

COMMERCIAL TREATY BETWEEN THE ESTHONIAN REPUBLIC AND THE KINGDOM OF HUNGARY, SIGNED AT REVAL, OCTOBER 19, 1922

THE GOVERNMENT OF THE KINGDOM OF HUNGARY and THE GOVERNMENT OF THE ESTHONIAN REPUBLIC, being desirous of promoting the development of commercial relations between their countries, have decided to conclude a Commercial Treaty and for this purpose have appointed as their Plenipotentiaries:

THE GOVERNMENT OF THE KINGDOM OF HUNGARY:

M. Béla de BALLAGI-PORDÁNY, Counsellor in the Royal Ministry for Foreign Affairs;

THE GOVERNMENT OF THE ESTHONIAN REPUBLIC:

M. Anton PIIP, Esthonian Minister for Foreign Affairs;

who, after exchanging their full powers found in good and due form, have agreed upon the following provisions:

Article 1.

The nationals of each of the High Contracting Parties established in the territory of the other Party, or temporarily resident there, shall enjoy in all respects, and particularly as regards the exercise of trade and industry, the treatment accorded to nationals of the most favoured nation; they shall not be subjected to any duties, charges or taxes of any kind whatsoever other or higher than those which are now or may in the future be imposed on nationals of the most favoured nation, except in so far as the present Treaty may expressly provide to the contrary.

Article 2.

The nationals of each of the High Contracting Parties shall have the right in the territory of the other Party, if they conform to the laws of the country, to acquire, hire, lease and possess any kind of property, whether movable or immovable, to dispose of such property by sale, deed of gift, marriage settlement, bequest or in any other manner, and to acquire such property by inheritance, on the same footing as the nationals of the most favoured nation.

It is understood, however, that the stipulations laid down in Article 1 and in the present article shall not in any way affect the special laws, ordinances and regulations which are or may hereafter be in force in each of the two countries and which are applicable to all foreigners.

Article 3.

The nationals of each of the High Contracting Parties, provided they comply with the laws of the country, shall have the right to appear in courts of all instances, either as plaintiffs or as defendants. They shall also have the right to entrust their interests in courts of all instances to the counsels, attorneys, or representatives authorised by the laws of the country, and shall enjoy, in this respect, the same rights and benefits as nationals.

Article 4.

The High Contracting Parties undertake to recognise mutually the right of incorporated companies and all firms and other commercial, industrial, financial and insurance associations constituted according to the domestic legislation of one of the two countries to

liberty and facility of access to the Courts of the other country subject only to the condition that they comply with the laws of that country.

The said incorporated companies, firms and associations of each of the High Contracting Parties, if there are no laws and regulations to the contrary in the other country, and subject to the completion of all the formalities provided for in such laws and regulations, may carry on their business in the territory of the other country and establish themselves therein; as regards such establishment, they shall enjoy the treatment accorded to the firms, companies and associations of the most favoured nation.

Nothing in the foregoing provisions shall in any way affect the question as to the right of any such company, firm or association established in one of the two countries to carry on trade or industry or pursue its business in the other; this right shall always be determined in accordance with the rules and regulations in force in the country concerned.

In all cases, the firms, companies and associations of each of the two countries shall not be subject in the other country to any duties, charges or taxes of any description other or higher than those which are or may hereafter be imposed on the firms, companies and associations of the latter country; it is understood, moreover, that duties, charges and taxes may be assessed only on that part of the capital actually situated in the country in which they are levied and only on operations carried out in that country.

Article 5.

The nationals of each of the High Contracting Parties shall enjoy, in the territory of the other, the same protection as the latter's own nationals as regards intellectual property, patents, designs and models, and commercial or industrial trade-marks.

The High Contracting Parties undertake to give effect to the International Convention of Paris for the protection of industrial property, dated March 20, 1883, and revised at Washington on June 2, 1911, and to the International Convention of Berne, dated September 9, 1886, for the protection of literary and artistic works, and revised at Berlin on November 15, 1908, and supplemented by the additional Protocol signed at Berne on March 20, 1914.

Each of the High Contracting Parties undertakes to adopt all the necessary measures to protect goods the produce or manufacture of the other Contracting Party from all forms of unfair competition in commercial transactions; that is, to prohibit and repress by seizure and by other appropriate remedies, the importation, exportation, manufacture, sale or offering for sale in its territory of all goods bearing upon themselves or their usual get-up or wrappings any marks, names, devices or descriptions whatsoever which are calculated to convey directly or indirectly a false indication of the origin, type, nature, or special characteristics of such goods.

Article 6.

Each of the High Contracting Parties undertakes to give effect to the Act of Madrid dated April 14, 1891, for the protection of appellations of origin, to comply with the terms of this Act, and to respect any law, or any administrative decisions given in conformity with such law, duly communicated to it by the other Contracting Party, defining or regulating the right to any regional appellation or the conditions under which the use of any such appellation may be permitted. It shall prohibit the importation, warehousing, and exportation, and the manufacture, distribution, sale, or offering for sale, of products or articles bearing regional

appellations, in conformity with the laws and decisions duly communicated to it by the other Contracting Party.

Such communication may refer:

- (1) To regional appellations of origin in respect of wines.
- (2) To the delimitation of the districts to which such appellations apply.
- (3) To the procedure in connection with the issue of certificates of origin.

The seizure of suspected goods shall take place either on the initiative of the Customs administration or on the application of the public prosecutor or of an interested party, whether an individual or a company, in conformity with the legislation of Hungary and Esthonia respectively.

The provisions of the present article shall apply even when the regional appellation is accompanied by an indication of the true place of origin, and by the expressions „type“, „class“, „style“, or similar expression.

Article 7.

Each of the High Contracting Parties may appoint consuls-general, consuls, vice-consuls, or consular agents in all the ports, towns, and localities of the other, with the exception of places in respect of which the admission of such consular officers may be considered undesirable. Such exception, however, shall not be applied to one of the Contracting Parties without being also applied to all other Powers.

The said consuls-general, consuls, vice-consuls and consular agents, who have received an exequatur or any other necessary authorisation from the Government of the country in which they are appointed, shall, subject to reciprocity, have the right to perform all the duties and enjoy all the privileges, exemptions and immunities which are or may hereafter be granted to consular officers of the same rank belonging to the most favoured nation.

On the basis of reciprocity, the privileges, exemptions, and immunities conferred in virtue of the most-favoured-nation clause on the consular officials of one Contracting Party in the territories of the other shall not be more extensive than those conferred on the consular officials of the latter Party in the territories of the former.

Article 8.

Vessels of one Contracting Party and their cargoes shall enjoy the same treatment in the territorial waters and on the territory of the other Contracting Party as the latter's own vessels and their cargoes, whatever may be the place from which they come or their destination.

Exceptions may be made in the following cases:

- (1) As regards duties which either of the Contracting Parties imposes or may hereafter impose on fishing and fishing products;
- (2) As regards facilities, rebates, or exemptions which either of the Contracting Parties may grant to its nationals as a premium on national shipping construction.

(3) As regards facilities granted in respect of the coasting trade and towage.

All facilities and all privileges which have been or shall be granted by one of the Contracting Parties to another Power shall be granted to the other Contracting Party.

The tonnage measurement certificates delivered by one of the Contracting Parties shall be recognised by the other Party if the tonnage has been measured by the Moorsom system.

Article 9.

Natural and manufactured products originating in and coming from Esthonia shall, when imported into Hungary, receive the benefit of the lowest tariffs which Hungary allows or may allow directly or indirectly to any third Power, both as regards all duties and charges on imports and as regards all additional taxes, coefficients, or increases which may be added to such duties.

Article 10.

Natural or manufactured products originating in and coming from Hungary shall, when imported into Esthonia, be admitted at the rates of the general tariff in force in the latter country, and in this respect the most-favoured-nation clause shall not be applied. Nevertheless, the natural or manufactured products originating in and coming from Hungary enumerated in List A annexed to the present Treaty shall, when imported into Esthonia, receive the benefits of the percentages of reduction on the general tariff which are indicated in the said list. These percentages shall remain the same whatever increases or reductions may be made in the tariff and shall apply both to the import duties themselves and to all additional taxes or coefficients which Esthonia may impose on similar products in the future.

In no case except that provided for in Article 22 shall the goods enumerated in List A be subjected to differential treatment.

Article 11.

Notwithstanding the import and export prohibitions still in force in Hungary, the Hungarian Government undertakes, so long as the present Treaty remains in force, to permit the free importation into Hungary of the national or manufactured products originating in and coming from Esthonia enumerated in List B annexed to the present Treaty, up to the maximum quantities therein specified, and to permit during the same period the free exportation to Esthonia of the natural or manufactured products originating in and coming from Hungary enumerated in List C annexed to the present Treaty up to the maximum quantities therein specified.

With a view to facilitating and developing trade between their countries, the two Contracting Parties agree that they will enlarge the said lists A, B and C as soon as possible and to the greatest possible extent, and that negotiations shall be opened immediately upon the entry into force of the present Treaty with a view to the conclusion of a further agreement to this effect.

Article 12.

In order to reserve the benefits of the above stipulations to the products originating in their respective countries, and in order to prevent fraud by means of a diversion of traffic, the High Contracting Parties shall require that the products and goods imported into their

territory be accompanied by a certificate of origin attesting, in the case of all natural products, that they originate in the other country, and in the case of manufactured products that at least half their value is constituted by the value of material originating in the other country and by the cost of transformation.

The certificates of origin shall be issued by the Ministry of Commerce or of Agriculture or by the Chambers of Commerce or the Stock Exchange Committee to which the consigner is amenable, or by any other body or group approved of by the country of destination; they shall be given legal validity by a diplomatic or consular representative of the country of destination.

Postal packages shall be exempted from certificates of origin when the country of destination recognises that they do not contain consignments of a commercial nature.

Article 13.

Products of the soil or industrial products of one of the two countries, when imported into the territory of the other for the purpose of warehousing or of transit to any destination whatsoever, shall not be subject to any Customs duty or to any internal duty other than the charge for sealing and the statistical duty or any other duties and taxes exclusively intended to meet the expenses of supervision and administration which transit may entail, without prejudice, however, to the fiscal taxes imposed on any transactions of which these goods might be the object during their warehousing or transport.

Article 14.

Internal taxes, no matter how they are described or on whose behalf they are imposed, which are or may hereafter be applied to the production, manufacture or consumption of an article in the territories of one of the Contracting Parties, shall not under any pretext be levied on the products of the other Party at higher rates, or in a more onerous manner, than on the similar products of the former country, or of any other country.

Article 15.

In the event of one or other of the High Contracting Parties imposing new prohibitions either on importation or exportation, the question of the granting of exceptions shall be considered at the request of either of the Contracting Parties in order that commercial relations between the two countries may be prejudiced as little as possible.

The High Contracting Parties shall not introduce or maintain any prohibition or restriction on importation or exportation between the two countries which does not apply at the same time and in the same manner to the importation and exportation of similar goods in trade with any other country situated in the same circumstances.

It is understood, however, that these provisions shall not apply to special exemptions from import and export prohibitions at present in force, nor to agreements in virtue of which one of the High Contracting Parties allows, by way of compensation, the delivery or sale of certain quotas of goods to a third State.

Without prejudice to the Customs regulations, personal effects and articles intended for the personal use of passengers shall not be rendered subject to any special permit on entering or leaving the country.

Article 16.

Should one of the High Contracting Parties apply to certain products or goods on importation or exportation price conditions controlled by the Government or any other body constituted by the Government, the conditions applicable to the other Party shall be the most favourable which are or may hereafter be applied to other third Powers or to their nationals.

Article 17.

On railways and navigable waterways, no distinction shall be made between the nationals of the two Contracting Parties as regards cost of transport and all other charges, and as regards the conditions for their application, as well as the treatment accorded to passengers, luggage and merchandise in general.

Article 18.

Each of the High Contracting Parties undertakes to apply to the other immediately and without compensation all such advantages, privileges or reductions in octroi and excise duties and in subsidiary and local duties in regard to the importation, exportation, reexportation, transit and warehousing of goods, whether mentioned or not in the present Treaty, as it has granted or may hereafter grant to another Power.

Most-favoured-nation treatment shall also be accorded to each of the High Contracting Parties as regards the trans-shipment of goods and the completion of Customs formalities; national treatment shall be reciprocally applied as regards taxes on consumption.

Article 19.

In order to facilitate transit trade through their territories to a third State, the Contracting Parties declare their willingness reciprocally to cede transit warehouses, in conformity with the Customs laws and regulations in force, to the nationals of the other Party — including commercial companies and associations — and to their duly authorised representatives. Goods prohibited or rationed on importation or exportation, when they are warehoused for the purpose of re-exportation to neighbouring countries or in transit from the latter to any other country, shall not be subjected to any limitation or restriction, and shall be exempted from all effective payment of import or export duties or charges, with the exception of surety by valid deposit.

The goods thus warehoused shall not be subject to any special permit or to any special charge; moreover, in all that pertains to warehouse regulations, the nationals (including firms, companies and associations) of the other Contracting Party, their representatives and their goods, shall not receive less favourable treatment than the nationals of the most favoured nation.

Nevertheless, import or export prohibitions or restrictions shall be applicable to goods imported or exported under the conditions defined above when such measures are rendered necessary:

- (1) by considerations of national security;
- (2) by considerations of public health or protection against infectious diseases of animals or plants;
- (3) by the fact that the goods in question are subject to a state monopoly; and

(4) by the necessity of applying to goods of foreign origin certain prohibitions or restrictions which are or may be imposed by the national legislation in regard to the production, offering for sale, transport or domestic consumption of similar goods produced within the country.

Article 20.

Traders, manufacturers, and other persons engaged in industrial enterprises who are nationals of one of the two countries and who prove by the possession of an identity card issued by the competent authorities of their country that they are authorised to carry on their trade or industry in that country, and that they duly pay the charges and taxes required by law, shall be entitled, either personally or through commercial travellers employed by them, to make purchases in the territory of the other Contracting Party from traders or producers or in public establishments of sale. They may also take orders, even on samples, from the traders or other persons who make use of the goods corresponding to such samples for the purposes of their trade or industry. In neither case shall they be liable to any special charge in this respect.

Hungarian and Esthonian commercial travellers provided with an identity card issued by the authorities of their respective countries shall be reciprocally entitled to take samples or models with them, but not goods.

The High Contracting Parties shall communicate to each other a specimen of the identity card, and shall inform each other of the authorities empowered to issue them, and of the regulations with which commercial travellers must comply when carrying on their business.

Articles liable to Customs duties or any other similar tax — with the exception of goods the import of which is prohibited — imported as samples or models by commercial travellers shall be admitted free from entry or export duties by both Parties, on condition that the said articles, if they are not sold, be re-exported within the regulation time-limit, and that no doubt exists as to the identity of the articles imported and re-exported, whatever be the office through which they pass on leaving the country.

The re-exportation of samples or models shall be guaranteed in both countries either by the deposit (in cash) of the tax due at the Customs office of entry, or by a valid surety, subject in all cases to compliance with any formalities in respect of the guarantee of articles in platinum, gold or silver.

Once the regulation time-limit has expired, the amount of the duty, according as it has been deposited or guaranteed, shall be taken over by the treasury or collected on its behalf, unless it is proved that within this period the samples or models have been re-exported.

If, before the expiration of the regulation time-limit, the samples or models are produced for re-exportation at a Customs office competent for that purpose, such office must satisfy itself by an inspection that the articles which are submitted to it are the same as those in respect of which the entry permit was delivered. If no doubt exists in this respect, the office shall certify the re-exportation and shall refund the amount of the duties deposited on importation, or shall take the necessary steps for the release of the surety.

No charges, with the exception of the stamp duty, shall be imposed on the importer for the issue of the permit certificate, and no charge shall be made for affixing marks to establish the identity of the samples or models.

Nationals of one of the two Contracting Parties travelling to fairs or markets in the territory of the other contracting country for the purpose of carrying on their trade or of selling their products shall reciprocally receive national treatment and shall not be subjected to higher taxes than are imposed on nationals.

The above provisions shall not apply to itinerant traders, nor to hawking or the soliciting of orders from persons not engaged in trade or industry, each of the High Contracting Parties reserving full legislative freedom in this respect.

Article 21.

Any disputes which may arise between the two High Contracting Parties in regard to the application or interpretation of the present Treaty shall be settled by a mixed arbitral tribunal. The arbitral tribunal shall be constituted ad hoc and shall include an equal number of representatives of the two Parties. If these representatives do not succeed in reaching an agreement, they shall submit the dispute to a neutral umpire belonging to a third State whom the President of the Permanent Court of International Justice may be asked to appoint if necessary.

Article 22.

The following exemptions, immunities, and privileges shall not be deemed to infringe the principle of the most-favoured-nation treatment on which the present Treaty is based:

- (a) Privileges which have been or may be granted to neighbouring States;
- (b) Privileges which have been or may be granted by one of the High Contracting Parties to a third State in virtue of a Customs union already in existence or which may be concluded in the future;
- (c) Exemptions, immunities, and privileges which are or may hereafter be granted by Estonia to Lithuania and to Finland.

Article 23.

The present Treaty shall be ratified and the ratifications shall be exchanged at Budapest as soon as possible. In virtue of the powers which are conferred on it by Hungarian law, the Hungarian Government agrees that the present Treaty shall be put into force ten days after it has received notification of the Estonian Parliament's approval.

Article 24.

The present Treaty is concluded in the first instance for an indeterminate period, and shall remain in force so long as it is not denounced by one of the High Contracting Parties giving three months' notice to that effect. The present Treaty shall cease to be in force three months after it has been denounced in the manner stipulated above.

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

Done at Reval, in duplicate French text, this 19th day of October 1922.

(Signed) BÉLA DE BALLAGI-PORDÁNY.
(Signed) ANT. PIIP.

FINAL PROTOCOL.

At the moment of signing the Treaty of Commerce concluded on to-day's date, the undersigned Plenipotentiaries have made the following declarations:

Ad Article 3.

It is understood that the provisions of Article 3, in virtue of which nationals of the two Contracting Parties have the right to appear before the Courts, shall not apply to free legal assistance, exemption from judicatum solvi deposits, the administration of bequests of movable property, and the position of creditors in the event of bankruptcy, inasmuch as the above matters shall be regulated on the basis of reciprocity or by a special treaty in regard to legal assistance.

Ad Article 3 and Ad Article 5.

The Contracting Parties reserve the right to conclude special agreements on the following points:

- (a) Reciprocal protection of intellectual property and particularly the protection of patents.
- (b) Reciprocal legal assistance.

Ad Article 17.

The two Contracting Parties agree to take the necessary measures to establish as far as possible through charges, at least as regards the principal articles and lines of communication, in order to facilitate through traffic of passengers and goods.

Ad Article 19.

In accordance with the provisions of Article 1 and Article 19, the two Governments shall use their best endeavours to facilitate the stay in their respective territories of traders, manufacturers, merchants and their representatives, particularly as regards the formalities for obtaining the visa required by the police regulations.

In faith whereof, the Plenipotentiaries have signed the present Protocol.

Done at Reval, this 19th day of October 1922.

(Signed) BÉLA DE BALLAGI-PORDÁNY.
(Signed) ANT. PIIP.

[Quelle: League of Nations, Treaty Series, Vol. 30, 1924, p.349-369.]