

----- **TREATY ON FAIR USAGE OF FOREIGN PROPERTY** -----

Respectfully concluded on May 25, 1920 between duly authorized plenipotentiaries for and on behalf of:

- ∩ Italy
- ∩ Poland
- ∩ USSR

Chapter I.

TREATY ON FAIR USAGE OF FOREIGN PROPERTY

PREAMBLE.

[List of Heads of States.]

Being desirous of promoting economic co-operation between nations by ensuring easier and more equitable conditions for the establishment and operations of nationals of one country carrying on business in the territory of another;

Recognising that it is not yet possible in the present state of international relations, and owing to the fact that the national economy of all countries has not yet been fully restored, to proclaim freedom of access to, and freedom to transact business in, the territories of all countries for nationals, whether natural persons or legal entities, of all other countries.

Being nevertheless determined to embody in a common statute the civil, legal, fiscal and economic safeguards which are indispensable for nationals of any Contracting Party who have been allowed to establish themselves in the territory of the other Parties in order to carry on their business or occupation therein, and to prevent any differential or unfair treatment which might in their own territory impede the trade of nationals of other countries;

Have appointed as their plenipotentiaries for this purpose:

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

PART I. — TREATMENT OF FOREIGN NATIONALS. CHAPTER I. — SAFEGUARDS FOR INTERNATIONAL TRADE.

Article 1.

1. Nationals of the High Contracting Parties may, even if not resident in the territory of the other High Contracting Parties, invest, conduct commercial transactions of every kind and in particular sell goods, make purchases, take orders, deliver goods on order and carry out work on order, unless, under the laws of the territory in question, even nationals are required to obtain a Government concession for the conduct of such business or execution of such work. Provided they conform, in every operation, to the laws and regulations of the country, they shall not be subject to any condition or charge other or more burdensome than those to which nationals of the country are themselves subject when conducting similar operations.

2. Similarly, the nationals referred to in the preceding paragraph shall be free to advertise in any form for the purposes of the business referred to above, provided such advertising conforms to the laws and ordinances of the country, under the same conditions as that country's nationals, without having to pay in this respect any taxes or duties higher or more burdensome than those paid by nationals.

Article 2.

1. Nationals of each of the High Contracting Parties shall be free to participate, in the territory of any other High Contracting Party, as exhibitors, investors, vendors or buyers on the same terms as nationals, in public markets and fairs not expressly reserved to nationals, or to nationals of a group of neighbouring States.

2. Investments by nationals or companies of either Party shall enjoy protection and security in the territory of the other Party. Investment shall at all times be accorded fair and equitable treatment, shall enjoy full protection and security and shall in no case be accorded treatment less than that required by international law.

3. Nationals or companies of either Party shall not be subjected to expropriation of their investments in the territory of the other Party except for public benefit against compensation, which shall represent the equivalent of the investments affected. Such compensation shall be actually realizable and freely transferable in the currency of the other Party without undue delay. Adequate provision shall be made at or prior to the time of expropriation for the determination and the grant of such compensation. The legality of any such expropriation and the amount of compensation shall be subject to review by due process of law.

4. Nationals or companies of either Party who owing to war or other armed conflict, revolution or revolt in the territory of the other Party suffer the loss of investments situate there, shall be accorded treatment no less favourable by such other Party than the treatment that Party accords to persons residing within its territory and to nationals or companies of a third party, as regards restitution, indemnification, compensation or other considerations. With respect to the transfer of such payments each Party shall accord to the requests of nationals or companies of the other Party treatment no less favourable than is accorded to comparable requests made by nationals or companies of a third party.

CHAPTER II. – ESTABLISHMENT OF FOREIGN NATIONALS AND INVESTMENTS. Section A. – Freedom of Travel, Sojourn and Establishment.

Article 6.

1. (a) The term "investment" shall comprise capital brought into the territory of the other Party for investment in various forms in the shape of assets such as foreign exchange, goods, property rights, patents and technical knowledge. The term "investment" shall also include the returns derived from and ploughed back into such "investment".

(b) Any partnerships, companies or assets of similar kind, created by the utilisation of the above mentioned assets shall be regarded as "investment".

2. The term "return" shall mean the amounts derived from investments as profits or interest for a specified period.

3. Nationals of any High Contracting Party admitted into the territory of another High Contracting Party shall enjoy therein, provided they comply with the laws and regulations of that Party, the same freedom to travel, sojourn, establish themselves, elect their domicile and move from place to place, as the nationals of the country in question, without being subject to any conditions or regulations other than those to which nationals are subject, but without prejudice to the police regulations concerning foreigners.

Article 7.

1. In the territories of each of the High Contracting Parties, and subject to the observance of their laws and regulations, nationals of the other High Contracting Parties allowed to establish themselves therein shall be placed on terms of complete equality, de jure and de facto, with nationals as regards :

(a) The conduct of all commercial, industrial and financial operations, and in general any transactions of an economic character, without any distinction being drawn in this connection between undertakings operating independently and those which exist as branches, subsidiary undertakings or agencies of undertakings situated in the territory of the above- mentioned High Contracting Parties.

(b) The exercise of occupations which the laws of the said High Contracting Parties allow their nationals to carry on freely, or, in the case of occupations for which special titles or guarantees are required, the exercise of these professions subject to the submission of titles or guarantees identical with those required of nationals, or recognised as being equivalent by the High Contracting Party concerned.

2. Each of the High Contracting Parties, however, retains the right to prohibit foreigners within its territory from engaging in the professions, occupations, industries and trades, herein after specified, or to subject their exercise to compliance with certain differential formalities or conditions :

(a) Public functions, charges or offices of a judicial, administrative, military or other nature which, involving a devolution of the authority of the State or a mission entrusted by the State, shall be reserved to that State's nationals;

(b) Professions such as those of barrister, solicitor, notary, stockbroker and other similar professions or offices, as well as any other professions or offices which it may be desirable, in the public interest, on account of the special responsibilities they entail, to reserve for nationals. It shall, however, be understood that this reservation shall be limited to what is strictly necessary in the public interest;

(c) Fishing in territorial waters and service in vessels flying the national flag or vessels engaged in reserved transport ; the coasting trade, pilotage and the internal services in ports, in so far as these are not governed by the provisions of any international Conventions or bilateral treaties on navigation which are or may come into force;

(d) The exploitation of minerals and hydraulic power ;

(e) Industries or trades forming the subject of a State monopoly or monopolies exercised under State control;

f) Hawking and peddling.

Section C. — Civil and Legal Guarantee.

Article 9.

1. Nationals of each of the High Contracting Parties shall enjoy in the territory of the other High Contracting Parties the same treatment as nationals in respect of the legal and judicial protection of their persons, property, rights and interests.

2. Either Party shall in respect of all investments guarantee to nationals or companies of the other Party the transfer of the invested capital, of the returns therefrom and in the event of liquidation, the proceeds of such liquidation.

Section D. – Property Rights.

Article 10.

1. Nationals of all the High Contracting Parties shall be placed on terms of complete equality with the citizens or subjects of any one of the Parties as regards patrimonial rights, the right of acquiring, possessing or leasing to others movable or immovable property, and the right of disposing of the same in accordance with the laws of the country (by purchase, sale, donation, transfer, marriage settlement, bequest, succession ab intestato or by any other means) and under the same conditions as nationals, no modification or restriction of any sort being permitted in this regime of equality.

2. The rate applicable to current transactions shall be based on the par value agreed with the International Monetary Fund taking into account the provisions of Section 3 of Article 4 of the Articles of Agreement establishing the International Monetary Fund.

3. In case no rate of exchange within the meaning of paragraph (2) above exists at the time of transfer the appropriate authorities of the Party in the territory of which the investment is situated shall admit a rate of exchange which is just and reasonable.

4. Each of the High Contracting Parties undertakes to allow the nationals of the other High Contracting Parties freely to export their movable property, and the proceeds of the sale of their movable or immovable property, under the same conditions as are applicable to its own nationals. There shall be no differentiation in regulations regarding the foreign exchange derived from such exportation according to the nationality of the exporter.

5. The provisions of the present article shall not preclude the right which the High Contracting Parties reserve to themselves to prohibit or subject to the obtaining of previous authorisation, for reasons of security or national defence, the acquisition by foreigners of certain immovable property or undertakings.

6. The High Contracting Parties also reserve the right to prohibit the acquisition of immovable property or transferable securities by foreign nationals, if such acquisition is likely to result in the obtaining of undue command of the vital economic resources of the country, or to endanger such resources in certain exceptional cases, due, for instance, to a currency crisis, provided, however, that no measure connected with the principle of equality laid down in paragraph 1 of this article be sufficient to safeguard these interests.

CHAPTER III. – SETTLEMENT OF DISPUTES CONCERNING THE INTERPRETATION OR APPLICATION OF THE TREATY.

Article 22-1

The High Contracting Parties agree that all disputes which may arise between them or between a national of one of the Contracting Parties and another Contracting party, relating to the interpretation or application of this Treaty shall, if they cannot be settled by direct negotiations or by some other method of amicable settlement, be referred for decision to the Permanent Court of International Justice or the International Center for the Settlement of Investment Disputes. The matter may be laid before the Court or Center if necessary by means of an application from one of the Parties. Should both States between whom a dispute

arises, or one of them, not be Parties or Party to the Protocol of December 16th, 1920, relating to the Permanent Court of International Justice, the dispute shall be referred, at the choice of the Parties and in accordance with the constitutional procedure of each, either to the Permanent Court of International Justice or, or to International Center for the Settlement of Investment Disputes.

CHAPTER IV. – SIGNATURE, RATIFICATION, ACCESSION, ENTRY INTO FORCE AND DENUNCIATION OF THE TREATY.

Article 23.2

1. The present Treaty, of which the French and English texts are both authentic, shall bear this day's date and shall be deemed signed by the aforementioned heads of state.

2. The present Treaty shall also apply to approved investments made prior to its entry into force but not earlier than 1st September, 1890, by nationals or companies of either Party in the territory of the other Party unless in any case it is specifically provided otherwise.