

N° 2211.

HONGRIE ET LITHUANIE

Convention de commerce et de navigation, avec protocole final. Signés à Budapest, le 16 mai 1929.

HUNGARY AND LITHUANIA

Convention of Commerce and Navigation, with Final Protocol. Signed at Budapest, May 16, 1929.

¹ TRADUCTION. — TRANSLATION.No. 2211. — CONVENTION² OF COMMERCE AND NAVIGATION BETWEEN HUNGARY AND LITHUANIA. SIGNED AT BUDAPEST, MAY 16, 1929.

French official text communicated by the Lithuanian Minister for Foreign Affairs and by the Resident Minister, Head of the Hungarian Delegation accredited to the League of Nations. The registration of this Convention took place November 27, 1929.

THE PRESIDENT OF THE REPUBLIC OF LITHUANIA and HIS SERENE HIGHNESS THE REGENT OF THE KINGDOM OF HUNGARY, being desirous of strengthening the ties of friendship and of encouraging economic relations between the two countries, have resolved to conclude a Convention of Commerce and Navigation and have appointed as their Plenipotentiaries for that purpose :

THE PRESIDENT OF THE REPUBLIC OF LITHUANIA :

His Excellency Venceslas SIDZIKAUSKAS, Envoy Extraordinary and Minister Plenipotentiary of Lithuania at Budapest ;

HIS SERENE HIGHNESS THE REGENT OF THE KINGDOM OF HUNGARY :

His Excellency Louis WALKO, Royal Hungarian Minister for Foreign Affairs ;

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

Article 1.

The nationals of the Contracting Parties shall have the right, on the same conditions as nationals of the most favoured nation and subject to the laws of the country in question, to enter freely the territory of the other Contracting Party, establish themselves there, engage in trade, industry, manual labour or any other industrial occupation, acquire movable or immovable property there, by inheritance, gift, bequest, purchase or exchange or by any other legal means and possess, hold and dispose of such property.

Each of the Contracting Parties undertakes not to demand from nationals of the other Party the payment of any taxes, charges or contributions higher or other than those which are or may hereafter be demanded of its own nationals or of the nationals of the most favoured nation.

Article 2.

The legal constitution and juridical existence of commercial, industrial, financial, insurance and other companies, cooperative and other associations and economic organisations domiciled in one of the two countries and constituted in conformity with the laws of their respective

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 Kaunas, November 12, 1929.

countries shall be recognised in the other country. Unless the laws of the other country provide otherwise, and subject to the fulfilment of all the formalities prescribed by those laws, they may extend their operations to the territory of the latter country and acquire and enjoy rights and engage in their occupation there. They shall be treated in that country as favourably as similar companies, cooperative and other associations and organisations of any third Power are or may be treated and they shall have the same right as the companies, cooperative and other associations or organisations of the most favoured nation to acquire, possess, hold and dispose of movable or immovable property in that country.

They may not be subjected to any higher taxes, charges or contributions of any kind or description than the companies, cooperative or other associations or organisations of the most favoured nation.

Article 3.

The nationals of either Contracting Party and the companies, cooperative and other associations and organisations domiciled in the territory of either of the Parties shall have ready access to the courts and to the various authorities of the other Party under the same conditions as nationals of that Party. In the exercise of this right they shall not be subject to charges other or higher than those imposed upon nationals or companies, cooperative and other associations and organisations of the country itself.

Article 4.

The nationals of either Contracting Party shall in the territory of the other be exempt from all military service in any branch whatever of the armed forces and from any contribution imposed in lieu of military service, and they shall also not be prevented in any way from discharging their military duty in their own country.

Further, they shall, both in peace-time and in war-time, be subject only to the military contributions and requisitions which are imposed upon nationals of the country, and in all cases to the same extent and in accordance with the same principle, but only in return for compensation or indemnity.

They shall also be exempt from all compulsory official duties, whether judicial, administrative or municipal, except the duty of accepting guardianship over their co-nationals.

Article 5.

Merchants, manufacturers and other traders who are nationals of one of the Contracting Parties and who prove by the production of a trading identity card issued by the competent authorities of their country that they are entitled to exercise their trade or industry in that country and that they pay the legal charges and taxes therein, shall have the right whether personally or through travellers in their employ, subject to compliance with the regulations in force in the two countries, to purchase goods in the territory of the other Contracting Party, from merchant or producers, or in public markets. They may solicit orders, whether or not by the production of samples or patterns, from merchants or other persons who in their trade or industry employ goods similar to those offered.

If one of the Contracting Parties levies special charges or trading licence fees, the other may adopt similar measures in such manner as to reestablish reciprocity.

Hungarian and Lithuanian commercial travellers in possession of a trader's identity card in conformity with the specimen jointly agreed upon by the Contracting Parties and issued by the authorities of the country, shall reciprocally have the right, in their capacity of commercial travellers, to import samples or patterns, but not goods.

The Contracting Parties shall inform each other of the authorities empowered to issue these identity cards and of the regulations with which travellers must comply in transacting their business.

Articles subject to Customs duty or to any similar charge, when imported by commercial travellers as samples or patterns, shall be exempted by both Parties from Customs duties or other import, export or other charges, on condition that such articles are re-exported within the prescribed period and that there is no doubt of the identity of the articles imported and re-exported, irrespective, moreover, of the Customs office through which they are exported, provided that that office is competent under the laws and regulations in force in the country.

The re-exportation of samples or patterns must be secured on their importation into either country either by the deposit of the amount of the duties to which the goods are subject or by any other procedure approved by the competent authorities of the country into which they are imported.

If the samples or patterns are submitted for re-exportation to a competent Customs office before the expiry of the prescribed time-limit, that office shall ascertain whether the articles submitted are in fact those for which the free import permit was issued. If there is no doubt as to their identity, the office shall duly note the re-exportation and shall refund the amount of the duties deposited.

If it is found that the samples or patterns have not been re-exported within the prescribed time-limit, the amount of the duties shall accrue to the Treasury.

In addition to the marks officially affixed in the exporting country in order to identify samples or patterns, the Customs officials of the importing country shall have the right to require further marks to be affixed, if they deem fit.

The State shall levy no charge or fee for the affixing of such marks.

The above provisions shall not apply to hawkers or pedlars or other itinerant traders, or to the soliciting of orders from persons not engaged in trade or industry.

Article 6.

Whenever Lithuanian nationals not domiciled in Hungary or Lithuanian companies, co-operative or other associations or organisations export goods from Lithuania to Hungary, they shall not be subject in Hungary to taxes on the profits of such export trade unless they have an establishment in Hungary. The same treatment shall apply to goods exported to Lithuania by Hungarian nationals, companies, co-operative and other associations and organisations.

If nationals, companies, co-operative or other associations or organisations belonging to one of the Contracting Parties have business establishments in the territory of the other, they shall be subject to contributions or taxes only in respect of the business of such establishments.

Article 7.

Should one of the Contracting Parties impose import or export prohibitions or restrictions upon goods, it shall grant to the other Party the same treatment as has been or may hereafter be granted to goods imported from or exported to any third country.

Any cancellation or alleviation of an import or export prohibition or restriction which is or may be granted, even temporarily, by one of the Contracting Parties in favour of a third Power, shall apply immediately and unconditionally to goods of the same or of a similar kind coming from or consigned to the territory of the other State.

Nevertheless, prohibitions or restrictions shall not be deemed exceptions to the principle of most-favoured-nation treatment if imposed or maintained :

- (a) For reasons of public order or of the internal or external security of the State ;
- (b) For reasons of public health or to ensure the protection of useful animals or plants against diseases or noxious insects or parasites, or to prevent the degeneration or extinction of useful plants ;
- (c) In respect of products which are or may in future constitute a Government monopoly.

Article 8.

With regard to import duties and charges and any surtaxes, coefficients or increases relating thereto which are or may hereafter be levied on the importation of goods, the two Contracting Parties undertake to grant each other, unconditionally and automatically, any favour, reduction or exemption which they have granted or may grant to any third Power.

Similarly, the Contracting Parties guarantee to grant each other most-favoured-nation treatment in regard to duties and all charges on exports, of whatever kind or description.

Most-favoured-nation treatment shall also be reciprocally guaranteed as regards Customs operations and the fulfilment of Customs formalities, Customs refunds and the deposit and safekeeping of goods in Customs warehouses and the charges relating thereto.

Article 9.

In all matters concerning charges on consumption or production or on transactions or in respect of monopolies or excise and all other internal charges, goods coming or imported from one of the two countries shall be accorded in the other country treatment as favourable as that granted to the goods of the most favoured nation.

Article 10.

The Contracting Parties guarantee to grant each other freedom of transit, and undertake to apply in their mutual relations the provisions of the Convention and Statute on Freedom of Transit¹, signed at Barcelona on April 20, 1921, and of the Convention and Statute on the International Régime of Railways², signed at Geneva on December 3, 1923.

Article 11.

Goods of whatever origin passing in transit through one of the two countries and consigned to or despatched from the other country shall not be subject in the country of transit to any Customs import or export duty or charge or to similar contributions, or to any internal duty except charges exclusively intended to cover expenses incurred in the supervision and administration of transit.

Goods of whatever origin passing in transit through one of the two countries, whether or not they are stored in free ports, Customs warehouses, transit storehouses or other Customs establishments, shall, on being imported into the other country, be accorded, as regards duties and other charges and in all other respects, treatment not less favourable than they would receive if they were imported direct from the country of origin.

Article 12.

The natural or manufactured products of one of the Contracting Parties transported by rail in the territories of the other Party shall in all respects — other conditions being equal — be accorded

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; and Vol. XCII, page 363, of this Series.

² Vol. XLVII, page 55; Vol. L, page 180; Vol. LIX, page 383; Vol. LXIII, page 417; Vol. LXIX, page 92; Vol. LXXVIII, page 472; Vol. LXXXIII, page 403; Vol. LXXXVIII, page 336; and Vol. XCII, page 381, of this Series.

the same treatment as similar goods of the country itself or of the most favoured nation proceeding in the same direction and by the same route.

The same principle shall apply to public transport undertakings in so far as they are administered by the State.

Article 13.

In order to reserve the benefit of the above provisions for the products of their respective countries and to avoid any irregularity due to a diversion of route, the Contracting Parties may demand that products and goods imported into their territory shall be accompanied by certificates of origin.

The Contracting Parties guarantee to grant each other most-favoured-nation treatment as regards the form, contents and use of these certificates.

Article 14.

Each of the Contracting Parties agrees to take all necessary measures to guarantee the natural or manufactured products of the other Contracting Party against all unfair competition in commercial transactions, to punish and prevent, by seizure or any other appropriate penalties, the importation, warehousing and exportation and the manufacture, sale and offering for sale in the country of all products bearing upon themselves or upon their immediate make-up or external packing, any marks, names, inscriptions or signs constituting directly or indirectly a false indication of the origin, kind, nature or specific qualities of such products or goods.

The Contracting Parties undertake to enter into negotiations as soon as possible with a view to the conclusion of a special convention on the protection of industrial property.

Article 15.

In the ports and territorial waters of the two countries, Lithuanian and Hungarian vessels and their crews, passengers and cargoes shall be accorded most-favoured-nation treatment both as regards general or special charges and as regards the classification of vessels, the facilities for loading and unloading them and generally, as regards all the formalities and regulations with which merchant vessels, their crews, passengers and cargoes may be required to comply.

Article 16.

The two Contracting Parties grant each other the right to appoint consular representatives in all ports, towns and places of the other Party to which the consular representatives of any third country are admitted.

As soon as they have received the exequatur of the Government of their country of residence, the consular representatives of each of the Contracting Parties shall in the territory of the other Party enjoy all the privileges and exemptions and the same powers as are or may be granted to the consular representatives of a third Power. Nevertheless, the privileges, exemptions and powers granted to the consular representatives of one country in the other shall not exceed the privileges, exemptions and powers granted to the consular representatives of the latter country in the former.

Article 17.

Neither of the Contracting Parties may cite the provisions of the present Convention for the claiming of advantages which either of the Contracting Parties has granted or may grant to

neighbouring States with a view to facilitating local traffic within a zone not exceeding fifteen kilometres on either side of the frontier.

Nor may Hungary cite this Convention to claim any advantages which Lithuania has granted or may grant to Estonia or Latvia, unless and until such advantages are extended to any other third Power.

Nevertheless, each of the Contracting Parties shall accord to the other Party treatment at least as favourable as that which is or may hereafter be accorded to any third Power other than the Power or Powers to which the concessions specified above have been or may hereafter be accorded for the reasons mentioned above.

Article 18.

If a dispute arises between the Contracting Parties as to the interpretation or application of the provisions of the present Convention, and if one of the Contracting Parties so requests, the dispute shall be submitted to a procedure of arbitration. The decision of the arbitral tribunal shall be binding.

For each dispute the arbitral tribunal shall be constituted as follows : each of the Contracting Parties shall appoint from among its nationals a competent person to act as arbitrator and these persons shall jointly choose an umpire, who must be a national of a friendly third Power. Should the Contracting Parties be unable to agree upon the choice of an umpire within four weeks of the date when the request for arbitration was made, the umpire shall be nominated by the President of the Permanent Court of International Justice at The Hague. The Contracting Parties reserve the right to nominate in advance and for a fixed period the person to act as umpire in the case of dispute.

The Contracting Parties shall agree, as occasion arises, on the procedure of the arbitral tribunal. If no such agreement has been reached within two months of the date when the request for arbitration was made, the procedure shall be settled by the arbitral tribunal itself.

Article 19.

The present Convention shall be ratified and the ratifications shall be exchanged at Kovno as soon as possible.

It shall enter into force fifteen days after the exchange of ratifications and shall remain in force for three months after being denounced by either of the Contracting Parties.

In faith whereof the respective Plenipotentiaries, duly authorised for that purpose, have signed the present Convention and have thereto affixed their seals.

Done at Budapest in duplicate on May the sixteenth, one thousand nine hundred and twenty-nine.

(L. S.) V. SIDZIKAUSKAS.

(L. S.) L. WALKO.

FINAL PROTOCOL.

At the time of signing the present Convention of Commerce and Navigation, the undersigned Plenipotentiaries have made the following reservations and declarations, which form an integral part of the Convention.

Ad Article 1.

It is agreed that each of the Contracting Parties shall have the right to impose upon nationals of the other Party visiting its territory a residence tax, which, however, may not exceed that paid by the nationals of any third State.

Ad Article 4.

The Contracting Parties undertake to conclude as soon as possible a convention for the purpose of preventing double taxation in respect of direct taxes and with regard to tax evasion and forced loans.

Ad Article 13.

Should one of the Contracting Parties make charges for the legalisation of certificates of origin, the other Party reserves the right to make the same charges by way of reciprocity.

Ad Article 14.

In conformity with the provisions contained in Article 14 of the present Convention, Lithuania agrees to take within eight months all necessary measures to punish in accordance with its laws the use of false indications of products of the wine industry, if such products originate in Hungary and if the appellations have been regularly notified.

The offending products shall be seized or other penalties shall be imposed, either at the suit of the Administration or at the request of the Public Prosecutor or of an interested party, whether a person, association or syndicate, in conformity with Lithuanian law.

The present Protocol, which shall be regarded as approved and sanctioned by the two Contracting Parties, without special ratification, by the mere ratification by both Parties of the Convention to which it refers, has been drawn up in duplicate at Budapest on May the sixteenth one thousand nine hundred and twenty-nine.

(L. S.) V. SIDZIKAUSKAS.

(L. S.) L. WALKO.