

## Chilean-American Diplomacy : Convention of Peace, Amity, Commerce, and Navigation; May 16, 1832. (1)

Concluded May 16, 1832;

Ratification, advised by the Senate December 19, 1832;

Ratified by the President April 26, 1834;

Ratifications exchanged April 29, 1834;

Proclaimed April 29, 1834.

<a href="#">Art 1</a>	<a href="#">Art 2</a>	<a href="#">Art 3</a>	<a href="#">Art 4</a>	<a href="#">Art 5</a>	<a href="#">Art 6</a>	<a href="#">Art 7</a>	<a href="#">Art 8</a>	<a href="#">Art 9</a>	<a href="#">Art 10</a>	<a href="#">Art 11</a>
<a href="#">Art 12</a>	<a href="#">Art 13</a>	<a href="#">Art 14</a>	<a href="#">Art 15</a>	<a href="#">Art 16</a>	<a href="#">Art 17</a>	<a href="#">Art 18</a>	<a href="#">Art 19</a>	<a href="#">Art 20</a>	<a href="#">Art 21</a>	<a href="#">Art 22</a>
<a href="#">Art 23</a>	<a href="#">Art 24</a>	<a href="#">Art 25</a>	<a href="#">Art 26</a>	<a href="#">Art 27</a>	<a href="#">Art 28</a>	<a href="#">Art 29</a>	<a href="#">Art 30</a>	<a href="#">Art 31</a>		
<b>See Also :</b> <a href="#">Additional Convention to the Treaty of 1832; September 1, 1833</a>										

In the name of God, Author and Legislator of the Universe.

The United States of America and the Republic of Chili, desiring to make firm and lasting the friendship and good understanding which happily prevail between both nations, have resolved to fix, in a manner clear, distinct and positive, the rules which shall in future be religiously observed between the one and the other, by means of a treaty or general convention of peace and friendship, commerce and navigation.

For this most desirable object, the President of the United States of America, by and with the advice and consent of the Senate thereof, has appointed and conferred full powers on John Hamm, a citizen of said States, and their Chargé d'Affaires near the said Republic; and His Excellency the President of the Republic of Chili has appointed Señor Don Andres Bello, a citizen of the said Republic;

And the said Plenipotentiaries, after having mutually produced and exchanged copies of their full powers in true and proper form, have agreed upon and concluded the following articles, videlicet:

### ARTICLE I.

There shall be a perfect, firm and inviolable peace and sincere friendship between the United States of America and the Republic of Chili, in all the extent of their possessions and territories, and between their people and citizens, respectively, without distinction of persons or places.

### ARTICLE II.

The United States of America and the Republic of Chili, desiring to live in peace and harmony with all the other nations of the earth, by means of a policy frank and equally friendly with all, engage mutually, not to grant any particular favor to other nations in respect of commerce and navigation, which shall not, immediately, become common to the other party, who shall enjoy the same freely, if the concession was freely made, or on allowing the same compensation if the concession was conditional. It is understood, however, that the relations and convention which now exist, or may hereafter exist, between the Republic of Chili and the Republic of Bolivia, the federation of the Centre of America, the Republic of Colombia, the United States of Mexico, the Republic of Peru, or the United Provinces of the Rio de la Plata, shall form exceptions to this article.

### **ARTICLE III.**

The citizens of the United States of America may frequent all the coasts and countries of the Republic of Chili, and reside and trade there in all sorts of produce, manufactures and merchandise, and shall pay no other or greater duties, charges or fees, whatsoever, than the most favored nation is or shall be obliged to pay; and they shall enjoy all the rights, privileges and exemptions in navigation and commerce, which the most favored nation does or shall enjoy, submitting themselves, nevertheless, to the laws, decrees and usages there established and to which are submitted the citizens and subjects of the most favored nations.

In like manner the citizens of the Republic of Chili may frequent all the coasts and countries of the United States of America, and reside and trade there, in all sorts of produce, manufactures and merchandise, and shall pay no other or greater duties, charges or fees whatsoever, than the most favored nation is or shall be obliged to pay, and they shall enjoy all the rights, privileges and exemptions in commerce and navigation which the most favored nation does or shall enjoy, submitting themselves, nevertheless, to the laws decrees and usages there established and to which are submitted the citizens and subjects of the most favored nations. But it is understood that this article does not include the coasting trade of either country, the regulation of which is reserved by the parties, respectively, according to their own separate laws.

### **ARTICLE IV.**

It is likewise agreed that it shall be wholly free for all merchants, commanders of ships and other citizens of both countries, to manage, themselves, their own business, in all ports and places subject to the jurisdiction of each other, as well with respect to the consignment and sale of their goods and merchandise, by wholesale and retail, as with respect to the loading, unloading, and sending off their ships, they being in all these cases to be treated as citizens of the country in which they reside, or at least to be placed on a footing with the citizens or subjects of the most favored nation.

### **ARTICLE V.**

The citizens of neither of the contracting parties shall be liable to any embargo, nor be detained with their vessels, cargoes, merchandise or effects for any military expedition, nor for any public or private purpose whatever, without allowing to those interested a sufficient indemnification.

## **ARTICLE VI.**

Whenever the citizens of either of the contracting parties shall be forced to seek refuge or asylum in the rivers, bays, ports or dominions of the other, with their vessels, whether of merchant or of war, public or private, through stress of weather, pursuit of pirates or enemies, they shall be received and treated with humanity, giving to them all favor and protection for repairing their ships, procuring provisions, and placing themselves in a situation to continue their voyage without obstacle or hindrance of any kind.

## **ARTICLE VII.**

All the ships, merchandise, and effects belonging to the citizens of one of the contracting parties, which may be captured by pirates, whether within the limits of its jurisdiction or on the high seas, and may be carried or found in the rivers, roads, bays, ports or dominions of the other, shall be delivered up to the owners, they proving in due and proper form their rights before the competent tribunals; it being well understood that the claim should be made within the term of one year, by the parties themselves, their attorneys, or agents of their respective Governments.

## **ARTICLE VIII.**

When any vessel belonging to the citizens of either of the contracting parties shall be wrecked, foundered or suffer any damage on the coasts or within the dominions of the other, there shall be given to them all assistance and protection in the same manner which is usual and customary with the vessels of the nation where the damage happens, permitting them to unload the said vessel, if necessary, of its merchandise and effects, without exacting for it any duty, impost or contribution whatever, until they may be exported, unless they be destined for consumption in the country.

## **ARTICLE IX.**

The citizens of each of the contracting parties shall have power to dispose of their personal goods within the jurisdiction of the other, by sale, donation, testament or otherwise, and their representatives, being citizens of the other party, shall succeed to their said personal goods, whether by testament or ab intestato, and they may take possession thereof, either by themselves or others acting for them, and dispose of the same at their will, paying such dues only as the inhabitants of the country wherein the said goods are shall be subject to pay in like cases; and if in the case of real estate the said heirs would be prevented from entering into the possession of the inheritance, on account of their character

of aliens, there shall be granted to them the term of three years to dispose of the same, as they may think proper, and to withdraw the proceeds without molestation and exempt from any other charges than those which may be imposed by the laws of the country.

## **ARTICLE X.**

Both the contracting parties promise and engage formally to give their special protection to the persons and property of the citizens of each other, of all occupations, who may be in the territories subject to the jurisdiction of the one or the other, transient or dwelling therein, leaving open and free to them the tribunals of justice for their judicial recourse on the same terms which are usual and customary with the natives or citizens of the country in which they may be; for which they may employ in defence of their rights such advocates, solicitors, notaries, agents and factors as they may judge proper, in all their trials at law; and such citizens or agents shall have free opportunity to be present at the decisions and sentences of the tribunals, in all cases which may concern them, and likewise at the taking of all examinations and evidence which may be exhibited in the said trials.

## **ARTICLE XI.**

It is likewise agreed that the most perfect and entire security of conscience shall be enjoyed by the citizens of both the contracting parties in the countries subject to the jurisdiction of the one and the other, without their being liable to be disturbed or molested on account of their religious belief, so long as they respect the laws and established usages of the country. Moreover, the bodies of the citizens of one of the contracting parties, who may die in the territories of the other, shall be buried in the usual burying grounds, or in other decent or suitable places, and shall be protected from violation or disturbance.

## **ARTICLE XII.**

It shall be lawful for the citizens of the United States of America and of the Republic of Chili to sail with their ships, with all manner of liberty and security, no distinction being made who are the proprietors of the merchandise laden thereon, from any port to the places of those who now are or hereafter shall be at enmity with either of the contracting parties. It shall likewise be lawful for the citizens aforesaid to sail with the ships and merchandise before mentioned, and to trade with the same liberty and security from the places, ports and havens of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy, before mentioned, to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they, be under the jurisdiction of the one power or under several. And it is hereby stipulated that free ships shall also give freedom to goods, and that every thing shall be deemed to be free and exempt which shall be found on board the ships belonging to the citizens of either of the, contracting parties, although the whole lading or any part thereof, should appertain to the enemies of either, contraband goods being" always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board

a free ship, with this, effect, that although they be enemies to both or either, they are not to be taken out of that free ship unless they are officers or soldiers rd in the actual service of the enemies: Provided, however, and it is hereby agreed, that the stipulations in this article contained, declaring that the flag shall cover the property, shall be understood as applying to those powers only who recognize the principle; but if either of the two contracting parties should be at war with a third, and the other neutral, the flag of the neutral shall cover the property of enemies whose Governments acknowledge this principle, and not of others.

### **ARTICLE XIII.**

It is likewise agreed that in the case where the neutral flag of one of the contracting parties shall protect the property of the enemies of the other, by virtue of the above stipulation, it shall always be understood that the neutral property found on board such enemy's vessels shall be held and considered as enemy's property, and as such shall be liable to detention and confiscation, except such property as was put on board such vessel before the declaration of war, or even afterwards, if it were done without the knowledge of it; but the contracting parties agree that, four months having elapsed after the declaration, their citizens shall not plead ignorance thereof. On the contrary, if the flag of the neutral does not protect the enemy's property, in that case the goods and merchandise of the neutral embarked in such enemy's ship shall be free.

### **ARTICLE XIV.**

This liberty of commerce and navigation shall extend to all kinds of merchandises, excepting those only which are distinguished by the name of contraband, and under this name of contraband or prohibited goods, shall be comprehended-

1. Cannons, mortars, howitzers, swivels, blunderbusses, muskets, fuzees, rifles, carbines, pistols, pikes, swords, sabres, lances, spears, halberds, and grenades, bombs, powder, matches, balls and all other things belonging to the use of these arms.

2. Bucklers, helmets, breastplates, coats of mail, infantry belts and clothes made up in the form and for a military use.

3. Cavalry belts, and horses with their furniture.

4. And generally all kinds of arms and instruments of iron, steel, brass and copper, or of any other materials manufactured, prepared and formed expressly to make war by sea or land.

### **ARTICLE XV.**

All other merchandise and things not comprehended in the articles of contraband explicitly enumerated and classified as above, shall be held and considered as free, and subjects of free and lawful commerce, so that they may be carried and transported in the

freest manner by both the contracting parties, even to places belonging to an enemy, excepting only those places which are at that time besieged or blockaded; and, to avoid all doubt in this particular, it is declared that those places only are besieged or blockaded which are actually attacked by a belligerent force capable of preventing the entry of the neutral.

## **ARTICLE XVI.**

The articles of contraband, before enumerated and classified, which may be found in a vessel-bound for an enemy's port, shall be subject to detention and confiscation, leaving free the rest of the cargo and the ship, that the owners may dispose of them as they see proper. No vessel of either of the two nations shall be detained on the high seas on account of having on board articles of contraband, whenever the master, captain, or supercargo of said vessel will deliver up the articles of contraband to the captor, unless the quantity of such articles be so great, and of so large a bulk, that they cannot be received on board the capturing ship without great inconvenience; but in this and in all other cases of just detention, the vessel detained shall be sent to the nearest convenient and safe port, for trial and judgment according to law.

## **ARTICLE XVII.**

And whereas it frequently happens that vessels sail for a port or place belonging to an enemy, without knowing that the same is besieged, blockaded or invested, it is agreed that every vessel so circumstanced may be turned away from such port or place, but shall not be detained, nor shall any part of her cargo, if not contraband, be confiscated, unless after warning of such blockade or investment from any officer commanding a vessel of the blockading forces she shall again attempt to enter; but she shall be permitted to go to any other port or place she shall think proper. Nor shall any vessel of either that may have entered into such port before the same was actually besieged, blockaded, or invested by the other, be restrained from quitting such place with her cargo, nor if found therein after the reduction and surrender, shall such vessel or her cargo be liable to confiscation, but they shall be restored to the owners thereof; and if any vessel having thus entered the port before the blockade took place, shall take on board a cargo after the blockade be established, she shall be subject to be warned by the blockading forces, to return to the port blockaded, and discharge the said cargo; and, if after receiving the said warning, the vessel shall persist in going out with the cargo, she shall be liable to the same consequences as a vessel attempting to enter a blockaded port after being warned off by the blockading forces.

## **ARTICLE XVIII.**

In order to prevent all kinds of disorder in the visiting and examination of the ships and cargoes of both the contracting parties on the high seas, they have agreed mutually, that whenever a vessel of war, public or private, shall meet with a neutral of the other contracting party, the first shall remain at the greatest distance compatible with making the visit, under the circumstances of the sea and wind, and the degree of suspicion attending the vessel to

be visited, and shall send its smallest boat in order to execute the said examination of the papers concerning the ownership and cargo of the vessel, without causing the least extortion, violence or ill-treatment, for which the commanders of the said armed ships shall be responsible with their persons and property; for which purpose the commanders of the said private armed vessels shall, before receiving their commissions, give sufficient security to answer for all damages they may commit. And it is expressly agreed, that the neutral party shall in no case be required to go on board the examining vessel for the purpose of exhibiting her papers, or for any other purpose whatever.

## **ARTICLE XIX.**

To avoid all kind of vexation and abuse in the examination of the papers relating to the ownership of the vessels belonging to the citizens of the two contracting parties, they have agreed and do agree, that, in case one of them shall be engaged in war, the ships and vessels belonging to the citizens of the other must be furnished with sea-letters or passports, expressing the name, property and bulk of the ship, as also the name and place of habitation of the master or commander of said vessel, in order that it may thereby appear that the ship really and truly belongs to the citizens of one of the parties; they have likewise agreed that, such ships being laden, besides the sea-letters or passports, shall also be provided with certificates containing the several particulars of the cargo, and the place whence the ship sailed, so that it may be known whether any forbidden or contraband goods be on board the same; which certificates shall be made out by the officers of the place whence the ship sailed, in the accustomed form; without which requisites said vessel may be detained, to be adjudged by the competent tribunal, and may be declared legal prize, unless the said defect shall be proved to be owing to accident, and be satisfied or supplied by testimony entirely equivalent.

## **ARTICLE XX.**

It is further agreed that the stipulations above expressed, relative to the visiting and examination of vessels, shall apply only to those which sail without convoy; and when said vessels shall be under convoy, the verbal declaration of the commander of the convoy, on his word of honor, that the vessels under his protection belong to the nation whose flag he carries, and, when they are bound to an enemy's port, that they have no contraband goods on board, shall be sufficient.

## **ARTICLE XXI.**

It is further agreed that in all cases the established courts for prize causes, in the country to which the prizes may be conducted, shall alone take cognizance of them. And whenever such tribunal of either party shall pronounce judgment against any vessel or goods or property claimed by the citizens of the other party, the sentence or decree shall mention the reasons or motives on which the same shall have been founded, and an authenticated copy of the sentence or decree and of all the proceedings in the case, shall, if demanded, be

delivered to the commandant or agent of said vessel without any delay, he paying the legal fees for the same.

## **ARTICLE XXII.**

Whenever one of the contracting parties shall be engaged in war with another State, no citizen of the other contracting party shall accept a commission or letter of marque for the purpose of assisting or co-operating hostilely with the said enemy against the said party so at war, under the pain of being treated as a pirate.

## **ARTICLE XXIII.**

If, by any fatality, which cannot be expected, and which God forbid, the two contracting parties should be engaged in a war with each other, they have agreed and do agree, now for then, that there shall be allowed the term of six months to the merchants residing on the coasts and in the ports of each other, and the term of one year to those who dwell in the interior, to arrange their business and transport their effects wherever they please, giving to them the safe conduct necessary for it, which may serve as a sufficient protection until they arrive at the designated port. The citizens of all other occupations who may be established in the territories or dominions of the United States of America and of the Republic of Chili, shall be respected and maintained in the full enjoyment of their personal liberty and property, unless their particular conduct shall cause them to forfeit this protection, which, in consideration of humanity, the contracting parties engage to give them.

## **ARTICLE XXIV.**

Neither the debts due from the individuals of the one nation to the individuals of the other, nor shares, nor money which they may have in public funds, nor in public or private banks, shall ever, in any event of war or of national difference, be sequestered or confiscated.

## **ARTICLE XXV.**

Both the contracting parties, being desirous of avoiding all inequality in relation to their public communications and official intercourse, have agreed and do agree to grant to their Envoys, Ministers and other Public Agents, the same favors, immunities and exemptions which those of the most favored nation do or shall enjoy; it being understood that whatever favors, immunities or privileges the United States of America or the Republic of Chili may find it proper to give to the Ministers and Public Agents of any other power, shall by the same act, be, extended to those of each of the contracting parties.

## **ARTICLE XXVI.**

To make more effectual the protection which the United States of America and the Republic of Chili shall afford in future to the navigation and commerce of the citizens of each other, they agree to receive and admit Consuls and Vice-Consuls in all the ports open to foreign commerce, who shall enjoy in them all the rights, prerogatives and immunities of the Consuls and Vice-Consuls of the most favored nations; each contracting party, however, remaining at liberty to except those ports and places in which the admission and residence of such Consuls may not seem convenient.

## **ARTICLE XXVII.**

In order that the Consuls and Vice-Consuls of the two contracting parties may enjoy the rights, prerogatives and immunities which belong to them, by their public character, they shall, before entering on the exercise of their functions, exhibit their commission or patent, in due form, to the Government to which they are accredited; and, having obtained their exequatur, they shall be held and considered as such, by all the authorities, magistrates and inhabitants, in the consular district in which they reside.

## **ARTICLE XXVIII.**

It is likewise agreed that the Consuls, their Secretaries, officers and persons attached to the service of Consuls, they not being citizens of the country in which the Consul resides, shall be exempt from all public service, and also from all kinds of taxes, imposts and contributions, except those which they shall be obliged to pay on account of commerce, or their property, to which the citizens and inhabitants, native and foreign, of the country in which they reside are subject; being in everything besides subject to the laws of their respective States. The archives and papers of the consulate shall be respected inviolably, and under no pretext whatever shall any magistrate seize or in any way interfere with them.

## **ARTICLE XXIX.**

The said Consuls shall have power to require the assistance of the authorities of the country for the arrest, detention and custody of deserters from the public and private vessels of their country; and for that purpose they shall address themselves to the courts, judges and officers competent, and shall demand the said deserters in writing, proving by an exhibition of the registers of the vessel's or ship's roll, or other public documents, that those men were part of said crews; and on this demand, so proved, (saving, however, where the contrary is proved,) the delivery shall not be refused. Such deserters, when arrested, shall be put at the disposal of said Consuls, and may be put in the public prison at the request and expense of those who reclaim them, to be sent to the ships to which they belonged or to others of the same nation. But if they be not sent back within two months, reckoning from the day of their arrest, they shall be set at liberty, and shall no more be arrested for the same cause. It is understood, however, that if the deserter should be found to have committed any crime or offence his surrender may be delayed until the tribunal before which the case may be

depending shall have pronounced its sentence, and such sentence shall have been carried into effect.

## **ARTICLE XXX.**

For the purpose of more effectually protecting their commerce and navigation, the two contracting parties do hereby agree, as soon hereafter as circumstances will permit them, to form a consular convention, which shall declare, specially, the powers and immunities of the Consuls and Vice-Consuls of the respective parties.

## **ARTICLE XXXI.**

The United States of America and the Republic of Chili, desiring to make as durable as circumstances will permit the relations which are to be established between the two parties, by virtue of this treaty or general convention of peace, amity, commerce and navigation, have declared solemnly, and do agree to the following points:

1st. The present treaty shall remain in full force and virtue for the term of twelve years, to be reckoned from the day of the exchange of the ratifications; and, further until the end of one year after either of the contracting parties shall have given notice to the other of its intention to terminate the same; each of the contracting parties reserving to itself the right of giving such notice to the other at the end of said term of twelve years: and it is hereby agreed between them that, on the expiration of one year after such notice shall have been received by either, from the other party, this treaty in all the parts relating to commerce and navigation, shall altogether cease and determine; and in all those parts which relate to peace and friendship it shall be permanently and perpetually binding on both powers.

2d. If any one or more of the citizens of either party shall infringe any of the articles of this treaty, such citizen shall be held personally responsible for the same, and the harmony and good correspondence tween the nations shall not be interrupted thereby; each party engaging in no way to protect the offender, or sanction such violation.

3d. If, (which, indeed, cannot be expected,) unfortunately, any of the articles contained in the present treaty shall be violated or infringed in any other way whatever, it is expressly stipulated that neither of the contracting parties will order or authorize any acts of reprisal, nor declare war against the other, on complaints of injuries or damages, until the said party, considering itself offended, shall first have presented to the other a statement of such injuries or damages, verified by competent proof, and demanded justice and satisfaction, and the same shall have been either refused or unreasonably delayed.

4. Nothing in this treaty contained shall, however, be construed to operate contrary to former and existing public treaties with other Sovereigns or States.

The present treaty of peace, amity, commerce and navigation shall be approved and ratified by the President of the United States of America by and with the advice and consent

of the Senate thereof and by the President of the Republic of Chili, with the consent and approbation of the Congress of the same; and the ratifications shall be exchanged in the City of Washington within nine months, to be reckoned from the date of the signature hereof, or sooner if practicable.

In faith whereof we, the underwritten Plenipotentiaries of the United States of America and of the Republic of Chili, have signed, by virtue of our powers, the present treaty of peace, amity, commerce and navigation, and have hereunto affixed our seals, respectively.

Done and concluded, in triplicate, in the city of Santiago, this sixteenth day of the month of May, in the year of our Lord Jesus Christ one thousand eight hundred and thirty-two, and in the fifty-sixth year of the Independence of the United States of America, and the twenty-third of that of the Republic of Chili.

[SEAL.] JNO. HAMM.

[SEAL.] ANDRES BELLO.

(1) 1832. (This treaty was terminated January 20, 1850, on notice given by the Chilean Government. Federal case: U. S. v. Turnbull (48 Fed. Rep. 94).) [Back](#)

Source:

Treaties, Conventions, International Acts and Agreements Between the United States of America and Other Powers 1776-1909.

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