

No. 17335

**UNITED STATES OF AMERICA
and
HUNGARY**

Agreement on trade relations (with annex and related letters). Signed at Budapest on 17 March 1978

Authentic texts: English and Hungarian.

Registered by the United States of America on 24 November 1978.

**ÉTATS-UNIS D'AMÉRIQUE
et
HONGRIE**

Accord relatif aux relations commerciales (avec annexe et lettres connexes). Signé à Budapest le 17 mars 1978

Textes authentiques: anglais et hongrois.

Enregistré par les États-Unis d'Amérique le 24 novembre 1978.

AGREEMENT¹ ON TRADE RELATIONS BETWEEN THE UNITED STATES OF AMERICA AND THE HUNGARIAN PEOPLE'S REPUBLIC

The Government of the United States of America and the Government of the Hungarian People's Republic,

Desiring to develop further the friendship between the American and Hungarian peoples,

Noting the steady improvement in relations between the two countries,

Recognizing that the development of economic and commercial relations can contribute to a general strengthening of their relations,

Acknowledging that favorable conditions for the further long-term expansion of trade and economic cooperation exist between the two countries and can be further expanded to the benefit of both countries,

Desiring to develop long-term trade and economic cooperation based upon the principles of sovereign equality and mutual benefit,

Reaffirming the importance of the principles of the General Agreement on Tariffs and Trade² for the trade policies of the two countries,

Determined to give full effect to the Final Act of the Conference on Security and Cooperation in Europe signed on August 1, 1975,

Agree as follows:

Article I. MOST-FAVORED-NATION TREATMENT NONDISCRIMINATORY TRADE

1. The Parties shall apply between themselves the provisions of the General Agreement on Tariffs and Trade and the Protocol for the Accession of Hungary of August 8, 1973,³ as those provisions apply to each Party, provided that to the extent that any provision of the General Agreement or its Protocols is inconsistent with any provision of this Agreement, the latter shall apply.

2. The Parties agree to maintain a satisfactory balance of concessions in trade and services during the period of this Agreement, and in particular to reciprocate satisfactorily reductions by the other Party in tariffs and non-tariff barriers to trade that result from multilateral negotiations.

Article II. EXPANSION OF TRADE

1. The Parties shall take appropriate measures to encourage and facilitate the exchange of goods and services on the basis of mutual advantage, and to secure favorable conditions for the continuous, long-term development of trade relations, between firms, enterprises and companies of the two countries.

2. The Parties recognize the significant role which economic, industrial and technical cooperation may play in the further development of their economic and trade rela-

¹ Came into force on 7 July 1978, i.e., the date of the exchange of written notices of acceptance by the two Governments, in accordance with article XI (1).

² United Nations, *Treaty Series*, vol. 55, p. 187.

³ *Ibid.*, vol. 893, p. 236.

tions. They confirm their readiness to encourage, promote and facilitate these forms of cooperation between interested firms, enterprises and companies of their respective countries in the fields of industry, agriculture trade and technology.

3. Commercial transactions will be effected on the basis of contracts to be concluded between firms, enterprises and companies of the two countries in accordance with applicable laws and regulations. Such contracts, including contracts for services, especially those for commercial, technical, financial, transportation and insurance services, will generally be concluded on the basis of commercial considerations on terms customary in international commercial practice.

Article III. BUSINESS FACILITATION

1. Each Party acknowledges that favorable conditions exist for the facilitation of business and the exchange of economic and commercial information in both countries. The Parties, through their laws and regulations, will continue to provide further business facilities, especially those indicated in this Article, to support the development of their mutual trade.

2. Firms, enterprises and companies of each Party shall be afforded access to all courts and, when applicable, to administrative bodies of the other Party as plaintiffs or defendants, or otherwise, in accordance with the laws in force in the territory of such other Party, on the basis of most-favored-nation treatment.

3. Each Party shall permit firms, enterprises and companies of the other Party to advertise and promote its products and services and provide technical services, in compliance with the respective laws and regulations of each Party.

4. Each Party reaffirms its commitments made in the International Convention to Facilitate the Importation of Commercial Samples and Advertising Material, done at Geneva on November 7, 1952.¹

5. Firms, enterprises and companies of each Party may initiate and maintain contact with present and potential buyers, users and suppliers for authorized purposes, including the exchange of technical and economic information and for the purposes specified in contracts between firms, enterprises and companies of each Party, in accordance with laws and regulations in force.

6. Each Party shall permit and facilitate the entry, exit and stay within its territory of foreign employees and foreign representatives of the other Party's firms, enterprises and companies, subject to applicable laws and regulations.

7. Each Party will continue to publish and to make available economic and commercial information to promote trade and to help firms, enterprises and companies engaged in commercial activities.

8. Each Party will encourage the participation of its firms, enterprises and companies in trade promotional events such as fairs, exhibitions, missions and seminars in the other country. Similarly, each Party will encourage firms, enterprises and companies of the other Party to participate in trade promotional events in its territory. Subject to the laws in force within their territories, the Parties agree to allow the import and re-export on a duty-free basis of all articles for use in promotional events, provided that such articles are not sold or otherwise transferred.

9. Each Party agrees to provide its good offices to assist in the solution of business facilitation problems. For this purpose, each Party will designate appropriate organiza-

¹ United Nations, *Treaty Series*, vol. 221, p. 255.

tions within its government to which firms, enterprises and companies of the other Party will have ready access in order to present business facilitation problems in cases where all normal channels have been exhausted.

10. Neither Party shall take measures which should unreasonably impair the contractual rights or other interests acquired within its territory by firms, enterprises and companies of the other Party.

11. Representation of the firms, enterprises and companies of one Party in the territory of the other shall be facilitated in accordance with the following provisions:

A. Each Party recognizes the value of representation in its territory of firms, enterprises and companies of the other Party, either by local firms, enterprises and companies on the basis of agency contracts, or by commercial representations, as defined in Article X, paragraph 2, subject to laws and regulations of each Party.

B. They agree to facilitate the establishment and operation of such agency or commercial representations. Applications for any authorizations required for the establishment and operation of commercial representations shall be acted upon without delay.

C. Firms, enterprises and companies of each Party that have or desire to open commercial representations in the territory of the other Party shall be accorded treatment no less favorable than that accorded to firms, enterprises and companies of any third country.

D. Firms, enterprises and companies operating commercial representations may hire, directly compensate at lawful rates, and terminate the employment of nationals of the host country or of third countries, in accordance with laws and regulations in force in the host country. Persons other than local nationals may be employed in accordance with laws applicable to the entry and sojourn of aliens.

E. Commercial representations shall be permitted to import office equipment and automobiles for their operation, subject to applicable customs regulations. In the event of termination of the operation of a commercial representation, it shall be permitted to export equipment properly imported under this Article.

F. Each Party shall permit foreign employees of commercial representations of the other Party to reside in its territory along with their families, subject to its laws and regulations applicable to the entry and sojourn of aliens. Foreign employees of commercial representations shall be permitted to secure housing and office facilities.

G. Each Party shall normally issue multiple entry and exit visas to foreign employees of commercial representations and their families who are assigned in that capacity in its territory; such persons shall be permitted to import personal effects for personal use and not for any other person nor for sale duty-free in accordance with applicable customs procedures. They shall be permitted to export their imported personal effects duty-free.

H. The Parties recognize the value of facilitating the work of other persons who may be assigned in their territory in connection with activities related to this Agreement. To this end, the two preceding subparagraphs of this Article shall apply with respect to:

- i. Foreign employees of joint ventures involving firms, enterprises and companies of both Parties who are assigned in the territory of the other Party for purposes of the joint venture; and
- ii. Employees of other representatives of firms, enterprises or companies of either Party who are assigned in the territory of the other Party pursuant to sales or other contracts between firms, enterprises and companies of the Parties.

Article IV. FINANCIAL PROVISIONS RELATING TO TRADE

1. Firms, enterprises and companies of either Party will conduct their financial transactions with the firms, enterprises and companies of the other Party, including those specified in paragraphs 2 through 5, in accordance with applicable laws and regulations of each Party.

2. Financial transactions between firms, enterprises and companies of the two countries shall be carried out in United States dollars or any other freely convertible currency unless the parties to the transaction agree otherwise.

3. Each Party shall grant any authorizations which may be necessary to the firms, enterprises and companies of the other Party on the basis of most-favored-nation treatment with respect to:

- A. Transactions involving payments, remittances and transfers of convertible currencies or financial instruments representative thereof between the territories of the two Parties, as well as between the territory of that Party and that of any third country;
- B. Rates of exchange and matters relating thereto;
- C. Opening and maintaining accounts in local and any convertible currency in financial institutions and with respect to use of such currencies.

4. Expenditures in the territory of a Party by firms, enterprises and companies of the other Party may be made in local currency received in an authorized manner.

5. Except in time of declared national emergency, neither Party shall place restrictions upon the export from its territory of freely convertible currencies or deposits, or instruments representative thereof, by the firms, enterprises and companies or Government of the other Party, provided such currencies, deposits, or instruments were received in an authorized manner.

*Article V. INDUSTRIAL PROPERTY, COPYRIGHTS
AND INDUSTRIAL RIGHTS AND PROCESSES*

1. Each Party reaffirms the commitments made with respect to industrial property in the Paris Convention for the Protection of Industrial Property as revised at Stockholm on July 14, 1967.¹

2. Each Party reaffirms the commitments made in the Universal Copyright Convention of September 6, 1952,² as revised at Paris on July 24, 1971.³

3. Each Party shall provide to the firms, enterprises and companies of the other Party national treatment or most-favored-nation treatment, whichever is more favorable, with respect to legal protection of other industrial rights and processes.

Article VI. GOVERNMENT COMMERCIAL OFFICES

1. In order to promote the expansion of trade and economic cooperation between the Parties, each Party will permit and facilitate the establishment and operation of a government commercial office of the other Party as an integral part of its Embassy. This office may be located in premises separate from those occupied by the Embassy. The opening of branches of such government commercial offices shall be the subject of separate arrangements between the Parties. Representatives of firms, companies and enterprises of either Party shall have for commercial purposes full access to these offices.

¹ United Nations, *Treaty Series*, vol. 828, p. 305.

² *Ibid.*, vol. 216, p. 132.

³ *Ibid.*, vol. 943, p. 178.

2. Government commercial offices, and their respective officers and staff members, to the extent that they enjoy diplomatic immunity, shall not function as agents or principals in commercial transactions, or enter into contractual agreements on behalf of commercial organizations, or engage in other commercial activities inconsistent with their diplomatic status. They may, however, engage in general trade promotion activity.

Article VII. MARKET DISRUPTION SAFEGUARDS

1. The Parties agree to consult promptly at the request of either Party whenever either actual or prospective imports of products originating in the territory of the other Party cause or threaten to cause or significantly contribute to market disruption. Market disruption exists within a domestic industry whenever imports of an article, like or directly competitive with an article produced by such domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat thereof, to such domestic industry.

2. Either Party may impose restrictions, limitations or price measures on imports originating in the territory of the other Party to prevent or remedy actual or threatened market disruption.

3. The procedures for application of this Article are set forth in the Annex.

Article VIII. SETTLEMENT OF COMMERCIAL DISPUTES

1. The Parties encourage the prompt and equitable settlement of commercial disputes between their firms, enterprises and companies.

2. Both Parties endorse the adoption of arbitration for the settlement of such disputes not otherwise amicably resolved. The Parties encourage their respective firms, enterprises and companies to provide in their contracts for arbitration under internationally recognized arbitration rules. Such agreements may specify a place of arbitration in a country other than the Hungarian People's Republic or the United States of America that is a Party to the 1958 Convention for the Recognition and Enforcement of Foreign Arbitral Awards.¹ Parties to the contract may provide for any other place or rules of arbitration.

Article IX. NATIONAL SECURITY

The provisions of this Agreement shall not limit the right of either Party to take any action for the protection of its security interests.

Article X. DEFINITIONS

1. As used in this Agreement, the term "firms, enterprises and companies" of the United States means nationals, firms and companies of the United States engaged in commercial activities. "Firms, enterprises and companies" of the Hungarian People's Republic means firms, enterprises, companies and other legal persons authorized under the laws and regulations of the Hungarian People's Republic to carry on foreign trade or other activities mentioned in the respective paragraphs.

2. As used in this Agreement, the term "commercial representations" shall mean, in the case of representations established in the United States, any form of lawful business or commercial representation, other than representation by a U.S. firm, enterprise or company pursuant to an agency contract.

¹ United Nations, *Treaty Series*, vol. 330, p. 3.

In the case of commercial representations established in the Hungarian People's Republic, the term shall mean direct commercial representations as provided for in Decree 8 of 1974 of the Minister of Foreign Trade, section 1, paragraph 3.

Article XI. ENTRY INTO FORCE, DURATION AND REVIEW

1. This Agreement, including its Annex and the three attached letters, which are integral parts of the Agreement, shall enter into force on the date of exchange of written notices of acceptance by the two Governments, and shall remain in force as provided in paragraph 2 of this Article.

2. A. The initial term of this Agreement shall be three years, subject to subparagraph B of this paragraph.

B. If either Party encounters or foresees a problem concerning its domestic legal authority to carry out any of its obligations under this Agreement, such Party shall request immediate consultations with the other Party. Once consultations have been requested, the other Party shall enter into such consultations as soon as possible concerning the circumstances that have arisen with a view to finding a solution to avoid action under subparagraph C.

C. If either Party does not have domestic legal authority to carry out its obligations under this Agreement, either Party may suspend the application of this Agreement or, with the agreement of the other Party, any part of this Agreement. In that event, the Parties will, to the fullest extent practicable and consistent with domestic law, seek to minimize disruption to existing trade relations between the two countries.

D. This Agreement shall be extended for successive periods of three years each unless either Party has given written notice to the other Party of the termination of this Agreement at least 30 days prior to its expiration.

3. The Parties agree to consult at the request of either Party to review the operation of this Agreement and other relevant aspects of the relations between the Parties.

IN WITNESS WHEREOF, the authorized representatives of the Parties have signed this Agreement.

DONE at Budapest on this seventeenth day of March, 1978, in two original copies, in the English and Hungarian languages, both texts being equally authentic.

[Signed—Signé]¹
For the Government
of the United States of America

[Signed—Signé]²
For the Government
of the Hungarian People's
Republic

ANNEX

1. A. In the consultations provided for under Article VII the Parties shall present and examine the factors relating to those imports that may be causing or threatening to cause, or significantly contributing to market disruption, as described in paragraph 1 of Article VII, and seek means of preventing or remedying such market disruption. They shall take due account of any

¹ Signed by Philip M. Kaiser—Signé par Philip M. Kaiser.

² Signed by J. Biro—Signé par J. Biro.

contracts between firms, enterprises and companies of the two countries concluded prior to the request for consultations and shall seek not to impair unreasonably rights of importers and exporters under such contracts. Such consultations shall provide for a review of the production, market, and trade situation of the product involved and may include such factors as trends in domestic production, profits of firms within the industry, the employment situation, sales, inventories, rates of increase of imports, market share, level and prices of imports, sources of supply, the situation of the exporter and any other aspect which may contribute to the examination of the situation. In the consultations, the partners shall take due account of whether newly marketed or well established products are involved; the mere appearance of a new product or products on the market may not necessarily be interpreted as a significant cause of material injury or as significantly contributing to market disruption. Such consultations shall be initiated promptly and concluded within ninety days of the request, unless otherwise agreed.

B. Unless a different solution is agreed upon, restrictions or limitations determined by the importing Party to be necessary to prevent or remedy the market disruption in question shall be implemented. The other Party shall then be free to deviate from its obligations to the first Party in respect of substantially equivalent trade as provided in the General Agreement on Tariffs and Trade.

C. In critical circumstances, where delay would cause damage difficult to repair, such preventive or remedial action may be taken provisionally without prior consultation on the condition that consultation shall be effected immediately after taking such action.

2. A. In accordance with applicable laws and regulations, each Party shall take appropriate measures to ensure that exports from its country of the products concerned do not exceed the quantities or vary from the restrictions established for imports of such products into the other country pursuant to paragraph 1 of this Annex.

B. Each Party may take appropriate measures with respect to imports into its country to ensure that imports of products originating in the other country comply with such quantitative limitations or other restrictions.

RELATED LETTERS

I

[Budapest,] March 17, 1978

Dear Mr. Ambassador:

I wish to inform you that Hungarian State enterprises, including those which conduct foreign trade, are legal persons carrying out independent economic activities as provided for in the Civil Code of the Hungarian People's Republic and in accordance with the provisions of Law No. VI of 1977 on State Enterprises. On the basis of Section 31, paragraph (4) of the Civil Code, and of Section 27, paragraph (3) of the Law on State Enterprises, they themselves are responsible with their assets for their obligations. Accordingly, they shall not claim or enjoy immunities from suit or execution of judgment or other liability with respect to commercial transactions; they also shall not claim or enjoy immunities from taxation except as may result from other bilateral agreements.

Sincerely,

[Signed]

JOZSEF BIRO
Minister for Foreign Trade

His Excellency Philip M. Kaiser
Ambassador of the United States of America
to the Hungarian People's Republic
Budapest

II

[Budapest,] March 17, 1978

Dear Mr. Minister:

I wish to inform you that the United States Government has no objection in principle to the establishment of a bilateral joint commission or other formal consultative mechanism appropriately structured to contribute to Hungarian-U.S. trade and economic relations. However, the United States believes that this matter should be considered separately from this Agreement on Trade Relations.

Accordingly, the United States is prepared to consider a Hungarian proposal to establish such a consultative mechanism.

Sincerely,

[Signed]

PHILIP M. KAISER
AmbassadorHis Excellency Jozsef Biro
Minister for Foreign Trade
of the Hungarian People's Republic

III

[Budapest,] March 17, 1978

Dear Mr. Minister:

With reference to Article I, paragraph 1, of the Agreement on Trade Relations between Hungary and the United States, I wish to convey the understanding of the Government of the United States that it shall, with respect to Hungary, apply the General Agreement on Tariffs and Trade (except for Article II thereof) and the Protocol for the Accession of Hungary, to the extent not inconsistent with this Agreement on Trade Relations, as though the United States had disinvoked Article XXXV of the GATT with respect to Hungary.

Sincerely,

[Signed]

PHILIP M. KAISER
AmbassadorHis Excellency Jozsef Biro
Minister for Foreign Trade
of the Hungarian People's Republic