

N° 3199.

ITALIE ET PANAMA

**Traité de commerce et de navigation,
avec protocole. Signés à Rome, le
16 octobre 1929.**

ITALY AND PANAMA

**Treaty of Commerce and Navigation,
with Protocol. Signed at Rome,
October 16, 1929.**

TEXTE ITALIEN. — ITALIAN TEXT.

N° 3199. — TRATTATO¹ DI COMMERCIO E NAVIGAZIONE TRA IL REGNO D'ITALIA E LA REPUBBLICA DI PANAMA. FIRMATO A ROMA, IL 16 OTTOBRE 1929.

Textes officiels espagnol, italien et français communiqués par le ministre des Affaires étrangères d'Italie et le secrétaire d'Etat aux Affaires étrangères de la République de Panama. L'enregistrement de ce traité a eu lieu le 12 juin 1933.

SUA MAESTA' IL RE D'ITALIA e SUA ECCELLENZA IL PRESIDENTE DELLA REPUBBLICA DI PANAMA, desiderosi di dare incremento alle relazioni economiche fra i due Paesi, hanno deciso di concludere un Trattato di commercio e di navigazione, e, a tal fine, hanno nominato quali loro Plenipotenziari:

SUA MAESTA' IL RE D'ITALIA:

Sua Eccellenza l'Avv. Dino GRANDI Ministro Segretario di Stato per gli Affari Esteri;

SUA ECCELLENZA IL PRESIDENTE DELLA REPUBBLICA DI PANAMA:

Sua Eccellenza il Dottor Juan Demóstenes AROSEMENA, Segretario di Stato per gli Affari Esteri;

I quali, comunicatisi i rispettivi pieni poteri, riconosciuti in buona e debita forma, hanno convenuto quanto segue:

Articolo 1.

Vi sarà amicizia e piena ed intera libertà di commercio e di navigazione fra i due Stati e fra i loro cittadini rispettivi.

Articolo 2.

I cittadini di ciascuna delle due Alte Parti contraenti saranno, in conformità delle leggi locali liberi di entrare, viaggiare, soggiornare e stabilirsi in qualsiasi parte del territorio dell'altra e vi godranno completa protezione delle loro persone, dei loro beni e dei loro interessi, in perfetta uguaglianza con i nazionali. In ogni caso saranno trattati in maniera non meno favorevole dei cittadini della nazione più favorita e non saranno soggetti, per l'esercizio del commercio, della industria e dei mestieri, a diritti, imposte, tasse o patenti diversi o più onerosi di quelli che sono o saranno pagati dai nazionali.

¹ L'échange des ratifications a eu lieu à Rome, le 3 décembre 1932.

TEXTE ESPAGNOL. — SPANISH TEXT.

Nº 3199. — TRATADO¹ DE COMERCIO Y DE NAVIGACION ENTRE EL REINO DE ITALIA Y LA REPUBLICA DE PANAMA. FIRMADO EN ROMA, EL 16 DE OCTUBRE DE 1929.

Spanish, Italian and French official texts communicated by the Italian Minister for Foreign Affairs and by the Secretary of State for Foreign Affairs of the Republic of Panama. The registration of this Treaty took place June 12, 1933.

SU MAJESTAD EL REY DE ITALIA y SU EXCELENCIA EL PRESIDENTE DE LA REPÚBLICA DE PANAMÁ, deseosos de dar incremento a las relaciones económicas entre los dos países, han decidido concluir un Tratado de Comercio y de Navegación, y, con tal fin, han nombrado como sus Plenipotenciarios :

SU EXCELENCIA EL PRESIDENTE DE LA REPÚBLICA DE PANAMÁ :

A Su Excelencia el Doctor Juan Demóstenes AROSEMENA, Secretario de Estado en el Despacho de Relaciones Exteriores ;

SU MAJESTAD EL REY DE ITALIA :

A Su Excelencia el Abogado Dino GRANDI, Ministro Secretario de Estado de Relaciones Exteriores ; y

Quienes, habiéndose comunicado los respectivos Plenos Poderes, reconocidos en buena y debida forma, han convenido en lo siguiente :

Artículo 1.

Habrá amistad y plena y entera libertad de comercio y de navegación entre los dos Estados y entre sus ciudadanos respectivos.

Artículo 2.

Los ciudadanos de cada una de las dos Altas Partes contratantes serán, de acuerdo con las leyes locales, libres de entrar, viajar, permanecer y establecerse en cualquiera parte del territorio de la otra, y allí gozarán de completa protección a sus personas, a sus bienes y a sus intereses, en perfecta igualdad con los nacionales. En cada caso serán tratados de manera no menos favorable que los súbditos de la Nación más favorecida, y no estarán sujetos, en el ejercicio del comercio, de la industria y de los oficios, a derechos, impuestos, tasas o patentes diversas o más onerosas de aquellos que son o sean pagados por los nacionales.

¹ The exchange of ratifications took place at Rome, December 3, 1932.

¹ TRANSLATION.

No. 3199. — TREATY OF COMMERCE AND NAVIGATION BETWEEN
THE KINGDOM OF ITALY AND THE REPUBLIC OF PANAMA.
SIGNED AT ROME, OCTOBER 16, 1929.

HIS MAJESTY THE KING OF ITALY and HIS EXCELLENCY THE PRESIDENT OF THE REPUBLIC OF PANAMA, being desirous of developing the economic relations between the two countries, have decided to conclude a Treaty of Commerce and Navigation, and for that purpose have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF ITALY :

His Excellency M. Dino GRANDI, Minister Secretary of State for Foreign Affairs ;

HIS EXCELLENCY THE PRESIDENT OF THE REPUBLIC OF PANAMA :

His Excellency Dr. Juan Demóstenes AROSEMENA, Secretary of State for Foreign Affairs ;

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

Article 1.

There shall be friendship and full and entire freedom of commerce and navigation as between the two countries and as between their respective nationals.

Article 2.

The nationals of either High Contracting Party shall, in conformity with the laws of the country, be free to enter and travel, reside, and settle in any part of the territory of the other Party, and shall enjoy therein complete protection of their persons, property, and interests, on a footing of perfect equality with nationals of the country. They shall not, in any case, be treated less favourably than nationals of the most favoured nation, and may carry on their trade, industry, or other business without being subject to any duties, imposts, taxes, or licence-fees, other or higher than those to which nationals are or may hereafter be liable.

The rights, privileges, exemptions, immunities, and other advantages of whatever kind enjoyed in respect of commerce, industry, or other business, by nationals of one of the High Contracting Parties, shall be enjoyed by the nationals of the other.

With regard to the practice of professions, both Italian nationals in Panama and Panamanian nationals in Italy shall enjoy most-favoured-nation treatment. An exception shall, however, be made in regard to special concessions that have been or may hereafter be granted to other States by means of agreements for reciprocal treatment.

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

Article 3.

As regards the right of acquiring, possessing, or disposing of movable or immovable property, receiving or assigning such property by succession, whether *ab intestato* or by testament, and granting or acquiring leases of land, houses, shops, or warehouses, the nationals of either High Contracting Party shall enjoy, in the territory of the other Party, the treatment extended to nationals of the country or to nationals of the most favoured nation, and shall not be liable to any taxes, imposts, or charges, other or higher than those which are or may hereafter be imposed upon nationals.

Nevertheless, so far as concerns the right of acquiring, possessing, and making use of immovable property, this provision shall not affect the exceptions and restrictions which the laws of the two countries may apply to foreign nationals with a view to the safety of the State, nor the limitations prescribed in the national laws with regard to ships and aircraft.

The proceeds of the sale of property and personal possessions in general may be freely exported by the nationals of either country without their being required to pay any duties other or higher than those to which nationals would be liable in similar cases.

Article 4.

The nationals of either High Contracting Party shall be exempt from all compulsory judicial, administrative, and municipal functions, from all military requisitions and contributions, and from all forced loans and other special and extraordinary contributions exacted in time of war or on account of other exceptional circumstances. This provision shall not apply, however, to charges connected with the possession or leasing of immovable property, or to military contributions or requisitions which may be imposed on nationals of the country and nationals of the most favoured nation in their capacity as owners, lessees, or occupiers of immovable property.

Questions relating to the performance of military service by the nationals of the respective countries shall be settled subsequently by a special Protocol.

Article 5.

The nationals of either High Contracting Party shall be entirely free, in the territory of the other, to conduct their business on the same footing as nationals, either personally or through intermediaries of their own choosing, without being required to pay any remuneration or fee to representatives, commission agents, etc., whom they may not choose to employ, and they shall have free and unhindered access, as plaintiffs and as defendants, to the courts of every kind and degree of jurisdiction. For this purpose, they may, so far as the laws of the country permit, and subject to the observance of the conditions and formalities prescribed in those laws, employ representatives and members of the legal profession, and shall, in regard to judicial relations generally, enjoy the same rights and the same privileges as are or may hereafter be granted to nationals.

Article 6.

The nationals of either High Contracting Party shall, in the territory of the other, enjoy the fullest freedom of conscience and worship. Subject to the observance of the regulations and conditions prescribed in the provisions in force in the country, they may build and own churches, practise their religion in private and in public, and also found religious establishments, hospitals, and charitable and educational institutions.

Article 7.

Traders and manufacturers and other producers of either of the two countries shall be entitled, either personally or through commercial travellers, to purchase goods and solicit orders in the territory of the other without being liable to any dues or taxes on that account. They may have with them samples or patterns, but not goods, and shall be provided with an identity-card conforming to the model attached to the present Treaty, and issued in either country by the competent authorities to be subsequently named by the respective Governments.

Articles imported as samples for the above-mentioned purposes shall, in both countries, be admitted temporarily duty-free, in accordance with the Customs regulations and formalities laid down to ensure re-exportation or, alternatively, the payment of the proper duty in the event of their not being re-exported within the statutory period.

The marks, stamps, or seals affixed to the said samples by the Customs authorities of either of the High Contracting Parties for purposes of identification shall be recognised as sufficient by the authorities of the other Party. Nevertheless, if, on arrival, the samples should not bear the above-mentioned identification-marks, or if such marks should appear inadequate to the administrative authorities concerned, the latter shall be entitled to affix a supplementary mark, should that be considered necessary, without damaging the samples or levying any charge.

The privilege of temporary duty-free admission may not be extended to articles which, by reason of their number and value, cannot be regarded as samples, or which, by reason of their nature, could not be identified at the time of re-exportation. The decision whether samples are of such a kind that they can be admitted duty-free shall rest entirely with the competent authorities of the country into which they are imported.

Article 8.

Civil and commercial (industrial, financial, transport, insurance, etc.) companies, including public insurance institutions and others conducting any business of a commercial character, domiciled in the territory of either High Contracting Party and validly constituted therein in accordance with its laws, shall be recognised as having legal existence in the territory of the other, and may conduct their business therein under the conditions and within the limits laid down by the laws in force. They may also establish branches and exercise all their rights, including that of access to the courts either as plaintiffs or as defendants.

In any case, the said companies and institutions shall enjoy most-favoured-nation treatment in all respects in the territory of the other Contracting Party.

Such companies and institutions shall not be required, in respect of the conduct of their business in the territory of the other Party, to pay imposts, duties, or taxes, other or higher than those to which the public or private companies of the country are or may hereafter be liable.

Article 9.

Articles, the produce or manufacture of either of the two countries, whether conveyed in ships of one of the two Contracting Parties or in ships of any other nationality, shall be treated, on entry into the other country, on the same footing as those of the most favoured nation, both as regards the assessment of Customs duties and any other charges or duties of whatever description, and as regards Customs formalities.

Panama shall not levy on goods exported to Italy, and Italy shall not levy on goods exported to Panama, any export duties or any other charges or duties other or higher than those which are levied on the same products when exported to the country most favoured in this respect.

Goods of all kinds in transit through the territories of the two High Contracting Parties shall be reciprocally exempted from any transit duty, whether they are conveyed in transit direct or whether, during transit, they are to be transshipped, or unloaded, warehoused, and reloaded. They may not in any case or for any reason be treated in a less favourable manner than goods in transit coming from any third country.

Article 10.

The provisions of paragraphs 1 and 2 of the preceding Article shall not apply :

(a) To exceptional privileges which either of the High Contracting Parties may have granted or may hereafter grant to contiguous countries with a view to facilitating frontier traffic ;

(b) To obligations imposed on either Party by the clauses of a Customs union which has already been, or may hereafter be, contracted ;

(c) To preferential treatment which the two High Contracting Parties may have granted or may hereafter grant to their respective colonies, protectorates, and possessions.

Article 11.

The High Contracting Parties undertake not to impede trade between the two countries in any way by imposing import, export, or transit prohibitions or restrictions.

Exceptions to this rule, so far as they are applicable to every country or to countries in identical circumstances, may be made only in the following cases :

(1) In exceptional circumstances, in the case of war supplies ;

(2) For reasons of public safety ;

(3) In the case of State monopolies which are already in force or may be established in future ;

(4) In order to apply to goods of foreign origin prohibitions and restrictions imposed by the national legislation on the home production of similar goods or on the sale or transport, within the country, of similar goods produced therein ;

(5) For reasons of sanitary supervision or the protection of useful animals and plants against diseases and noxious insects and parasites, and in particular in the interests of public health and in conformity with the principles internationally accepted in that connection.

In order to secure with the least possible delay the full application of the principle laid down in the first paragraph of this Article, the High Contracting Parties undertake not to maintain any import or export prohibition or restriction unless its maintenance is absolutely necessary owing to exceptional circumstances, and then only for so long as such circumstances continue to exist.

Article 12.

In order to establish the origin of imported products, each of the High Contracting Parties may require the production of a certificate of origin attesting that the imported article is of national production or manufacture, or that it is to be regarded as such in view of the finishing process it has undergone in the country from which it comes.

Certificates of origin shall be issued for Italy by the Provincial Trade Bureaux, and for Panama by the Chambers of Commerce and Industry or by the forwarding Customs office, in the interior or at the frontier of either country, or by any other body or association approved by the country of destination.

Such certificates shall, on a basis of reciprocity, be exempt from the visa of the consular or diplomatic authorities.

In any case, certificates of origin shall not be required in respect of postal packets.

Article 13.

Internal taxes levied on behalf of the State, local authorities, or corporations, which are, or may hereafter be, imposed on the production, manufacture, sale, or consumption of any article in the territory of one of the High Contracting Parties, shall not under any pretext be levied on products originating in or coming from the territory of the other Contracting Party at higher rates or in a more burdensome manner than on the like products of the former country.

Article 14.

The vessels of each of the High Contracting Parties in the ports of the other shall be treated, on their arrival, during their stay, and on their departure, on the same footing as national vessels, and, in any case, not less favourably than the vessels of any other country, both as regards duties and taxes, of whatever nature or description, levied on behalf of the State, municipalities, corporations, public officials, or establishments of any kind, and as regards the berthing, lading, and unloading of these vessels in harbours, roadsteads, bays, inlets, basins, and docks, and, in general, all formalities and regulations to which vessels, their crews, and their cargoes may be subject.

The treatment mentioned in the preceding paragraph shall not extend :

(1) To the coasting trade, which shall continue to be governed by the laws that are, or may hereafter be, in force in each of the two countries, except as may be provided in subsequent agreements based on reciprocal treatment. In all cases, however, Italian and Panamanian ships may proceed from a port of one of the Contracting Parties to a port or ports of the same country, either to discharge all or part of their cargoes brought from abroad, or to take up or complete their foreign-bound cargoes, without paying, in any port, dues other or higher than those paid in similar cases by national vessels ;

(2) To bounties which are or may hereafter be granted to the national merchant marine ;

(3) To special concessions granted to yacht-clubs and to pleasure-craft ;

(4) To fisheries in the territorial waters of the High Contracting Parties, or to the services in connection with ports, roadsteads, and beaches. These services include maritime towage, rescue-work, and salvage.

Article 15.

The following shall be wholly exempt from the payment of tonnage- and clearance-dues in the ports of each of the two High Contracting Parties :

(1) Vessels entering from any place whatsoever in ballast and leaving in ballast ;

(2) Vessels which pass from one port in either of the two States to another port or ports in the same State, and prove that they have already paid such dues in another

port in the same State, within the time-limit prescribed in the national laws of the respective countries for vessels flying the national flag ;

(3) Vessels entering a port under load, either voluntarily or through stress of weather or accident, and leaving it without having carried out any commercial transaction.

In the case of a vessel putting into port through stress of weather or accident, the unloading and reloading of goods for purposes of repairs to the vessel, their transshipment to another vessel should the first vessel not be seaworthy, revictualling, and the sale of damaged goods with the permission of the Customs administration, shall not be regarded as commercial transactions.

It is understood that the provisions of this Article do not affect sanitary dues which shall be levied in accordance with the respective laws.

Article 16.

The nationality of vessels shall be established according to the laws of the State to which each vessel belongs.

Tonnage-certificates delivered by one of the High Contracting Parties shall also be accepted in the territory of the other as establishing the capacity of the vessels, no revision of tonnage being required.

Except in the case of sale by judicial order, the vessels of one of the High Contracting Parties may not be nationalised in the territory of the other without a declaration, issued by the authorities of the State to which they belong, cancelling their right to fly its national flag.

Article 17.

Should any vessel of either High Contracting Party run aground, be wrecked, or suffer other damage on the coasts or shores of the other Party, the vessel and its cargo shall be entitled to the same facilities, immunities, and privileges as are granted by the laws and regulations of the country in question, in similar circumstances, to national vessels or to vessels of the most favoured nation.

Help and assistance shall be given, in the same way as to nationals, to the master, crew, and passengers, both in respect of their persons and in respect of the vessel and its cargo.

Salvaged goods shall not be liable to any Customs duties unless intended for consumption within the country.

Article 18.

The nationals of each of the High Contracting Parties shall be free, in the territory of the other, under the same conditions and on payment of the same charges as nationals, to use the main roads and other thoroughfares, canals, locks, ferries, bridges and swing-bridges, harbours and landing-stages, signals and lights indicating navigable waters, pilotage, cranes and public weighbridges, warehouses and establishments for the salvage and storage of cargoes, vessels and other objects, so far as such establishments and institutions are intended for the use of the public, whether they are administered by the State or by private persons.

Except as provided in the special regulations regarding lighthouses and beacons and regarding pilotage, no charge shall be levied unless the aforesaid establishments and institutions have actually been used.

Article 19.

Each of the High Contracting Parties shall be entitled to establish consular offices in the territory of the other Party, and to appoint there consuls-general, consuls vice-consuls, and consular

agents, in accordance with its own laws. Nevertheless, each High Contracting Party reserves the right to designate the places in which it does not desire the establishment of foreign consular offices.

Consular officials shall be reciprocally admitted and recognised on presentation of their credentials, in accordance with the rules and formalities laid down in the country concerned.

Should the *exequatur* be necessary for the free discharge of their functions, it shall be issued to them free of charge, as soon as possible, in virtue of their respective letters of appointment. On presentation of such *exequatur*, the competent authorities of the place in question shall immediately take the necessary measures to enable them to discharge their duties and to give them the benefit of the exemptions, prerogatives, immunities, honours, and privileges attaching thereto.

Article 20.

Italian consular officials in the Republic of Panama, and consular officials of the Republic of Panama in Italy, shall exercise the powers and functions of their office and shall enjoy, both as regards their persons and as regards the discharge of their duties, the same honours, privileges, immunities, and exemptions as are generally admitted by international law, and as are or may hereafter be enjoyed by consular officials of the same grade belonging to the most favoured nation.

It is, however, agreed that neither High Contracting Party may, on the basis of most-favoured-nation treatment, claim for his own consular officials more extensive rights, powers, exemptions, immunities, honours, and privileges than those granted by himself to the consular officials of the other Contracting Party.

Article 21.

The High Contracting Parties reserve the right to enter, as soon as possible, into negotiations for the conclusion of a Consular Convention for the fuller regulation of this matter.

Article 22.

Undertakings and labourers who have emigrated from either country to the other shall there enjoy all the benefits, facilities, and privileges that are or may hereafter be granted to the undertakings and emigrants of any third country.

Article 23.

Should any dispute arise with regard to the interpretation or application of the present Treaty, and should either of the High Contracting Parties request that the dispute be submitted to a court of arbitration for decision, the other Party shall consent to this course, even as regards the prior question whether the dispute is such that it should be laid before the court of arbitration.

The court of arbitration shall, for every dispute, be constituted by each Party's appointing one of his nationals as arbitrator, and the two Parties choosing as third arbitrator a national of a friendly third State. If the Contracting Parties do not agree on the choice of the third arbitrator, they shall jointly request the President of the Permanent Court of International Justice at The Hague to make the appointment.

The High Contracting Parties reserve the right to select jointly in advance, for a specified period, the person who is to act as third arbitrator.

The decisions of the arbitrators shall be binding.

Article 24.

As regards procedure, in the event of arbitration taking place in accordance with the terms of the preceding Article, the High Contracting Parties agree as follows :

The place in which the court of arbitration shall sit shall be chosen by agreement between the two Governments.

The umpire shall preside over the court, whose decisions shall be taken by a majority vote.

The High Contracting Parties shall agree upon the procedure to be followed by the court of arbitration either in each individual case or for all cases. Failing such an agreement, the court shall fix its own procedure. The proceedings may be conducted in writing, if neither Contracting Party raises any objection. In that case, the provisions of the first sub-paragraph of this Article may be departed from.

As regards the summoning or hearing of witnesses and experts, the authorities of each of the High Contracting Parties shall, at the request of the court of arbitration, which is to be addressed to the Government concerned, lend their assistance in the same way as in the case of requests from the civil courts of the country.

The High Contracting Parties shall agree as to the apportionment of expenses, either in respect of each individual case submitted to arbitration, or by means of a provision applicable to all cases.

Failing such agreement, Article 57 of the Hague Convention of July 29, 1899, shall apply.

Article 25.

The present Treaty shall be ratified, and the ratifications shall be exchanged at Rome as soon as the formalities prescribed by the respective laws have been complied with on both sides.

It shall come into force fifteen days after the exchange of ratifications, and cannot be denounced until the expiration of five years from that date. After that period, it may be denounced 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 Treaty and have thereto affixed their seals.

Done at Rome in duplicate, in Spanish and Italian, this sixteenth day of October, one thousand nine hundred and twenty-nine.

(*L. S.*) DIRO GRANDI.

(*L. S.*) J. D. AROSEMENA.

NAME OF STATE.

.....

(Issuing Office).

IDENTITY-CARD FOR COMMERCIAL TRAVELLERS.

Valid for twelve months from the day of issue.

Valid 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 trading under the name of
(or) is a commercial traveller employed by the firm (s) of
at
which possess (es) ¹

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 in and that it pays (they pay) the taxes, as provided by law, for that purpose.

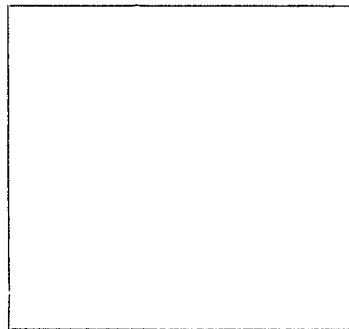
..... the 19...

Signature (s) of Head (s) of Firm (s).

.....

Description of Bearer :

Age
Height
Hair
Special Marks.....



Signature of Bearer :

.....

¹ State nature of factory or business.

N. B. — The first entry only should be completed for heads of commercial or manufacturing businesses.

PROTOCOL.

On proceeding to sign the Treaty of Commerce and Navigation of to-day's date, the undersigned Plenipotentiaries of the Kingdom of Italy and of the Republic of Panama have agreed that the present Treaty shall not apply to the Panama Canal Zone, and that Agreements which have already been concluded or may hereafter be concluded between Panama and the United States for the construction, upkeep, operation, sanitary improvement, and protection of the Panama Canal, shall not be invoked by Italy in virtue of the most-favoured-nation clause.

The present Protocol shall form an integral part of the above-mentioned Treaty, and shall enter into force simultaneously with it.

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

Done at Rome this sixteenth day of October, one thousand nine hundred and twenty-nine

(L. S.) Dino GRANDI.

(L. S.) J. D. AROSEMENA.