

No. 4154

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**NETHERLANDS**  
**and**  
**UNITED STATES OF AMERICA**

**Treaty of Friendship, Commerce and Navigation (with Protocol and exchange of notes). Signed at The Hague, on 27 March 1956**

*Official texts of the Treaty and the Protocol: English and Dutch.*

*Official text of the notes: English.*

*Registered by the Netherlands on 17 January 1958.*

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**PAYS-BAS**  
**et**  
**ÉTATS-UNIS D'AMÉRIQUE**

**Traité d'amitié, de commerce et de navigation (avec Protocole et échange de notes). Signé à La Haye, le 27 mars 1956**

*Textes officiels du Traité et du Protocole: anglais et néerlandais.*

*Texte officiel des notes: anglais.*

*Enregistré par les Pays-Bas le 17 janvier 1958.*

No. 4154. TREATY<sup>1</sup> OF FRIENDSHIP, COMMERCE AND NAVIGATION BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE UNITED STATES OF AMERICA. SIGNED AT THE HAGUE, ON 27 MARCH 1956

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The Kingdom of the Netherlands and the United States of America,

desirous of strengthening the bonds of peace and friendship traditionally existing between them and of encouraging closer economic and cultural relations between their peoples, and being cognizant of the contributions which may be made toward these ends by arrangements promoting mutually advantageous commercial intercourse, encouraging mutually beneficial investments, and establishing mutual rights and privileges,

have resolved to conclude a Treaty of Friendship, Commerce and Navigation, based in general upon the principles of national and unconditional most-favored-nation treatment reciprocally accorded,

and for that purpose have appointed as their Plenipotentiaries :

Her Majesty the Queen of the Netherlands :

H.E. Dr. J. W. Beyen, Minister of Foreign Affairs, and

H.E. Dr. J. M. A. H. Luns, Minister without Portfolio,

and the President of the United States of America :

H.E. Mr. H. Freeman Matthews, Ambassador extraordinary and plenipotentiary of the United States of America at The Hague,

who, having communicated to each other their full powers found to be in due form, have agreed as follows :

*Article I*

1. Each Party shall at all times accord fair and equitable treatment to the nationals and companies of the other Party, and to their property, enterprises and other interests.

2. Between the territories of the two Parties there shall be, in accordance with the provisions of the present Treaty, freedom of commerce and navigation.

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<sup>1</sup> Came into force on 5 December 1957, one month after the day of the exchange of the instruments of ratification at Washington, on 5 November 1957, in accordance with article XXVII.

*Article II*

1. Nationals of either Party shall be permitted to enter the territories of the other Party and to remain therein : (a) for the purpose of carrying on trade between the territories of the two Parties and engaging in related commercial activities ; (b) for the purpose of developing and directing the operations of an enterprise in which they have invested, or in which they are actively in the process of investing, a substantial amount of capital ; and (c) for other purposes subject to the laws relating to the entry and sojourn of aliens.

2. Each Party undertakes to make available the best facilities practicable for travel by tourists and other visitors with respect to their entry, sojourn and departure, and for the distribution of information for tourists.

3. Nationals of either Party, within the territories of the other Party, shall be permitted : (a) to travel therein freely, and to reside at places of their choice ; (b) to enjoy liberty of conscience ; (c) to hold both private and public religious services ; (d) to gather and to transmit material for dissemination to the public abroad ; and (e) to communicate with other persons inside and outside such territories by mail, telegraph and other means open to general public use.

4. The provisions of the present Article shall be subject to the right of either Party to apply measures that are necessary to maintain public order and protect the public health, morals and safety.

*Article III*

1. Nationals of either Party within the territories of the other Party shall be free from molestations of every kind, and shall receive the most constant protection and security. They shall be accorded in like circumstances treatment no less favorable than that accorded nationals of such other Party for the protection and security of their persons and their rights. The treatment accorded in this respect shall in no case be less favorable than that accorded nationals of any third country or that required by international law.

2. If, within the territories of either Party, a national of the other Party is taken into custody, the nearest consular representative of his country shall on the demand of such national be immediately notified and shall have the right to visit and communicate with such national. Such national shall : (a) receive reasonable and humane treatment ; (b) be promptly informed of the accusations against him ; (c) be brought to trial as promptly as is consistent with the proper

preparation of his defense ; and (d) enjoy all means reasonably necessary to his defense, including the services of competent counsel of his choice.

#### *Article IV*

1. Nationals of either Party shall be accorded national treatment in the application of laws and regulations within the territories of the other Party that establish a pecuniary compensation or other benefit or service, on account of disease, injury or death arising out of and in the course of employment or due to the nature of employment.

2. In addition to the rights and privileges provided in paragraph 1 of the present Article, nationals of either Party shall, within the territories of the other Party, be accorded national treatment in the application of laws and regulations establishing compulsory systems of social security, under which benefits are paid without an individual test of financial need in the following cases : (a) sickness, including temporary disability for work, and maternity ; (b) invalidity, or occupational disability ; (c) death of father, spouse, or any other person liable for maintenance ; (d) unemployment.

#### *Article V*

1. Nationals and companies of either Party shall be accorded national treatment with respect to access to the courts of justice and to administrative tribunals and agencies within the territories of the other Party, in all degrees of jurisdiction, both in pursuit and in defense of their rights. It is understood that companies of either Party not engaged in activities within the territories of the other Party shall enjoy such access therein without any requirement of registration or domestication.

2. (a) Contracts entered into between nationals or companies of either Party and nationals or companies of the other Party, that provide for the settlement by arbitration of controversies, shall not be deemed unenforceable within the territories of such other Party merely on the grounds that the place designated for the arbitration proceedings is outside such territories or that the nationality of one or more of the arbitrators is not that of such other Party. (b) In conformity with subparagraphs (1) and (2) hereof, awards duly rendered pursuant to any such contracts, which are final and enforceable under the laws of the place where rendered, shall be deemed conclusive in enforcement proceedings brought before the courts of competent jurisdiction of either Party. (1) As regards recognition and enforcement in the United States of America, such awards shall be entitled in any court in any State thereof only to the same measure of recognition and enforcement as awards rendered in other States thereof. (2) As regards enforce-

ment in the Kingdom of the Netherlands, such awards shall be dealt with in the same way as awards as referred to in the Convention on the execution of foreign arbitral awards concluded at Geneva on September 26, 1927.<sup>1</sup>

#### Article VI

1. Property of nationals and companies of either Party shall receive the most constant protection and security within the territories of the other Party.

2. The dwellings, offices, warehouses, factories and other premises of nationals and companies of either Party located within the territories of the other Party shall not be subject to molestation or to entry without just cause. Official searches and examinations of such premises and their contents, when necessary, shall be made only according to law and with careful regard for the convenience of the occupants and the conduct of business.

3. Neither Party shall take unreasonable or discriminatory measures that would impair the rights or interests within its territories of nationals and companies of the other Party, whether in their capital, or in their enterprises and the property thereof, or in the skills, arts or technology which they have supplied.

4. Property of nationals and companies of either Party shall not be taken within the territories of the other Party except for a public interest, nor shall it be taken without the prompt payment of just compensation. Such compensation shall be in an effectively realizable form and shall represent the equivalent of the property taken ; and adequate provision shall have been made at or prior to the time of taking for the determination and payment thereof.

5. Nationals and companies of either Party shall in no case be accorded, within the territories of the other Party, less than national treatment and most-favored-nation treatment with respect to the matters set forth in paragraphs 2 and 4 of the present Article. Moreover, enterprises in which nationals and companies of either Party have a substantial interest shall be accorded, within the

<sup>1</sup> League of Nations, *Treaty Series*, Vol. XCII, p. 301 ; Vol. XCVI, p. 205 ; Vol. C, p. 259 ; Vol. CIV, p. 526 ; Vol. CVII, p. 528 ; Vol. CXI, p. 414 ; Vol. CXVII, p. 303 ; Vol. CXXX, p. 457 ; Vol. CLVI, p. 210 ; Vol. CLXXXI, p. 389 ; Vol. CLXXXV, p. 391 ; Vol. CXCIII, p. 269, and United Nations, *Treaty Series*, Vol. 122, p. 346 ; Vol. 134, p. 402, and Vol. 269.

territories of the other Party, not less than national treatment and most-favored-nation treatment in all matters relating to the taking of privately owned enterprises into public ownership and to the placing of such enterprises under public control or administration.

*Article VII*

1. Nationals and companies of either Party shall be accorded national treatment with respect to engaging in all types of commercial, industrial, financial and other activity for gain (business activities) within the territories of the other Party, whether directly or by agent or through the medium of any form of lawful juridical entity. Accordingly, such nationals and companies shall be permitted within such territories : (a) to establish and maintain branches, agencies, offices, factories and other establishments appropriate to the conduct of their business ; (b) either directly or indirectly through one or more intermediaries, to organize companies under the general company laws of such other Party and to acquire the controlling interest in companies of such other Party ; and (c) to control and manage enterprises which they have established or acquired. Moreover, enterprises which they control, whether in the form of individual proprietorships, companies or otherwise, shall in all that relates to the conduct of the activities thereof, be accorded treatment no less favorable than that accorded like enterprises controlled by nationals and companies of such other Party.

2. Each Party reserves the right to limit the extent to which aliens may within its territories establish, acquire interests in, or carry on enterprises engaged in communications, air or water transport, banking involving depository or fiduciary functions, or the exploitation of land or other natural resources. However, new limitations imposed by either Party upon the extent to which aliens are accorded national treatment, with respect to carrying on such activities within its territories, shall not be applied as against enterprises which are engaged in such activities therein at the time such new limitations are adopted and which are owned or controlled by nationals and companies of the other Party. Moreover, neither Party shall deny to transportation, communications and banking companies of the other Party the right to maintain branches and agencies, in conformity with the applicable laws and regulations, to perform functions necessary for essentially international operations in which they engage.

3. The provisions of paragraph 1 of the present Article shall not prevent either Party from prescribing special formalities in connection with the establishment of alien-controlled enterprises within its territories ; but such formalities may not impair the substance of the rights set forth in said paragraph.

4. Nationals and companies of either Party, as well as enterprises controlled by such nationals and companies, shall in any event be accorded most-favored-nation treatment with reference to the matters treated in the present Article.

#### *Article VIII*

1. Nationals and companies of either Party shall be permitted to engage, within the territories of the other Party, accountants and other technical experts, executive personnel, attorneys, agents and other specialists of their choice. Moreover, such nationals and companies shall be permitted to engage accountants and other technical experts regardless of the extent to which they may have qualified for the practice of a profession within the territories of such other Party, for the particular purpose of making examinations, audits and technical investigations, for, and rendering reports to, such nationals and companies in connection with the planning and operation of their enterprises, and enterprises in which they have a financial interest, within such territories.

2. Nationals and companies of either Party shall be accorded national treatment and most-favored-nation treatment with respect to engaging in scientific, educational, religious and philanthropic activities within the territories of the other Party, and shall be accorded the right to form associations for that purpose under the laws of such other Party.

#### *Article IX*

1. Nationals and companies of the Kingdom of the Netherlands shall be accorded, within the territories of the United States of America : (a) national treatment with respect to leasing land, buildings and other real property appropriate to the conduct of activities in which they are permitted to engage pursuant to Articles VII and VIII and for residential purposes and with respect to occupying and using such property ; and (b) other rights in real property permitted by the applicable laws of the States, Territories and possessions of the United States of America.

2. Nationals and companies of the United States of America shall be accorded, within the territories of the Kingdom of the Netherlands, national treatment with respect to acquiring by purchase, lease, or otherwise, and with respect to owning, occupying and using land, buildings and other real property. However, in the case of any such national domiciled in, or any such company constituted under the laws of, any State, Territory or possession of the United States of America that accords less than national treatment to nationals and companies of the Kingdom of the Netherlands in this respect, the Kingdom of the Netherlands shall not be obligated to accord to such national or company treatment more favorable in this respect than such State, Territory or possession accords to nationals and companies of the Kingdom of the Netherlands.

3. Nationals and companies of either Party shall be accorded within the territories of the other Party national treatment and most-favored-nation treatment with respect to acquiring, by purchase, lease, or otherwise, and with respect to owning and possessing, personal property of all kinds, both tangible and intangible. However, either Party may impose restrictions on alien ownership of materials dangerous from the standpoint of public safety and alien ownership of interests in enterprises carrying on particular types of activity, but only to the extent that this can be done without impairing the rights and privileges secured by Article VII or by other provisions of the present Treaty.

4. Nationals and companies of either Party shall be accorded national treatment within the territories of the other Party with respect to acquiring property of all kinds by testate or intestate succession or through judicial process. Should they because of their alienage be ineligible to continue to own any such property, they shall be allowed a reasonable period in which to dispose of it, in a normal manner at its market value.

5. Nationals and companies of either Party shall be accorded within the territories of the other Party national treatment and most-favored-nation treatment with respect to disposing of property of all kinds. Furthermore, with respect to the acquisition, ownership, use and disposition of property of all kinds within the territories of either Party, companies constituted under the laws of that Party, which are controlled by nationals and companies of the other Party, shall be accorded treatment no less favorable than that accorded within such territories to companies of such other Party or to companies similarly constituted which are controlled by nationals and companies of any third country.



*Article X*

1. Nationals and companies of either Party shall be accorded, within the territories of the other Party, national treatment with respect to obtaining and maintaining patents of invention, and with respect to rights in trade marks, trade names, trade labels and industrial property of every kind.

2. The Parties agree as to the desirability of furthering, through cooperative or other appropriate means, the interchange and use of scientific and technical knowledge, particularly in the interest of increasing productivity and improving standards of living within their respective territories.

*Article XI*

1. Nationals of either Party residing within the territories of the other Party, and nationals and companies of either Party engaged in trade or other gainful pursuit or in scientific, educational, religious or philanthropic activities within the territories of the other Party, shall not be subject to the payment of taxes, fees or charges imposed upon or applied to income, capital, transactions, activities or any other object, or to requirements with respect to the levy and collection thereof, within the territories of such other Party, more burdensome than those borne by nationals and companies of such other Party.

2. With respect to nationals of either Party who are neither resident nor engaged in trade or other gainful pursuit within the territories of the other Party, and with respect to companies of either Party which are not engaged in trade or other gainful pursuit within the territories of the other Party, it shall be the aim of such other Party to apply in general the principle set forth in paragraph 1 of the present Article.

3. Nationals and companies of either Party shall in no case be subject, within the territories of the other Party, to the payment of taxes, fees or charges imposed upon or applied to income, capital, transactions, activities or any other object, or to requirements with respect to the levy and collection thereof, more burdensome than those borne by nationals, residents and companies of any third country.

4. In the case of companies and of non-resident nationals of either Party engaged in trade or other gainful pursuit within the territories of the other Party, such other Party shall not impose or apply any tax, fee or charge upon any income, capital or other basis in excess of that reasonably allocable or apportionable to its territories, nor grant deductions and exemptions less than those reasonably allocable or apportionable to its territories. A comparable rule shall apply also

in the case of companies organized and operated exclusively for scientific, educational, religious or philanthropic purposes.

5. Each Party reserves the right to : (a) extend specific tax advantages on the basis of reciprocity ; (b) accord special tax advantages by virtue of agreements for the avoidance of double taxation or the mutual protection of revenue ; and (c) accord to its own nationals and to residents of contiguous countries more favorable exemptions of a personal nature with respect to income and inheritance taxes than are accorded to other non-resident persons.

### *Article XII*

1. Nationals and companies of either Party shall be accorded by the other Party national treatment and most-favored-nation treatment with respect to payments, remittances and transfers of funds or financial instruments between the territories of the two Parties as well as between the territories of such other Party and of any third country.

2. Neither Party shall impose exchange restrictions as defined in paragraph 5 of the present Article except to the extent necessary to maintain or restore adequacy in its monetary reserves, particularly in relation to its external commercial and financial requirements. It is understood that the provisions of the present Article do not alter the obligations either Party may have to the International Monetary Fund or preclude imposition of particular restrictions whenever the Fund specifically authorizes or requests a Party to impose such particular restrictions.

3. If either Party imposes exchange restrictions in accordance with paragraph 2 of the present Article, it shall, after making whatever provision may be necessary to assure the availability of foreign exchange for goods and services essential to the health and welfare of its people, make reasonable provision for the withdrawal, in foreign exchange in the currency of the other Party, of : (a) the compensation referred to in Article VI, paragraph 4, (b) earnings, whether in the form of salaries, interest, dividends, commissions, royalties, payments for technical services, or otherwise, and (c) amounts for amortization of loans, depreciation of direct investments, and capital transfers to the extent feasible, giving consideration to special needs for other transactions. If more than one rate of exchange is in force, the rate applicable to such withdrawals shall be a rate which is specifically approved by the International Monetary Fund for such transactions

or, in the absence of a rate so approved, an effective rate which, inclusive of any taxes or surcharges on exchange transfers, is just and reasonable.

4. Exchange restrictions shall not be imposed by either Party in a manner unnecessarily detrimental or arbitrarily discriminatory to the claims, investments, transport, trade, and other interests of nationals and companies of the other Party, nor to the competitive position thereof. Each Party shall afford the other Party adequate opportunity for consultation at any time regarding application of the present Article.

5. The term "exchange restrictions" as used in the present Article includes all restrictions, regulations, charges, taxes, or other requirements imposed by either Party which burden or interfere with payments, remittances, or transfers of funds or of financial instruments between the territories of the two Parties.

6. Questions arising under the present Treaty concerning exchange control are governed by the provisions of the present Article.

#### *Article XIII*

Commercial travelers representing nationals and companies of either Party engaged in business within the territories thereof shall, upon their entry into and departure from the territories of the other Party and during their sojourn therein, be accorded most-favored-nation treatment in respect of the customs and other matters, including, subject to the exceptions in paragraph 5 of Article XI, taxes and charges applicable to them, their samples and the taking of orders, and regulations governing the exercise of their functions.

#### *Article XIV*

1. Each Party shall accord most-favored-nation treatment to products of the other Party, from whatever place and by whatever type of carrier arriving, and to products destined for exportation to the territories of such other Party, by whatever route and by whatever type of carrier, with respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation.

2. Neither Party shall impose restrictions or prohibitions on the importation of any product of the other Party, or on the exportation of any product to the territories of the other Party, unless the importation of the like product of, or the exportation of the like product to, all third countries is similarly restricted or prohibited.

3. If either Party imposes quantitative restrictions on the importation or exportation of any product in which the other Party has an important interest : (a) it shall as a general rule give prior public notice of the total amount of the product, by quantity or value, that may be imported or exported during a specified period, and of any change in such amount or period ; and (b) if it makes allotments to any third country, it shall afford such other Party a share proportionate to the amount of the product, by quantity or value, supplied by or to it during a previous representative period, due consideration being given to any special factors affecting the trade in such product.

4. Either Party may impose prohibitions or restrictions on sanitary or other customary grounds of a non-commercial nature, or in the interest of preventing deceptive or unfair practices, provided such prohibitions or restrictions do not arbitrarily discriminate against the commerce of the other Party.

5. Nationals and companies of either Party shall be accorded national treatment and most-favored-nation treatment by the other Party with respect to all matters relating to importation and exportation.

6. Notwithstanding the provisions of paragraphs 2 and 3 (b) of the present Article, a Party may apply restrictions or controls on importation and exportation of goods that have effect equivalent to, or which are necessary to make effective, exchange restrictions applied pursuant to Article XII. However, such restrictions or controls shall depart no more than necessary from the aforesaid paragraphs and shall be conformable with a policy designed to promote the maximum development of nondiscriminatory foreign trade and to expedite the attainment both of a balance-of-payments position and of monetary reserves which will obviate the necessity of such restrictions.

#### *Article XV*

1. Each Party shall promptly publish laws, regulations and administrative rulings of general application pertaining to rates of duty, taxes or other charges, to the classification of articles for customs purposes, and to requirements or restrictions on imports and exports or the transfer of payments therefor, or affecting their sale, distribution or use ; and shall administer such laws, regulations and rulings in a uniform, impartial and reasonable manner. As a general practice,

new administrative requirements or restrictions affecting imports, with the exception of those imposed on sanitary grounds or for reasons of public safety, shall not go into effect before the expiration of a reasonable time, in the light of circumstances.

2. Each Party shall provide an appeals procedure under which nationals and companies of the other Party, and importers of products of such other Party, shall be able to obtain prompt and impartial review, and correction when warranted, of administrative action relating to customs matters, including the imposition of fines and penalties, confiscations, and rulings on questions of customs classification and valuation by the administrative authorities.

3. Penalties imposed by either Party for infractions of the customs and shipping laws and regulations concerning documentation shall be no greater than necessary to serve merely as a warning in the case of clerical errors and of errors made without fraudulent intent or gross negligence.

4. With reference to marking requirements applicable to imported products, each Party shall as a general practice : (a) allow required marks of origin to be affixed after importation ; (b) not permit markings that result in misrepresenting the true origin of the products ; and (c) not apply requirements that entail an expense which is economically prohibitive or that result in seriously damaging the product.

5. Neither Party shall impose any measure of a discriminatory nature that hinders or prevents the importer or exporter of products of either country from obtaining marine insurance on such products in companies of either Party.

#### *Article XVI*

1. Products of either Party shall be accorded, within the territories of the other Party, national treatment and most-favored-nation treatment in all matters affecting internal taxation, sale, distribution, storage and use.

2. Articles produced by nationals and companies of either Party within the territories of the other Party, or by companies of the latter Party controlled by such nationals and companies, shall be accorded therein treatment no less favorable than that accorded to like articles of national origin by whatever person

or company produced, in all matters affecting exportation, taxation, sale, distribution, storage and use.

#### *Article XVII*

1. Each Party undertakes (a) that enterprises owned or controlled by its Government, and that monopolies or agencies granted exclusive or special privileges within its territories, shall make their purchases and sales involving either imports or exports affecting the commerce of the other Party solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale ; and (b) that the nationals, companies and commerce of such other Party shall be afforded adequate opportunity, in accordance with customary business practice, to compete for participation in such purchases and sales.

2. Each Party shall accord to the nationals, companies and commerce of the other Party fair and equitable treatment, as compared with that accorded to the nationals, companies and commerce of any third country, with respect to : (a) the governmental purchase of supplies ; (b) the awarding of concessions and other government contracts ; and (c) the sale of any service sold by the Government or by any monopoly or agency granted exclusive or special privileges.

#### *Article XVIII*

1. The Parties recognize that conditions of competitive equality should be maintained in situations in which publicly owned or controlled trading or manufacturing enterprises of either Party engage in competition, within the territories thereof, with privately owned and controlled enterprises of nationals and companies of the other Party. Accordingly, such state-owned enterprises should not be given special economic privileges in order to injure the competitive position of such private enterprises. However, this principle shall not be construed to prevent either Party from making such special concessions in aid of state-owned enterprises as it deems necessary during periods of economic crisis, especially to relieve unemployment. This principle, moreover, is without prejudice to special advantages given in connection with : (a) manufacturing goods for government use, or supplying goods and services to the Government for government use ; or (b) supplying, at prices substantially below competitive prices, the needs of particular population groups for essential goods and services not otherwise practically obtainable by such groups.

2. No enterprise of either Party, including corporations, associations, and government agencies and instrumentalities, which is publicly owned or controlled shall, to the extent that it engages in commercial, industrial, shipping or other business activities within the territories of the other Party, claim or enjoy, either for itself or for its property, immunity therein from taxation, suit, execution of judgment or other liability to which privately owned and controlled enterprises are subject therein.

#### *Article XIX*

1. Vessels under the flag of either Party, and carrying the papers required by its laws in proof of nationality, shall be deemed to be vessels of that Party both on the high seas and within the ports, places and waters of the other Party.

2. Vessels of either Party shall have liberty, on equal terms with vessels of the other Party and on equal terms with vessels of any third country, to come with their cargoes to all ports, places and waters of such other Party open to foreign commerce and navigation. Such vessels and cargoes shall in all respects be accorded national treatment and most-favored-nation treatment within the ports, places and waters of such other Party ; but each Party may reserve exclusive rights and privileges to its own vessels with respect to the coasting trade and inland navigation.

3. Vessels of either Party shall be accorded national treatment and most-favored-nation treatment with respect to the right to carry all cargo that may be carried by vessel to or from the territories of the other Party.

4. Goods carried by vessels under the flag of either Party to or from the territories of the other Party shall enjoy the same favors as when transported in vessels sailing under the flag of such other Party. This applies especially with regard to customs duties and all other fees and charges, to bounties, drawbacks and other privileges of this nature, as well as to the administration of the customs and to transport to and from port by rail and other means of transportation.

5. If a vessel of either Party runs aground or is wrecked on the coasts of the other Party, or if it is in distress and must put into a port of the other Party, the latter Party shall extend to the vessel as well as to the crew, the passengers, the personal property of crew and passengers, and to the cargo of the vessel, the same protection and assistance as would have been extended to a vessel under its own flag in like circumstances ; and shall permit the vessel after repairs to proceed with its voyage upon conformity with the laws applicable alike to vessels

under its own flag. Articles salvaged from the vessel shall be exempt from all customs duties unless they pass into internal consumption ; but articles not entered for consumption may be subject to measures for the protection of the revenue pending their exit from the country.

6. The term "vessels", as used herein, means all types of vessels, whether privately owned or operated, or publicly owned or operated, except vessels of war. This term does not, except with reference to paragraphs 1 and 5 of the present Article and Article XX, include fishing vessels.

#### *Article XX*

1. In all ports of either Party the masters of all vessels under the flag of the other Party, whose crews have ceased to be fully constituted on account of illness or for any other cause, shall be permitted to engage such seamen as may be necessary for the continuation of the voyage.

2. Nationals of either Party who are seamen may be sent to ports of the other Party to join national vessels, in care of consular officers, either individually or in groups on the basis of seamen's papers issued in lieu of passports. Likewise, nationals of either Party shall be permitted to travel through the territory of the other Party on their way to join vessels or to be repatriated on the basis of seamen's papers used in lieu of passports.

#### *Article XXI*

There shall be freedom of transit through the territories of each Party by the routes most convenient for international transit : (a) for nationals of the other Party, together with their baggage ; (b) for other persons, together with their baggage, en route to or from the territories of such other Party ; and (c) for products of any origin en route to or from the territories of such other Party. Such persons and things in transit shall be exempt from customs duties, from duties imposed by reason of transit, and from unreasonable charges and requirements ; and shall be free from unnecessary delays and restrictions. They shall, however, be subject to measures referred to in paragraph 4 of Article II, and to nondiscriminatory regulations necessary to prevent abuse of the transit privilege.



*Article XXII*

1. The present Treaty shall not preclude the application of measures by either Party : (a) regulating the importation or exportation of gold or silver ; (b) relating to fissionable materials, to radioactive by-products of the utilization or processing thereof, or to materials that are the source of fissionable materials ; (c) regulating the production of or traffic in arms, ammunition and implements of war, or traffic in other materials carried on directly or indirectly for the purpose of supplying a military establishment ; (d) necessary to fulfil its obligations for the maintenance or restoration of international peace and security, or necessary to protect its essential security interests ; (e) denying to any company in which nationals of any third country or countries enjoy directly or indirectly the controlling interest, the advantages of the present Treaty, except with respect to recognition of juridical status and with respect to access to courts ; and (f) regarding its national fisheries and the landing of the products thereof.

2. The most-favored-nation provisions of the present Treaty shall not apply to advantages accorded by : (a) the United States of America or its Territories and possessions to one another, to the Republic of Cuba, to the Republic of the Philippines, to the Trust Territory of the Pacific Islands or to the Panama Canal Zone ; or (b) by the Parts of the Kingdom of the Netherlands to one another, by the Netherlands to its Benelux-partners (Belgium, including its Overseas and Trust Territories, and Luxembourg), or by the Kingdom of the Netherlands to the Republic of Indonesia.

3. The most-favored-nation treatment provisions of the present Treaty shall not apply to advantages accorded by either Party to adjacent countries in order to facilitate frontier traffic, or by virtue of a customs union or free trade area of which either Party may become a member, after having informed the other Party of its plans and having afforded it opportunity to express its views thereon.

4. The provisions of the present Treaty relating to the treatment of goods shall not preclude action by either Party which is required or specifically permitted under the General Agreement on Tariffs and Trade<sup>1</sup> during such time as such Party is a contracting party to the General Agreement. Similarly, the most-favored-nation provisions of the present Treaty shall not apply to special advantages accorded by virtue of the aforesaid Agreement.

5. Nationals of either Party admitted into the territories of the other Party for limited purposes shall not enjoy rights to engage in gainful occupations in

<sup>1</sup> See footnote 1, p. 372 of this volume.

contravention of limitations expressly imposed, according to law, as a condition of their admittance.

6. Nothing in the present Treaty shall be deemed to grant or imply any right to engage in political activities.

#### *Article XXIII*

1. The term "national treatment" means treatment accorded within the territories of a Party upon terms no less favorable than the treatment accorded therein, in like situations, to nationals, companies, products, vessels or other objects, as the case may be, of such Party.

2. The term "most-favored-nation treatment" means treatment accorded within the territories of a Party upon terms no less favorable than the treatment accorded therein, in like situations, to nationals, companies, products, vessels or other objects, as the case may be, of any third country.

3. As used in the present Treaty, the term "companies" means corporations, partnerships, companies, foundations, associations, and other legal entities or juridical persons, whether or not with limited liability and whether or not for pecuniary profit. Companies constituted under the applicable laws and regulations within the territories of either Party shall be deemed companies thereof and shall have their juridical status recognized within the territories of the other Party.

4. National treatment accorded under the provisions of the present Treaty to companies shall : (a) as regards companies of the Kingdom of the Netherlands, in any State, Territory or possession of the United States of America, be the treatment accorded therein to companies created or organized in other States, Territories and possessions of the United States of America ; and (b) as regards companies of the United States of America, in any Part of the Kingdom of the Netherlands, be the treatment accorded therein to companies created or organized in any other Part of the Kingdom. Furthermore, in any Part of the Kingdom of the Netherlands outside Europe, national treatment accorded to nationals of the United States of America shall be the treatment accorded in such Part to Netherlands nationals not born in that Part.

#### *Article XXIV*

The territories to which the present Treaty extends shall comprise all areas of land and water under the jurisdiction of each Party, as well as any territory

for which it has international responsibility, other than the Panama Canal Zone and the Trust Territory of the Pacific Islands, provided that it shall not apply with respect to Surinam or the Netherlands Antilles, respectively, until one month after the receipt by the Government of the United States of America of notifications of such application by the Kingdom of the Netherlands.

*Article XXV*

1. Each Party shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such representations as the other Party may make with respect to any matter affecting the operation of the present Treaty.

2. Any dispute between the Parties as to the interpretation or application of the present Treaty, not satisfactorily adjusted by diplomacy, shall be submitted to the International Court of Justice, unless the Parties agree to settlement by some other pacific means.

*Article XXVI*

The present Treaty shall replace the convention of commerce and navigation signed at Washington August 26, 1852, and the agreement in regard to trade marks effected by exchange of notes signed at Washington February 10 and 16, 1883.

*Article XXVII*

1. The present Treaty shall be ratified, and the ratifications thereof shall be exchanged at Washington as soon as possible.

2. The present Treaty shall enter into force one month after the day of exchange of ratifications. It shall remain in force for ten years and shall continue in force thereafter until terminated as provided herein.

3. Either Party may, by giving one year's written notice to the other Party, terminate the present Treaty at the end of the initial ten-year period or at any time thereafter with respect to all the territories to which it applies or with respect to Surinam or the Netherlands Antilles.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Treaty and have affixed hereunto their seals.

DONE in duplicate, in the Netherlands and English languages, both texts being equally authentic, at The Hague, this 27th day of March, one thousand nine hundred fifty-six.

For the Kingdom of the Netherlands :

(Signed) J. LUNS

(Signed) J. W. BEYEN

For the United States of America :

(Signed) H. Freeman MATTHEWS

### PROTOCOL

At the time of signing the Treaty of Friendship, Commerce and Navigation between the Kingdom of the Netherlands and the United States of America<sup>1</sup>, the undersigned Plenipotentiaries, duly authorized by their respective Governments, have further agreed on the following provisions, which shall be considered intergal parts of the aforesaid Treaty :

1. The spouse and unmarried minor children of a person permitted entry under the provisions of Article II, paragraph 1 (a) and (b), shall also be permitted entry if accompanying him or following to join him.

2. The provisions of Article II, paragraph 1 (b), shall be construed to extend to persons who represent nationals and companies of the same nationality which have invested or are actively in the process of investing a substantial amount of capital in an enterprise in the territories of the other Party, and who are employed by such nationals and companies in a responsible capacity.

3. With respect to Article II, paragraph 1, and the first sentence of Article VIII, paragraph 1, nationals of the United States of America shall be accorded in any Part of the Kingdom of the Netherlands outside Europe the treatment accorded therein to Netherlands nationals not born in that Part.

4. The provisions of Article IV, paragraph 2, refer only to laws or regulations which either are national laws or regulations or are based in whole or in part on requirements of national laws or regulations. Moreover, that paragraph shall not be construed to prevent a Party from relieving aliens temporarily resident within its territories from coverage under its contributory social security system.

<sup>1</sup> See p. 233 of this volume.

5. The term "access" as used in Article V, paragraph 1, comprehends, among other things, legal aid, costfree access to the courts and exemption from security for costs.

6. The provisions of Article VI, paragraph 4, providing for the payment of compensation shall extend to interests held directly or indirectly by nationals and companies of either Party in property which is taken within the territories of the other Party.

7. The provisions of Article VII do not obligate either Party to permit nationals and companies of the other Party to carry on businesses in its territories without fulfilling the requirements which are generally applicable by law.

8. The activities referred to in Article VII, paragraph 1, do not include the practice of professions.

9. With reference to Article VII, paragraph 1, it is understood that either Party may, consistently with the terms and intent of the Treaty, apply special requirements to alien insurance companies with a view to assuring that such companies maintain standards of accountability and solvency comparable with those required of like domestic companies, so long as such requirements do not have the effect of discrimination in substance against such alien companies.

10. It is agreed that, on a reciprocity basis, the first sentence of Article VII, paragraph 2, shall not apply to the establishment of, or the acquisition of interests in, or the control, operation and management of, companies of either Party for engaging in the exploration for and exploitation of petroleum and other mineral resources within the territories of that Party, by nationals or companies of the other Party.

11. The provisions of the first sentence of Article VIII, paragraph 1, shall not be construed to affect the right of the Netherlands to require that aliens may not be employed in the Netherlands unless the appropriate permits have been granted. However, in keeping with the terms of that paragraph, the regulations governing employment shall be applied in a liberal fashion.

12. Nothing in the present Treaty shall be construed to supersede any provision of the Convention between the Kingdom of the Netherlands and the United States of America with respect to taxes on income and certain other taxes, signed at Washington April 29, 1948.<sup>1</sup>

13. The treatment provided in Article XII, paragraph 1, as clarified by reference to Article XXIII, paragraphs 1 and 2, is designed only to preclude dis-

<sup>1</sup> United Nations, *Treaty Series*, Vol. 32, p. 167, and Vol. 239, p. 342.

crimination on the ground of nationality and does not, for instance, preclude different treatment of different currencies or the application of residence requirements.

14. Either Party may impose restrictions on the introduction of foreign capital as may be necessary to protect its monetary reserves as provided in Article XII, paragraph 2, or to prevent serious monetary disturbances arising from speculative financial operations.

15. It is understood that for the purposes of Article XVII, paragraph 1, availability of means of payment is considered to be a commercial consideration.

16. The provisions of Article XVII, paragraph 2 (b) and (c), and of Article XIX, paragraph 3, shall not apply to postal services.

17. It is understood that the word "cargoes" as used in paragraph 2 and the word "cargo" as used in paragraph 3, of Article XIX, shall be deemed to comprehend passengers as well as goods.

18. With reference to Article XXII, paragraph 1 (d), it is understood that it is not the purpose of the security reservation to create a basis for unduly prolonged departures from any provision of the Treaty. On the other hand, each Party determines, according to its own best judgment, the measures deemed necessary to protect its essential security interests.

19. The provisions of Article XXII, paragraph 2, shall apply in the case of Puerto Rico regardless of any change that may take place in its political status.

20. Article XXIV does not apply to territories under the authority of either Party solely as a military base or by reason of temporary military occupation.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Protocol and have affixed hereunto their seals.

DONE in duplicate, in the Netherlands and English languages, both texts being equally authentic, at The Hague, this 27th day of March, one thousand nine hundred fifty-six.

For the Kingdom of the Netherlands :

(Signed) J. LUNS

(Signed) J. W. BEYEN

For the United States of America :

(Signed) H. Freeman MATTHEWS

## EXCHANGE OF NOTES

## I

## MINISTRY OF FOREIGN AFFAIRS

The Hague, 27th March 1956

Excellency :

We have the honor to refer to the negotiations leading to the conclusion of the Treaty of Friendship, Commerce and Navigation signed this day<sup>1</sup>, during the course of which extensive conversations were held between the representatives of the two countries concerning the most-favored-nation aspects of the Treaty in relation to forward-looking regional arrangements designed to bring closer cooperation, or integration, among European countries.

The common view emerging from these conversations is that European regional arrangements which do not involve the raising of barriers of any kind to intercourse with the rest of the world but which are designed to promote peace and prosperity, to expand trade, to increase productivity and to raise standards of living, are mutually advantageous. Accordingly, it is recognized in principle that the Netherlands should continue to be able to participate in European regional arrangements which serve these aims and the broad interests of both Parties, even though the Netherlands may thereunder be obliged to grant some reciprocal advantages to other participating countries which it is unable to grant to non-participating countries.

It is determined that any necessary reconciliation between the terms of the Treaty and existing European arrangements in which the Netherlands now participates is adequately provided in Article XXII, paragraph 4. It is agreed that, should this provision be insufficient to meet future contingencies, the two Parties will at the request of either Party consult with a view to determining what further adjustments might be necessary. Should such consultation fail to lead to a mutually satisfactory result, either Party, notwithstanding the provisions of Article XXVII, shall be entitled to suspend the operation of particular most-favored-nation provisions of the Treaty to the extent deemed appropriate to the situation, upon giving two months' written notice to the other Party. With respect to the subject matter of any provision so affected, however, it would be the policy of the Parties to proceed in general as follows : The United States of America would accord to the Kingdom of the Netherlands treatment no less favorable in like situations than that accorded other countries participating in the arrangement in question, and the Kingdom of the Netherlands would accord to the United States of America treatment no less favorable in like situations than that accorded countries not so participating.

<sup>1</sup> See p. 233 of this volume.

If the above is acceptable to the United States Government, we have the honor to suggest that this note and your Excellency's reply to that effect shall be considered as constituting an agreement between our two Governments, forming an integral part of the above-mentioned Treaty.

Please accept, Excellency, the renewed assurances of our highest consideration and esteem.

(Signed) J. LUNS

(Signed) J. W. BEYEN

To His Excellency Mr. H. Freeman Matthews  
Ambassador extraordinary and plenipotentiary  
of the United States of America  
at The Hague

## II

### AMERICAN EMBASSY

The Hague, 27th March 1956

Excellencies :

I have the honor to acknowledge the receipt of your Excellencies' note of to day, which reads as follows :

[See note I]

I have the honor to inform your Excellencies that the contents of your Excellencies' note are acceptable to my Government and I herewith confirm that your Excellencies' note and the present reply thereto shall be considered as constituting an agreement between our two Governments, forming an integral part of the above-mentioned Treaty.

As your Excellencies are aware, the United States Government welcomes progress in the development of European cooperation and integration insofar as arrangements for cooperation and integration contribute to a freer flow of trade, a more efficient use of manpower and materials, and greater unity. In this connection, it may be recalled that the United States Government has given concrete support to such organizations as the European Coal and Steel Community and concurred in the waiver relative thereto granted by the Contracting Parties to the General Agreement on Tariffs and Trade, bearing in mind the benefits expected to accrue from arrangements designed to create a dynamic competitive common market within the Community and to insure sound economic relations between the Community and outside countries. The United States Government is prepared to consider sympathetically in the same spirit other proposals which the Kingdom of the Netherlands might make.



Please accept, Excellencies, the renewed assurances of my highest consideration and esteem.

(Signed) H. Freeman MATTHEWS

To Their Excellencies

Mr. J. W. Beyen, Minister of Foreign Affairs, and

Mr. J. M. A. H. Luns, Minister without Portfolio

at The Hague