

PERU-BOLIVIA.

PERU-BOLIVIA, 1836.

Nov. 30, 1836.

GENERAL CONVENTION OF PEACE, FRIENDSHIP, COMMERCE, AND NAVIGATION, BETWEEN THE UNITED STATES OF AMERICA AND THE PERU-BOLIVIAN CONFEDERATION, CONCLUDED AT LIMA NOVEMBER 30, 1836; RATIFICATION ADVISED BY SENATE OCTOBER 10, 1837; RATIFIED BY PRESIDENT OCTOBER 14, 1837; RATIFICATIONS EXCHANGED AT LIMA MAY 28, 1838; PROCLAIMED OCTOBER 3, 1838.

[The Peru-Bolivian Confederation was dissolved in 1839.]

Contracting parties.

The United States of America and the Peru-Bolivian Confederation, desiring to make firm and permanent the peace and friendship which happily subsist between them, have resolved to fix, in a clear, distinct, and positive manner, 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, friendship, commerce, and navigation.

Negotiators.

For this desirable purpose, the President of the United States of America has conferred full powers on Samuel Larned, Chargé d'Affaires of the said States near the Government of Peru; and the Supreme Protector of the North and South Peruvian States, President of the Republic of Bolivia, encharged with the direction of the foreign relations of the Peru-Bolivian Confederation, has conferred like powers on John Garcia del Rio, Minister of State in the Department of Finance of the North Peruvian States;

Who, after having exhibited to each other their respective full powers, found to be in due and proper form, and exchanged certified copies thereof, have agreed to the following articles, to wit:

ARTICLE I.

Peace and friendship.

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

ARTICLE II.

Favors granted to other nations to become common.

The United States of America and the Peru-Bolivian Confederation, desiring to live in peace and harmony, as well with each other as with all the nations of the earth, by means of a policy frank, and equally friendly with all, engage, mutually, not to concede any particular favor to other nations, in respect of commerce and navigation, which shall not immediately become common to the other party to this treaty; who shall enjoy the same freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional.

ARTICLE III.

Freedom of commerce and navigation.

The two high contracting parties, being likewise desirous of placing the commerce and navigation of their respective countries on the liberal basis of perfect equality with the most favored nation, mutually agree that the citizens of each may frequent with their vessels all the coasts and countries of the other, and may reside and trade there in all kinds of produce, manufactures, and merchandize, not prohibited to all; and

shall pay no other or higher duties, charges or fees, whatsoever, either on their vessels or cargoes, than the citizens or subjects of the most favored [nation] are, or shall be, obliged to pay on their vessels and cargoes; and they shall enjoy, respectively, all the rights, privileges, and exemptions, in navigation and commerce, which the citizens or subjects of the most favored nation do or shall enjoy; they submitting themselves to the laws, decrees, and usages there established, to which such citizens or subjects are of right subjected.

But it is understood that the stipulations contained in this article do not include the coasting trade of either of the two countries; the regulation of this trade being reserved by the parties, respectively, according to their own separate laws.

Coasting-trade
excepted.

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 the ports, and places subject to the jurisdiction of the other, as well with respect to the consignment and sale of their goods and merchandize, as to the purchase of their returns, unloading, loading, and sending off of their vessels. The citizens of neither of the contracting parties shall be liable to any embargo, nor to be detained with their vessels, cargoes, merchandize, or effects, for any military expedition, nor for any public or private purpose whatever, without being allowed therefor a sufficient indemnification. Neither shall they be called upon for any forced loan, or occasional contributions; nor be subject to military service on land or sea.

Privileges of
merchants, &c.

ARTICLE V.

Whenever the citizens of either of the contracting parties shall be forced to seek refuge, shelter, or relief, in the rivers, bays, ports, and dominions of the other, with their vessels, whether of war, (public or private,) of trade, or employed in the fisheries, through stress of weather, want of water or provisions, pursuit of pirates or enemies, they shall be received and treated with humanity; and all favor and protection shall be given to them, in the repairing of their vessels, procuring of supplies, and placing of themselves in a condition to pursue their voyage, without obstacle or hindrance.

Vessels seeking
refuge.

ARTICLE VI.

All ships, merchandize, and effects belonging to citizens of one of the contracting parties, which may be captured by pirates, whether on the high seas, or within the limits of its jurisdiction, 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 understood that the claim should be made within the term of two years, by the parties themselves, their attorneys, or the agents of their respective Governments.

Captures by pi-
rates.

ARTICLE VII.

Whenever any vessel belonging to the citizens of either of the contracting parties shall be wrecked, founder, or suffer damage, on the coast, or within the dominions of the other, all assistance and protection shall be given to the said vessel, her crew, and the merchandize on board, in the same manner as is usual and customary with vessels of the nation where the accident happens, in like cases; and it shall be permitted to her, if necessary, to unload the merchandize and effects on board, with the proper precautions to prevent their illicit introduction, without exacting, in this case, any duty, impost, or contribution whatever, provided the same be exported.

Wrecked or dam-
aged vessels.

ARTICLE VIII.

Disposal and inheritance of personal property.

Heirs to real estate.

The citizens of each of the contracting parties shall have power to dispose of their personal effects, 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 effects, whether by testament or ab intestato, and may take possession thereof, either themselves, or by others acting for them, and dispose of the same at their will, paying such dues only as the inhabitants of the country wherein said effects are shall be subject to pay in like cases. And if, in the case of real estate, the said heirs should be prevented from entering into possession of the inheritance on account of their character as aliens, there shall be granted to them the term of three years in which to dispose of the same, as they may think proper, and to withdraw the proceeds, which they may do without obstacle, and exempt from all charges, save those which are imposed by the laws of the country.

ARTICLE IX.

Protection to persons and property.

Rights of citizens.

Both the contracting parties solemnly promise and engage to give their special protection to the persons and property of the citizens of each other, of all classes and 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 as are usual and customary with the natives or citizens of the country in which they may be; for which purpose 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 that may concern them, and likewise at the taking of all evidence and examinations that may be exhibited in the said trials.

And to render more explicit, and make more effectual, the solemn promise and engagement hereinbefore mentioned, under circumstances to which one of the parties thereto has heretofore been exposed, it is hereby further stipulated and declared, that all the rights and privileges which are now enjoyed by, or may hereafter be conferred on, the citizens of one of the contracting parties, by or in virtue of the constitution and laws of the other, respectively, shall be deemed and held to belong to, and inhere in, them, until such rights and privileges shall have been abrogated or withdrawn by an authority constitutionally or lawfully competent thereto.

ARTICLE X.

Liberty of conscience.

Rights of burial.

It is likewise agreed, that perfect and entire liberty 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 and suitable places, and shall be protected from violation or disturbance.

ARTICLE XI.

Neutral trade.

It shall be lawful for the citizens of the United States of America and of the Peru-Bolivian Confederation to sail with their ships with all manner of liberty and security; no distinction being to be made who are the proprietors of the merchandise laden therein, from any port or place whatever, to the ports and places of those who are now, or here-

after 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 of 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 one power or under that of several. And it is hereby stipulated, that free ships shall give freedom to goods; and that everything shall be deemed to be free and exempt, which shall be found on board of 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; goods contraband of war being always excepted. It is also agreed, in like manner, that the same liberty shall be extended to persons who are on board of a free ship, with this effect, that, although they be enemies to both or either of the parties, they shall not be taken out of that free ship, unless they are officers or soldiers, and in the actual service of the enemy: Provided, however, and it is hereby further 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 this principle; but if either of the contracting parties shall be at war with a third, and the other be neutral, the flag of the neutral shall cover the property of those enemies whose Governments acknowledge this principle, and not that of others.

Free ships to
make free goods.

Limitation of
the principle.

ARTICLE XII.

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

Neutral property
on enemy's vessel.

ARTICLE XIII.

This liberty of navigation and commerce shall extend to all kinds of merchandise, excepting only those which are distinguished by the name of contraband or prohibited goods, under which name shall be comprehended: 1st, cannons, mortars, howitzers, swivels, blunderbusses, muskets, fuses, rifles, carbines, pistols, pikes, swords, sabres, lancets, spears, halberds, grenades and bombs, powder, matches, balls, and all other things belonging to the use of these arms; 2ndly, bucklers, helmets, breastplates, coats of mail, infantry belts, and clothes made up in a military form and for a military use; 3rdly, cavalry belts, and horses with their furniture; 4thly, and generally, all kinds of arms and instruments of iron, steel, brass, and copper, or of any other materials manufactured, prepared, and formed expressly for the purposes of war, either by sea or land.

Contraband arti-
cles.

ARTICLE XIV.

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

Other merchan-
dise free.

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 force capable of preventing the entry of the neutral.

ARTICLE XV.

Confiscation of
contraband goods.

The articles of contraband, of those before enumerated and classified, which may be found in a vessel bound for an enemy's port, shall be subject to detention and confiscation; but the rest of the cargo and the ship shall be left free, that the owners may dispose of them as they see proper. No vessel of either of the contracting parties 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, indeed, the quantity of such articles be so great, and of so large a bulk, that they cannot be received on board of the capturing vessel without great inconvenience; but, in this and 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 XVI.

Blockaded ports.

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 being warned of such blockade or investment by the commanding officer of a vessel forming part of the blockading forces, she shall again attempt to enter; but she shall be permitted to go to any other port or place the master or supercargo shall think proper. Nor shall any vessel of either party that may have entered into such port or place before the same was actually besieged, blockaded, or invested by the other, be restrained from quitting it, with her cargo; nor, if found therein before or after the reduction and surrender, shall such vessel or her cargo be liable to seizure, confiscation, or any demand on the score of redemption or restitution, but the owners thereof shall be allowed to remain in the undisturbed possession of their property. 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, and attempt to depart, she shall be subject to being warned by the blockading forces to return to the port blockaded and discharge the said cargo; and if, after receiving said warning, the vessel shall persist in going out with the cargo, she shall be liable to the same consequences to which a vessel attempting to enter a blockaded port, after being warned off by the blockading forces, would be liable.

ARTICLE XVII.

Regulation of
visits at sea.

To prevent all kinds of disorder and irregularity in the visiting and examining 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 the possibility and safety of making the visit under the circumstances of wind and sea, and the degree of suspicion attending the vessel to be visited; and shall send one of her small boats, with no more men than those necessary to man it, for the purpose of executing the said examination of the papers concerning the ownership and cargo of the ves-

sel, without causing the least extortion, violence, or ill-treatment, in respect of which the commanders of said armed vessels shall be responsible, with their persons and property; for which purpose, the commanders of said private armed vessels shall, before receiving their commissions, give sufficient security to answer for all the injuries and 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 the ship's papers, nor for any other purpose whatever.

ARTICLE XVIII.

To avoid all vexation and abuses in the examination of the papers relating to the ownership of the vessels belonging to the citizens of the contracting parties, they have agreed, and do agree, that, in case one of them should be engaged in war, the ships and vessels of the other must be furnished with sea-letters, or passports, expressing the name, property, and burden of the ship, as also the name and place of residence of the master or commander thereof, in order that it may thereby appear that the said ship really and truly belongs to the citizens of one of the parties. They have likewise agreed that such ships, being laden, besides the said sea-letters or passports, shall 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 contraband or prohibited goods are on board of 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 the said vessel may be detained to be adjudged by the competent tribunals, and may be declared a legal prize, unless the said defect shall be proved to be owing to accident, or be satisfied or supplied by testimony entirely equivalent, in the opinion of said tribunals, to which ends there shall be allowed a sufficient term of time for its procurement.

Sea-letters or
passports.

ARTICLE XIX.

And it is further agreed that the stipulations above expressed, relative to the visiting and examining of vessels, shall apply to those only 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.

Vessels under
convoy.

ARTICLE XX.

It is moreover agreed that, in all cases, the established courts for prize causes, in the country to which the prize may be conducted, shall alone take cognizance of them. And whenever such tribunal or court of either party shall pronounce judgment against any vessel, goods, or property, claimed by citizens of the other party, the sentence or decree shall mention the reasons or motives in 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 commander or agent of said vessel or property, without any excuse or delay, he paying the legal fees for the same.

Prize courts and
decrees.

ARTICLE XXI.

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 pain of being treated as a pirate.

Letters of
marque.

ARTICLE XXII.

Rights of residents in case of war.

If, at any time, a rupture should take place between the two contracting nations, and (which God forbid) they should become engaged in war with each other, they have agreed, and do agree now, for then, that the merchants, traders, and other citizens of all occupations, of each of the two parties residing in the cities, ports, and dominions of the other, shall have the privilege of remaining and continuing their trade and business therein, and shall be respected and maintained in the full and undisturbed enjoyment of their personal liberty and property, so long as they behave peaceably and properly, and commit no offence against the laws. And in case their conduct should render them suspected of malpractices, and, having thus forfeited this privilege, the respective Governments should think proper to order them to depart, the term of twelve months, from the publication or intimation of this order therefor, shall be allowed them, in which to arrange and settle their affairs, and remove with their families, effects, and property; to which end the necessary safe conduct shall be given to them, and which shall serve as a sufficient protection until they arrive at the designated port, and there embark. But this favor shall not be extended to those who shall act contrary to the established laws. It is, nevertheless, to be understood that the persons so suspected may be ordered by the respective Governments to remove forthwith into the interior, to such places as they shall think fit to designate.

ARTICLE XXIII.

Debts, &c., not to be confiscated.

Neither the debts due from 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 national difference, be sequestered or confiscated.

ARTICLE XXIV.

Envoys, ministers, &c.

Both the contracting parties being desirous of avoiding all inequality in relation to their public communications and official intercourse, they have agreed, and do agree, to grant to their Envoys, Ministers, and other public agents, the same favors, immunities, and exemptions, as 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 Peru-Bolivian Confederation may find it proper to grant to the Envoys, Ministers, and public agents of any other power shall, by the same act, be granted and extended to those of the contracting parties respectively.

ARTICLE XXV.

Consular officers.

To make more effectual the protection which the United States of America and the Peru-Bolivian Confederation 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, within their respective consular districts, all the rights, prerogatives, and immunities of the Consuls and Vice-Consuls of the most favored nation, each contracting party, however, remaining at liberty to except those ports and places in which the admission and residence of such functionaries may not seem convenient.

ARTICLE XXVI.

Exequaturs.

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 received their exequatur, they shall be held and considered as such Consuls and Vice-Consuls by all the authorities, magistrates, and inhabitants in the consular district in which they reside.

ARTICLE XXVII.

It is likewise agreed that the Consuls, Vice-Consuls, their secretaries, officers, and persons attached to their service, (they not being citizens of the country in which the Consul or Vice-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, and from which the citizens of their respective country, resident in the other, are not exempt, in virtue of the stipulations contained in this treaty ; they being, in every thing besides, subject to the laws of the respective States. The archives and papers of the consulates shall be respected inviolably, and under no pretext whatever shall any magistrate or other person seize or in any way interfere with them.

Immunities of consular officers.

Inviolability of archives.

ARTICLE XXVIII.

The said Consuls and Vice-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 this purpose they shall address themselves to the courts, judges, or officers competent, and shall demand the said deserters in writing, proving, by an exhibition of the ship's roll or other public document, that the men so demanded are part of the crew of the vessel from which it is alleged they have deserted ; and on this demand, so proved, (saving, however, when the contrary is more conclusively proved,) the delivery shall not be refused. Such deserters, when arrested, shall be put at the disposal of the said Consuls or Vice-Consuls, and may be put in the public prisons, at the request and expense of those who reclaim them, to be sent to the ships to which they belong, or to others of the same nation ; but if they should not be so sent within two months, to be counted from the day of their arrest, they shall be set at liberty, and shall be no more arrested for the same cause.

Deserters from vessels.

ARTICLE XXIX.

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

Consular convention.

ARTICLE XXX.

The United States of America, and the Peru-Bolivian Confederation, desiring to make as durable as circumstances will permit the relations which are established between the two parties in virtue of this treaty, or general convention of peace, friendship, commerce, and navigation, have declared solemnly, and do agree, as follows :

1st. The present treaty shall be in force for twelve years from the day of the exchange of the ratifications thereof ; 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 them 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 the parties that, on the expiration of one year after such notice shall have been received by either of them from the other, as above mentioned,

Duration of treaty.

- this treaty shall, in all the points relating to commerce and navigation, 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.
- Infringements of treaty. 2ndly. If any one or more of the citizens of either party shall infringe any of the articles of this treaty, such citizen or citizens shall be held personally responsible therefor, and the harmony and good correspondence between the two nations shall not be interrupted thereby; each party engaging in no way to protect the offender or offenders, or to sanction such violence, under pain of rendering itself liable for the consequences thereof.
- Reprisals and declarations of war. 3rdly. If, (which, indeed, cannot be expected,) unfortunately, any of the stipulations contained in the present treaty shall be violated or infringed in any other way whatever, it is expressly covenanted and agreed, that neither of the contracting parties will order, or authorize, any act of reprisals, nor declare or make war against the other, on complaint of injuries or damages resulting therefrom, until the party considering itself aggrieved shall first have presented to the other a statement or representation of such injuries or damages, verified by competent proofs, and have demanded redress and satisfaction, and the same shall have been either refused or unreasonably delayed.
- Treaties with other nations not affected. 4thly. Nothing in this treaty contained shall, however, be construed to operate contrary to former and existing public treaties with other states or sovereigns.
- Ratifications. The present treaty of peace, friendship, 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 Supreme Protector of the north and south Peruvian States, President of the Republic of Bolivia, encharged with the direction of the foreign relations of the Peru-Bolivian Confederation; and the ratifications shall be exchanged within eighteen months from the date of the signature hereof, or sooner if possible.
- Signatures. In faith whereof we, the Plenipotentiaries of the United States of America and the Peru-Bolivian Confederation, have signed and sealed these presents.
- Date. Done in the city of Lima on the thirtieth day of November, in the year of our Lord one thousand eight hundred and thirty-six.
- SAMUEL LARNED. [L. S.]
J. GARCIA DEL RIO. [L. S.]