONIAN REPUBLIC and THE FEDERAL PRESIDENT OF THE AUSTRIAN REPUBLIC, being desirous of promoting the development of commercial relations between their countries, have determined to conclude a Treaty of Commerce and Navigation and for this purpose have appointed as their Plenipotentiaries :

THE GOVERNMENT OF THE ESTONIAN REPUBLIC :

M. Otto STRANDMAN, Envoy Extraordinary and Minister Plenipotentiary of the Estonian Republic at Warsaw ;

THE FEDERAL PRESIDENT OF THE AUSTRIAN REPUBLIC :

M. Nicolaus POST, Envoy Extraordinary and Minister Plenipotentiary of the Austrian Republic at Warsaw ;

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

Article I.

There shall be reciprocal freedom of commerce and navigation between the territories of the two Contracting Parties.

The nationals of either High Contracting Party may freely enter, travel through or stay in any part of the territory of the other Party, provided that they observe the laws of the country.

As regards commerce, manufacture and navigation, they shall enjoy therein the same rights, privileges, liberties, immunities and exemptions as are or may in future be accorded to the nationals of the other Contracting Party.

Article II.

Except as otherwise expressly provided by the present Treaty, the nationals of either High Contracting Party in the territory of the other Party shall not be subject to duties, charges or taxes

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 Warsaw, June 26, 1929.

of any kind whatsoever other or higher than those which are or may hereafter be imposed on nationals of the country.

Article III.

The nationals of either High Contracting Party shall be entitled to acquire, rent, lease and possess all kinds of movable or immovable property in the territory of the other Party, provided that they conform to the laws of the country. They shall also be entitled to dispose of such property by sale, donation, marriage settlement, bequest or in any other manner or to acquire it by inheritance under the same conditions as the nationals of the most favoured nation.

They shall not be liable in any of the above-mentioned cases to duties, taxes, or charges of any kind other or higher than those which are or may be laid down in respect of nationals. Nevertheless, it is understood that the provisions of Article I and of the present Article in no way derogate from the laws, decrees and special regulations applicable to all foreigners which are or may hereafter be in force in either country.

[*Article IV.*

The nationals of each of the High Contracting Parties shall have the right, provided that they comply with the laws of the country, to appear before the courts of any degree of jurisdiction either as plaintiffs or defendants. They shall also be entitled to employ in all courts, counsel, solicitors or agents recognised by the laws of the country and shall enjoy in this respect the same rights and advantages as nationals of the country.

The two Contracting Parties undertake that the provisions of Articles 1 to 24 of the Convention concerning Civil Procedure¹ concluded between several States at The Hague on July 17, 1905, shall be applied in Estonia in favour of Austria and of Austrian nationals, and in Austria in favour of Estonia and of Estonian nationals, subject to the following conditions :

(a) The two Contracting Parties have agreed to employ the German language as the language of translation provided for in Articles 3 and 10 of the above-mentioned Hague Convention ;

(b) The documents to be served and the "*commissions rogatoires*" to be executed (Articles 1 and 9) shall be transmitted direct by the Estonian Minister of Justice at Tallinn to the Federal Minister of Justice at Vienna, and direct by the Federal Minister of Justice at Vienna to the Estonian Minister of Justice at Tallinn ;

(c) Interested parties shall be entitled to make direct application for the execution of decisions provided for by Article 18 of the said Convention.

Article V.

The High Contracting Parties reciprocally recognise that joint stock companies and all other commercial, industrial, financial and insurance companies, and other associations constituted in accordance with the national laws of either country shall have free and ready access to the courts of the other country, provided only that they observe the laws of that country.

Such joint stock and other companies and associations belonging to either High Contracting Party may, if the laws and regulations of the other country so permit, and provided that they comply with all the formalities required under the said laws and regulations, pursue their activities and establish their residence in that country. As regards conditions of residence, they shall enjoy the treatment granted to the joint stock and other companies and associations of the most favoured nation.

¹ *British and Foreign State Papers*, Vol. 99, page 990.

The present provision shall in no way affect the question of the right of any such joint stock or other company or association established in either country to carry on trade or industry or pursue its activities in the other country ; this right shall always be determined in accordance with the laws and regulations in force in the country concerned.

In no case shall joint stock or other companies and associations of either country be subject in the territory of the other to any duties, charges or taxes of any description other or higher than those which are or may be levied on the joint stock or other companies and associations of the latter country. It is further understood that duties, charges and taxes may be imposed only upon that part of such companies' assets which are actually in the country where they are levied, and only upon business carried on by them or through the agency of an establishment situated in that country.

Article VI.

As regards intellectual property, the nationals of either Contracting Party shall, in the territory of the other Party, enjoy the same protection as nationals of the country.

Article VII.

The vessels of either Contracting Party and their cargoes shall, in the territorial waters and in the territories of the other Contracting Party, enjoy the same treatment as national vessels and their cargoes whatever may be their place of provenance or their destination.

Exceptions shall be admitted in the following cases :

(1) In respect of certain privileges which either Contracting Party confers or may hereafter confer upon fisheries and their products.

(2) In respect of facilities, rebates or reductions which either Contracting Party may grant to its nationals by way of a bounty for national ship building.

(3) In respect of everything relating to the coasting trade, without prejudice to any international agreements regarding navigation.

All facilities and all privileges which have been or may hereafter be granted by either Contracting Party to any other Power shall apply to the other Contracting Party.

Tonnage measurement certificates issued by either Contracting Party shall be accepted by the other Party if the tonnage measurements have been carried out according to the Moorsom system.

Article VIII.

Natural and manufactured products originating in and coming from Estonia shall, on their importation into Austria, be allowed the lowest rates that Austria grants or may hereafter grant, whether directly or indirectly, to any third Power, as regards both import duties and charges and all surtaxes, co-efficients or increases that may be applied to such duties.

Article IX.

Estonia undertakes to grant to natural and manufactured products originating in and coming from Austria, the same treatment as is provided for by Article VIII.

Article X.

Each of the High Contracting Parties is entitled to require that goods which are imported from the territory of the other Contracting Party and which, in pursuance of the present Treaty are

subject to duties or charges lower than those imposed upon the natural or manufactured products of other foreign States not enjoying most-favoured-nation treatment, shall be accompanied by certificates of origin containing such information and issued in such form as may be prescribed by the laws and regulations in force in the country importing the goods.

The two Contracting Parties, have agreed, subject to reciprocity, that certificates of origin issued by organisations approved for that purpose by the exporting country and recognised by the importing country shall not require diplomatic or consular legalisation.

No certificates of origin shall be required for postal packets if the country of destination recognises that they do not constitute consignments of a commercial character.

Article XI.

Products of the soil or industry of either country passing in transit through the territory of either Contracting Party or warehoused therein while in transit, shall, irrespective of their final destination, be exempt from all Customs or internal duties other than those recognised by the Barcelona Statute on Freedom of Transit.

Article XII.

Internal taxes, of whatever kind and for whomsoever collected, which are or may hereafter be imposed on the production, manufacture or consumption of any article in the territory of either Contracting Party, shall on no account be levied on the products of the other Party in a higher or more burdensome degree than on home products of the same nature or on like products of any other country.

Article XIII.

Should either High Contracting Party establish further import or export prohibitions, the granting of exemptions shall be considered at the request of the other Contracting Party in order that commercial relations between the two countries may be affected as little as possible.

The Contracting Parties shall not impose or maintain any import or export prohibition or restriction as between the two countries, which is not applied at the same time and in the same manner to the importation and exportation of the like goods in the course of trade with any other country under the like conditions.

Nevertheless, it is understood that these provisions shall not apply to the special exemptions from import or export prohibitions which are at present in force.

Subject to the Customs regulations, no special permit shall be required either on entry or exit for effects and articles intended for the personal use of travellers.

Article XIV.

Should either High Contracting Party make the importation or exportation of certain products or goods dependent on price conditions controlled by the Government or other organisation appointed thereby, the conditions applicable to the other Party shall be the most favourable that are or may hereafter be applied to any third Powers or to their nationals.

Article XV.

As regards carriage by rail no distinction shall be made between the nationals of the two Contracting Parties, in respect of transport or other charges, the conditions under which they are applied, or the treatment accorded to persons, baggage and goods in general.

It is understood that the provisions of the present Treaty do not confer any right or impose any obligation upon either Contracting Party contrary to the terms of any general international convention to which either Contracting Party has acceded or may hereafter accede.

Article XVI.

Each of the High Contracting Parties undertakes to allow the other Party, to benefit immediately and without compensation by any favour, privilege or reduction in octroi and excise duties and in any subsidiary and local duties on the importation, exportation, re-exportation, transit and warehousing of goods, whether mentioned or not in the present Treaty, which it has granted or may hereafter grant to any other Power.

Each of the High Contracting Parties undertakes to grant the other Party most-favoured-nation treatment in everything relating to the transshipment of goods and the observance of Customs formalities. Nevertheless, it is understood that, in everything relating to fees collected for diplomatic or consular visas on documents required for presentation to the Customs authorities and to the exemption of such documents from the diplomatic or consular visa, each of the two Parties in applying the above-stated principle, may claim a just measure of reciprocity.

Article XVII.

Without prejudice to the provisions of the Convention on Freedom of Transit¹ signed at Barcelona on April 20, 1921, to which both Parties have acceded, each of the Contracting Parties declares its willingness reciprocally to concede transit warehouses, in conformity with the Customs laws and regulations in force to nationals of the other Party, including commercial companies and associations and their duly authorised representatives. Goods of which the importation or exportation is prohibited or rationed shall not be subjected to any limitation or restriction and shall be exempt from any effective payment of import or export duties or charges other than the deposit of a valid security when warehoused for the purpose of re-exportation to adjacent countries or when in transit from such countries to any other country. No special permit shall be required for goods thus warehoused; nor shall they be subjected to any special charge; nor shall the nationals (joint stock and other companies and associations) of the other Contracting Party, their representatives and their goods be treated in any way less favourably in all matters relating to the warehouse system than the nationals of the most favoured nation.

It is agreed that the provisions of the afore-said Convention on Freedom of Transit in no way affect the Customs regulations concerning the treatment of consignments in transit or the regulations regarding traffic and trade in goods which are subjected to internal charges or are the subject of a state monopoly. Nevertheless the transit of such goods shall not be interfered with more than is necessary for the collection of such internal duties or for the purpose of the monopoly.

Article XVIII.

Merchants, manufacturers and other business men, nationals of either of the High Contracting Parties, who are domiciled and carry on their trade or industry in the territories or possessions of the said Party, and who prove by producing a business identity card, in conformity with the specimen annexed to the present Treaty and issued by the authorities in their own country, that they are authorised to carry on their trade or industry in the said country and that they pay therein the legal charges and taxes, shall have the right, either personally or through travellers in their employ, to

¹ Vol. VII, page 11; Vol. XI, page 406; Vol. XV, page 304; Vol. XIX, page 278; Vol. XXIV, page 154; Vol. XXXI, page 244; Vol. XXXV, page 298; Vol. XXXIX, page 166; Vol. LIX, page 344; Vol. LXIX, page 70; Vol. LXXXIII, page 373, of this Series; and page 363, of this Volume.

make purchases in the territory or possessions of the other Contracting Party from merchants or producers or at places of public sale. They may also solicit orders, with or without the use of samples, from traders or other persons who use in their business or industry merchandise corresponding to the samples shown.

Merchants, manufacturers, business men and their commercial travellers, when thus making purchases and soliciting orders, shall enjoy most-favoured-nation treatment as regards taxation and facilities. Nevertheless, it is understood that the application of the most-favoured-nation treatment as regards taxation shall not lead to the nationals of either Contracting Party being treated in any way less favourably than the nationals of the other.

Commercial travellers may carry with them samples, but not goods.

Articles imported as samples for the above-mentioned purposes shall be admitted in each of the two countries temporarily free of duty, in accordance with the Customs regulations and formalities laid down for the purpose of ensuring their re-export or the payment of the Customs duties prescribed in the event of their not being re-exported within the period provided by law. Nevertheless, the said privilege shall not extend to articles which, by reason of their quantity or value, cannot be regarded as samples, or which, owing to their nature, cannot be identified on re-export. The competent authorities of the place of import shall have the exclusive right in all cases to decide whether a sample shall be admitted free of duty.

The Contracting Parties shall communicate to each other the names of the authorities instructed to issue these identity cards.

Article XIX.

Disputes between the two High Contracting Parties as to the application and interpretation of the present Treaty shall be settled by a mixed arbitral tribunal. The arbitral tribunal shall be set up *ad hoc* and shall include an equal number of representatives of the two Parties. Should these representatives not arrive at an agreement, they shall apply to a third neutral arbitrator, whom the President of the Permanent Court of International Justice shall, if necessary, be asked to appoint.

Article XX.

The exemptions, immunities and privileges hereinafter mentioned shall not be regarded as contrary to the principle of most-favoured-nation treatment on which the present Treaty is based, that is to say :

(a) Privileges which have been or may hereafter be granted to contiguous States with a view to facilitating local traffic within the frontier zones.

(b) Privileges which have been or may be granted by either of the High Contracting Parties to a third State in virtue of a Customs union which is already in existence, or which may hereafter be constituted.

(c) Exemptions, immunities and privileges which Estonia grants or may hereafter grant to one of the Baltic States (Finland, Latvia, Lithuania) under special agreements, so long as these advantages are not granted to a third State. The same shall apply in regard to the privileges which Estonia may grant to the Union of Soviet Socialist Republics under special conventions or Customs agreements.

Article XXI.

The present Treaty shall be ratified and the ratifications shall be exchanged at Warsaw as soon as possible.

The Treaty shall come into force on the eighth day after the exchange of the instruments of ratification.

Article XXII.

The present Treaty is concluded in the first instance for an indefinite period and shall remain in force so long as it is not denounced by either of the High Contracting Parties on three months' notice being given. The present Treaty shall cease to be in force three months after it has been denounced in the above manner.

In faith whereof the Plenipotentiaries of the High Contracting Parties have signed this Treaty and have thereto affixed their seals.

Done at Warsaw in duplicate in French on the eleventh day of December, one thousand nine hundred and twenty-eight.

(L. S.) O. STRANDMAN.

(L. S.) POST.

ANNEX.

(Specimen).

NAME OF STATE.

(Issuing Office).

IDENTITY CARD FOR COMMERCIAL TRAVELLERS.

Valid for twelve months including the day of issue.

Good for No. of identity card

It is hereby certified that the bearer of this card,

M born at.....

living at No Street

is the owner of

at

under the name of

(or) is a commercial traveller employed by the { firm of
firms of

at

which { possesses
possess

for the purposes of trade

The bearer of this card intends to solicit orders in the above-mentioned countries and to make purchases for the firm (s) referred to. It is hereby certified that the said firm (s) is (are) authorised to carry on its (their) business and trade at and that it pays (they pay) the taxes, as provided by law, for that purpose.

..... the 19.....

Signature of the head of the firm (s) :
.....

Description of bearer.

Age

Height

Hair

Special marks

Signature of bearer :
.....

FINAL PROTOCOL.

On proceeding to sign the Treaty of Commerce and Navigation concluded on to-day's date, the undersigned Plenipotentiaries have made the following declarations :

Ad Article I.

It is understood that the High Contracting Parties do not consider the provisions of Article I of the Treaty, concerning the exercise of commercial, manufacturing or other activities, as preventing either of the Contracting Parties from reserving, in conformity with the laws in force, certain trades and professions for its own nationals or for companies and associations constituted according to the laws in force in the territory of the said Contracting Party. Nevertheless, it is understood that in such matters the High Contracting Parties shall grant each other most-favoured-nation treatment.

It is also understood that the provisions of Article I do not limit the right of the High Contracting Parties to take the measures necessary for the protection of the home labour market.

Ad Article III.

It is understood that Estonian nationals may acquire immovable property in Austria under the same conditions as nationals of the country. The Estonian Government, for its part, undertakes to intervene, so far as lies in its power, whenever an Austrian national encounters difficulties in acquiring immovable property in Estonia.

Ad Article IV.

It is understood that the provisions of Article IV by which the nationals of the two Contracting Parties shall have the right to appear before the courts, shall not apply to the administration of bequests of movable property or to the position of creditors in case of bankruptcy, as these matters are to be settled on a basis of reciprocity or by a special treaty concerning legal co-operation.

Ad Article XV.

The two Contracting Parties agree to take the necessary actions, so far as lies in their power, to introduce through tariffs, at any rate for the carriage of travellers and the more important goods on the routes most used, so as to facilitate through traffic of travellers and goods.

Ad Article XVIII.

In execution of the provisions of Article I and Article XVIII, the two Governments will endeavour to facilitate the stay in their respective territories of merchants, manufacturers and other business men and their representatives, particularly as regards visas required under the police regulations in force.

In faith whereof the Plenipotentiaries have signed the present Protocol.

Done at Warsaw, December 11, 1928.

O. STRANDMAN.
POST.

EXCHANGE OF NOTES.

I.

AUSTRIAN LEGATION
AT WARSAW.

N^o 4175.

WARSAW, *December 11, 1928.*

MONSIEUR LE MINISTRE,

With reference to the provisions of Article XIII of the Treaty of Commerce between the Austrian Republic and the Estonian Republic, signed to-day, I have the honour to bring the following to your notice :

Having regard to certain import restrictions which are still in force in Austria, the Federal Government is prepared to grant to Estonia adequate quotas in the case of all articles the importation of which is still prohibited or restricted, except, however, matches and articles which are subject to a State monopoly.

I would ask Your Excellency to be good enough to give me an assurance of the Estonian Republic's agreement on this subject.

I have the honour to be, etc.

POST.

To His Excellency M. Otto Strandman,
Estonian Envoy Extraordinary
and Minister Plenipotentiary,
at Warsaw.

II.

N^o 58-S. I.

WARSAW, *December 11, 1928.*

MONSIEUR LE MINISTRE,

You have been good enough to send me the following letter under to-day's date:

“ Monsieur le Ministre,

“ With reference to the provisions of Article XIII of the Treaty of Commerce between the Austrian Republic and the Estonian Republic, signed to-day, I have the honour to bring the following to your notice :

“ Having regard to certain import restrictions which are still in force in Austria, the Federal Government is prepared to grant to Estonia adequate quotas in the case of all articles the importation of which is still prohibited or restricted, except, however, matches and articles which are subject to a State monopoly.

“ I would ask Your Excellency to be good enough to give me an assurance that the Estonian Republic is in agreement on this subject.

“ I have the honour to be, etc. ”

I have now the honour to acknowledge receipt of the above communication and to assure you of the Estonian Republic's agreement on this subject.

I have the honour to be, etc.

O. STRANDMAN.

To His Excellency M. Nikolaus Post,
Envoy Extraordinary and Minister
Plenipotentiary of the Austrian Republic,
at Warsaw.