

Treaty between the Federal Republic of Germany and the Dominican Republic

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY

AND

THE PRESIDENT OF THE DOMINICAN REPUBLIC,

INSPIRED BY THE DESIRE to strengthen the traditional ties of friendship between the two countries, and in order to further promote and develop economic exchange, have decided to conclude a Treaty of Friendship, Trade and Navigation and have designated as their respective plenipotentiaries:

The President of the Federal Republic of Germany

Federal Minister for Federal and State Affairs,

Mr Hans-Joachim von Merkatz, on behalf of the Federal Minister for Foreign Affairs

The President of the Dominican Republic to the Ambassador of the Dominican Republic,

Mr. S. Salvador Ortiz

Who, having examined their powers and found them in good and due form, have agreed upon the following articles:

Article 1.

(1) Each Contracting Party shall at all times grant nationals and companies of the other Contracting Party, their property, their enterprises and their other interests a fair and equitable treatment.

(2) There is freedom of trade and navigation between the territories of the two Contracting Parties in accordance with the provisions of this Treaty.

Article 2.

(1) The nationals of each Contracting Party shall be treated in the territory of the other Contracting Party in respect of the entry, stay, establishment, departure and expulsion of their territory, in accordance with the laws. The Contracting Parties shall endeavor to adopt all resolutions in this matter with the greatest goodwill.

(2) In the event of the initiation of proceedings for the expulsion of a national of the other Contracting Party, his or her nearest consular representative shall be informed, at his request, immediately. This representative is entitled to visit and be in communication with him.

Article 3.

(1) Nationals of either Contracting Party enjoy freedom of conscience and worship in the territory of the other Contracting Party. In accordance with the constitutional provisions of this other Contracting Party, they may be devoted to all kinds of religious, cultural and social activity. This

Position should not be interpreted as granting or recognizing tacitly a right for political activity.

(2) In order to promote cultural and economic relations, both Contracting Parties shall endeavor to develop as far as possible mutual information possibilities in order to gain a better knowledge of the other Contracting Party and to intensify their relations in general.

(3) The provisions of this article do not affect the right of the two Contracting Parties to adopt the measures necessary for the maintenance of security and public order, as well as for the protection of good customs and public health.

Article 4.

(1) Nationals of one Contracting Party enjoy in the territory of the other Contracting Party the protection and personal security enjoyed by nationals of the other Contracting Party. Under no circumstances should they be treated less favorably than that accorded to nationals of a third country or to those recognized by international law.

(2) If a national of one of the Contracting Parties is detained in the territory of the other Contracting Party, his or her nearest consular representative shall be informed as soon as possible, at his request. He has the right to visit and be in communication with him. The detained national shall be treated humanely, promptly informed of the accusations made against him, in accordance with the legal provisions, and submitted as soon as possible to a court. He will also be authorized to appeal to him in his defense all the necessary and adequate means for this, in particular to choose a lawyer.

Article 5.

(1) Nationals of one Contracting Party may not be enlisted by the other Contracting Party to perform compulsory military service.

(2) In the case of the provision of personal and material services and general military charges and other similar charges, nationals and companies of the other Contracting Party shall apply to most-favored-nation treatment.

Article 6.

(1) The property of nationals and companies of one Contracting Party shall enjoy protection and security in the territory of the other Contracting Party.

(2) Property belonging to nationals and companies of one of the Contracting Parties, located in the territory of the other Contracting Party, may be subject to entries, interventions, registers or controls, only in accordance with the legal provisions in force. In the event of such measures being taken, the Contracting Parties shall take the utmost account of the persons who live or work in the building and the conduct of business.

(3) Neither Contracting Party shall take unreasonable or discriminatory measures that prejudice the rights or interests legally acquired within its territory by nationals and companies of the other Party in enterprises which have established, in their capital, or in the training, arts Or technology they have supplied.

(4) Nationals and companies of one Contracting Party enjoy in the territory of the other Contracting Party the right to property, in accordance with the provisions of the Constitution. Property can not be expropriated except for justified reasons of public utility or social interest, and fair compensation should be granted. The legitimacy of the measure and the amount of compensation must be verified in an ordinary legal proceeding.

Article 7.

(1) Nationals and companies of one Contracting Party shall be accorded the same treatment as nationals and companies in the territory of the other Contracting Party as regards access to the courts of the judicial or administrative order, In all instances for the protection of their rights. This same treatment will be applied for access to public offices.

(2) Nationals of one of the Contracting Parties may perform arbitral functions in the territory of the other Contracting Party, as well as nationals, in arbitration proceedings in commercial matters in which the arbitrator's choice is entrusted exclusively to the interested parties.

Article 8.

(1) Nationals of each of the Contracting Parties may initiate and exercise in the territory of the other Contracting Party any independent or dependent activity provided that they comply with the legal requirements therein. This also applies to companies, provided that they comply with similar requirements that may be imposed on domestic companies of the same type, in accordance with the regulations in force for them.

(2) Nationals and companies of one Contracting Party may establish companies in the territory of the other Contracting Party or participate in its foundation or acquire interests in companies of the other Contracting Party in accordance with the

laws in force.

(3) Each Contracting Party reserves the right to limit the extent to which nationals or companies of the other Party may establish, acquire interests, or hold companies engaged in public utility services, transportation Air or sea, or in the exploitation of land or other natural resources.

(4) The provisions of paragraphs (1) and (2) do not apply:

(A) street commerce exercised outside the place of domicile and street commerce exercised at the place of domicile;

(B) an activity in the public administration;

(C) to activities for the exercise of which foreigners are not admitted or are only admitted in a limited manner, according to the figure (4) of the Protocol, letter (b).

(5) Nationals and companies of one Contracting Party and enterprises owned or controlled by them shall enjoy in the territory of the other Contracting Party most-favored-nation treatment in all matters dealt with in this article.

Article 9.

(1) Nationals and companies of one of the Contracting Parties exercising an industry in their territory are authorized in the territory of the other Contracting Party, in compliance with existing legal provisions, to purchase goods by themselves or through Your service or take orders from merchants or people who use goods of the type offered in your business. They may carry samples, but not merchandise.

(2) For the activities referred to in paragraph (1), most-favored-nation treatment is granted.

Article 10.

(1) Nationals and companies of one Contracting Party may, in the territory of the other Contracting Party, collect, as well as nationals of the other Contracting Party, services dependent on or independent of other persons.

(2) Nationals and companies of each Contracting Party may use in the territory of the other Contracting Party their technical experts and specialists for specific purposes to carry out internal technical investigations related to the planning and operation of a company belonging to them Or in which they have substantial participation. Technical and specialist experts may report to such nationals and societies.

Article 11.

Nationals and companies of one Contracting Party shall be granted in the territory of the other Contracting Party for the conclusion of legal acts of all kinds with natural or legal persons domiciled, residing or having their seat in the territory Of the other Contracting Party, the same treatment as nationals and companies of the other Contracting Party, in accordance with its legal provisions. Especially they can stipulate contracts, contract obligations, have movable and immovable property, rights and interests of any kind, acquire them alive or because of death, or dispose of them.

Article 12.

(1) The two Contracting Parties agree to protect the articles of the other Contracting Party against unlawful competition in the business, in accordance with their existing legislation.

(2) Nationals and companies of each Contracting Party shall enjoy in the territory of the other Contracting Party the same treatment as nationals and companies with regard to the acquisition and maintenance of patents and with respect to trademark rights Factory names, trade names, labels and commercial envelopes and industrial property of any kind.

Article 13.

The two Contracting Parties shall cooperate on the issues of application and exchange of scientific and technical experience in order to contribute to the development of the production and exploitation of raw materials in their territories. This collaboration shall be extended within the corresponding agreements, to the scientific and practical preparation of the nationals of both Contracting Parties, to the exchange of experts and teaching staff, as well as to other matters that contribute to the accomplishment of the purposes indicated in this article.

Article 14.

Nationals and companies of one Contracting Party shall enjoy in the territory of the other Contracting Party the treatment of the most favored nation for their person, their property, rights and interests in respect of taxes, duties and charges of all kinds, As well as to all other fiscal charges.

Article 15.

(1) The payment scheme is governed by the rights and obligations arising for the two Contracting Parties to the Convention on the International Monetary Fund.

(2) Both Contracting Parties recognize that the international freedom of movement of investment capital and its profits can contribute to the achievement of the purposes of this Treaty. They agree, therefore, that transfers of such capital and profits should not be unnecessarily hampered. In accordance with this principle, each Contracting Party grants to nationals and companies of the other Contracting Party adequate possibilities for the transfer of profits resulting from the realization or maintenance of such investments in the territory of the other Contracting Party, Repatriation of invested capital. The same principle applies to the compensation expressed in article (6). In this respect, each Contracting Party reserves the right to take measures to enable it to fulfill its legal obligations, to ensure the supply of goods and services necessary for the health and well-being of its population, and to take into account the needs With respect to other foreign exchange transactions.

(3) The two Contracting Parties undertake to avoid unnecessary damage to the economic interests of the other Contracting Party in the event that foreign exchange restrictions are imposed or maintained, in particular as regards imports and exports essential for the economy Of the other Contracting Party.

Article 16.

The traffic of goods is governed by the rights and obligations which the two Contracting Parties derive from the General Agreement on Tariffs and Trade (G.A.T.T.)

Article 17.

(1) Vessels flying the flag of one of the Contracting Parties which carry the documents which their law establishes as proof of nationality shall be considered as vessels of that Contracting Party.

(2) Tonnage certificates issued by the competent authorities are mutually recognized. The calculation and payment of the fees and charges of navigation are made on the basis of that certificate of tonnage without a new tonnage according to the dispositions that govern in the other Contracting Party.

Article 18.

The vessels of one of the Contracting Parties may enter with their passengers and cargo in all ports, squares and waters of the other Contracting Party open to foreign navigation and commerce and enjoy in the ports the same treatment as is accorded to Most-favored-nation vessels in respect of duties, customs duties, taxes, services or facilities.

Article 19.

If a ship of one Contracting Party runs aground on the coasts of the other Contracting Party or is shipwrecked or is in need of forced entry into a port of the other Contracting Party, it shall give the ship, crew, passengers, To the personal property of the crew and passengers, and to the ship's cargo the same protection and assistance as would be accorded in the same situation to a vessel sailing its own flag. After repair, it will allow the ship to continue its route according to the corresponding legal prescriptions. The objects of the ship are exempt from payment of customs duties if they do not pass into domestic consumption; However, these objects may be subject to customs security measures until they leave that country.

Article 20.

(1) This Treaty does not prejudice the right of each Contracting Party to take measures:

(A) relating to the import and export of gold, platinum, silver and their alloys;

(B) relating to fission materials or materials used for their manufacture, as well as the secondary radioactive products resulting from the use or processing of those materials;

(C) relating to the production and trafficking of arms, ammunition and war material, as well as trade in other goods intended, directly or indirectly, for the supply of armed forces;

(D) necessary for the fulfillment of obligations undertaken for the maintenance or restoration of international peace and security or indispensable for the effective protection of its own essential security interests;

(E) relating to fishing and hunting at sea, the regulation of which is generally subject to the laws and administrative provisions of the Contracting Parties, including the landing of fishery products and the hunting of their fishermen and From which they obtained from them;

(F) which serve for the protection of national archaeological, artistic or historical treasures;

(G) to extend the tax and police provisions to which the domestic goods are subject in the territory of the Contracting Party corresponding to foreign similar goods;

(H) to prohibit or restrict import and export for health or other customary reasons other than purely commercial in nature or to prevent misleading or incorrect practices, provided that such prohibitions or limitations do not constitute arbitrary trade discrimination Of the other Contracting Party.

(2) The provisions of this Treaty concerning most-favored-nation treatment do not apply to:

(A) the privileges accorded by one of the two Contracting Parties to a third country under a convention to avoid different treatment in tax matters and, in particular, to avoid double taxation;

(B) the privileges and advantages which one of the two Contracting Parties grants under a customs union or a free trade area, or by virtue of its membership in a community formed between several countries and extending to common regulations in One or more fields of production, trade, provision of services or establishment or serving the security of those countries;

(C) the privileges granted by one of the two Contracting Parties to bordering countries to facilitate border traffic;

(D) the privileges resulting from the Treaty on relations between the Federal Republic of Germany and the Three Powers and the Additional Treaties in the text of the Protocol signed at Paris on 23 October 1954 on the termination of the occupation regime in Federal Republic of Germany;

(E) the privileges which one of the Contracting Parties grants to one or more countries in the field of civil aviation.

(3) The provisions of this Treaty relating to the treatment of goods do not exclude the action of one of the Contracting Parties, which prescribes or permits the General Agreement on Tariffs and Trade (GATT), as long as that Party is a Contracting Party to the said Agreement General. Likewise, the provisions of most-favored-nation treatment in this Treaty shall not apply to special privileges or advantages accorded under the said General Agreement.

Article 21.

(1) The term "same treatment as nationals and national societies" means treatment no less favorable than that accorded within the territory of one of the Contracting Parties in similar situations and with respect to the same subject matter, Nationals, companies, products, vessels and other objects of any kind in this Contracting Party.

(2) The term "most favored nation treatment" means treatment granted within the territory of one of the Contracting Parties, no less favorable than that accorded in that territory in similar situations and with respect to the same subject matter, to Nationals, companies, products, vessels and other objects of any kind from a third country.

(3) The term "companies" in this Treaty means commercial companies in general and other companies, associations and legal entities, without considering that the liability of the partners is limited or not.

(4) Without prejudice to other methods for the determination of nationality, a person holding a national passport issued by the competent authorities of one of the Contracting Parties or a valid identity document indicated in the Protocol, number 12, shall be considered As a national of the Contracting Party concerned.

Article 22.

The territories to which this Treaty refers shall include all land and sea areas over which a Contracting Party exercises sovereignty or sovereign powers.

Article 23.

- (1) The two Contracting Parties shall take into consideration with good will the objections that one of them may make regarding the application of this Treaty.
- (2) The two Contracting Parties shall appoint a Joint Consultative Committee which, at the request of one of the two Contracting Parties, shall meet alternately in the territory of the Federal Republic of Germany and in the territory of the Dominican Republic, within two (2) Months following the request.
- (3) The Commission has the task of examining the issues raised by the Governments of the Contracting Parties arising in the implementation of this Treaty in order to facilitate to the Contracting Parties the solution of any difficulties that may arise and which have not been resolved by negotiations Diplomatic relations.
- (4) The Commission shall, after each session, prepare a report which shall forward to the two Governments.
- (5) The Commission shall be composed, at most, of three representatives of each Contracting Party.

Article 24.

- (1) Any dispute over the interpretation or application of this Treaty which can not be settled by diplomatic channels or by the Joint Consultative Committee shall be submitted, at the request of one of the Contracting Parties, to an arbitral tribunal which the Contracting Parties shall Within three (3) months after receipt of the corresponding request. The decision of the arbitral tribunal on the dispute shall be binding on the Contracting Parties.
- (2) If the arbitral tribunal is not constituted within the period stipulated in the preceding paragraph or does not decide within a later period of six (6) months, each of the Contracting Parties is entitled to refer the case to the International Court of Justice.

Article 25.

- (1) This Treaty shall be ratified and the instruments of ratification shall be exchanged as soon as possible in Ciudad Trujillo.
- (2) This Treaty shall enter into force one month after the exchange of instruments of ratification. It shall be valid for five (5) years and thereafter remain in force until terminated under the provisions of this Article.
- (3) Each Contracting Party may, by written notification, one year in advance, denounce this Treaty at the end of the initial period of five (5) years, and thereafter at any time thereafter.

IN WITNESS WHEREOF the respective plenipotentiaries have signed this Treaty, and have sealed it with their seals.

DONE at Bonn on 23 December 1957 in two originals in German and Spanish, both texts being equally valid.

For the Federal Republic of Germany: von Merkatz

For the Dominican Republic: S. Ortiz

Protocol

IN THE ACT OF THE SIGNATURE of the Treaty of Friendship. Commerce and Navigation between the Federal Republic of Germany and the Dominican Republic, the undersigned Plenipotentiaries have also concluded the following provisions which shall be considered as an integral part of the Treaty:

- (1) The terms "public health" in Article 3, paragraph 3, and "for health reasons" in Article 20, paragraph 1 (h), cover the protection of human, animal and plant life and health.
- (2) Persons possessing the nationality of the two Contracting Parties and having their fixed residence and base of life in the

territory of one of the Contracting Parties shall not be required to perform a compulsory military service, provided by law, By that Contracting Party (ad Article 5, paragraph 1).

3) The treatment agreed in article 7, paragraph 1, does not include the granting of the right of poverty and the exemption from the need for appropriation for procedural costs.

(A) The provisions of Article 8, paragraph 1, and of Article 10 paragraph 1, do not prevent either Contracting Party from applying its requirements on the occupation of foreign workers. Article 8, paragraph 5, does not apply to the occupation of nationals of one of the Contracting Parties as workers in the territory of the other Contracting Party.

The granting of the necessary authorization, in accordance with the above-mentioned requirements, for the exercise of a non-independent activity by the nationals of the other Contracting Party, shall be treated, however, liberally.

(B) It is agreed that the exercise of the following professions or activities are not accessible to foreign nationals or foreign companies, or are restricted to:

Doctors, dentists, veterinarians, pharmacists, surveyors, architects, lawyers, legal advisers (Rechtsbeistände), notaries, patent attorneys, accountants, tax advisers, tax filing agents, emigration entrepreneurs, emigration agents, captains and shipowners, port handlers, chimney sweepers and bookmakers, activities in connection with the transport of persons and objects by air, and those in the field of the production, trade or use of explosives and the production and trade of weapons.

(5) The provisions of Articles 8, 9 and 10 shall not affect the right of each Contracting Party to submit in its territory the branches of credit institutes or insurance companies having their seat in the territory of the other Contracting Party to The similar requirements governing national credit institutes and insurance companies, respectively.

(6) Article 11 shall not be interpreted as meaning that a Contracting Party may not provide, as a precondition for the registration of a ship or an aircraft in the National Register, that ships and aircraft shall not be owned by nationals or Societies of a foreign State.

7) Each of the Contracting Parties is entitled to submit to an authorization the importation of capital (Article 15).

(8) As soon as it appears that the Convention on the International Monetary Fund referred to in Article 15, paragraph 1, or that the General Agreement on Tariffs and Trade (GATT) referred to in Article 16 is no longer applicable in respect of a Of the two Contracting Parties, they shall enter into consultation to determine the regulations to be adopted in the given circumstances.

(9) The advantages, facilities, privileges or exemptions which each Contracting Party grants to nationals or companies of other countries for the import or export of products, irrespective of their origin, on the basis of reciprocity, shall not Fall under article 16 when the object of the concessions is outside the commercial exchange (for example: exemption of customs tariffs for the necessary objects for the trip of tourists or for diplomatic or consular goods).

(10) Article 18 does not grant either Contracting Party the right to claim from the other Contracting Party the application of most-favored-nation treatment in order to obtain greater advantages than that which it grants to the other Contracting Party.

(11) Companies which have their headquarters in the territory of one of the Contracting Parties and are duly constituted in accordance with their laws are listed as companies of that Contracting Party; Its legal status is recognized in the territory of the other Contracting Party.

12) They are understood as identity documents within the meaning of article 21, paragraph 4, among others:

(A) For the Federal Republic of Germany:

A certificate issued by a valid authority of the Federal Republic of Germany attesting that the holder is a German within the meaning of the Basic Law of the Federal Republic of Germany or a navigation record issued by an authority of the Federal Republic of Germany. Germany, provided that it contains a statement that the holder is a German;

(B) For the Dominican Republic:

The Personal Identification Card or the Birth Certificate.

IN WITNESS WHEREOF, the plenipotentiaries have signed this Protocol and have sealed it with their seals.

DONE at Bonn on 23 December 1957 in two originals in German and Spanish, both texts being equally valid.

For the Federal Republic of Germany:

Von Merkatz

For the Dominican Republic:

S. Ortiz

Exchange of Notes

Embassy of Dominican Republic

Bonn, December 23, 1957

Excellence:

I have the honor to acknowledge receipt of your note of December 23, 1957, which reads as follows:

"I have the honor to refer to the Treaty of Amity, Trade and Navigation between the Federal Republic of Germany and the Dominican Republic, signed today, and to submit to you for consideration the following Additional Agreement:

(1) Ships and aircraft flying the flag of one of the Contracting Parties are not subject to the measures referred to in Article 5, paragraph (2) and Article 6, paragraph (4), in the territory of the other Contracting Party.

(2) The provisions of article 5, paragraph (2) and article 6, paragraph (4) also govern the transfer of a private enterprise to public ownership, for public control or for similar public intervention.

I should be grateful if you would confirm the content of the previous agreement, which will be considered as an integral part of the Treaty of Friendship, Trade and Navigation. "

I have the honor to confirm to you the content of the foregoing Agreement, which shall be considered as an integral part of the Treaty of Friendship, Trade and Navigation.

Please accept, Sir, the assurances of my highest consideration.

S. Ortiz

To Your Excellency

The Federal Minister for Federal Council and State Affairs

Mr. Dr. Hans-Joachim von Merkatz

On behalf of the Federal Minister for Foreign Relations

Bonn

Embassy of Dominican Republic

Bonn, December 23, 1957

Excellence:

I have the honor of acknowledging receipt of his note of December 23, 1957 that says:

"The Government of the Federal Republic of Germany, in agreement with the Berlin Senate, wishes to include the Land of Berlin in the Treaty of Amity, Commerce and Navigation concluded between the Federal Republic of Germany and the Dominican Republic and proposes The Government of the Dominican Republic to conclude the following agreement:

The Treaty also applies to the Land of Berlin provided that the Government of the Federal Republic of Germany does not make a declaration to the contrary to the Government of the Dominican Republic within three months of the entry into force of the Treaty.

I should be grateful if you would let me know whether the Government of the Dominican Republic agrees with this proposal. If so, this note and its response note shall be considered as a formal confirmation of the agreement between the two Governments. "

I have the honor to inform you that the Government of the Dominican Republic agrees with the contents of the foregoing

note.

Please accept, Sir, the assurances of my highest consideration,

S. Ortiz

To Your Excellency

The Federal Minister for Federal Council and State Affairs

Mr Hans-Joachim von Merkat on behalf of the Federal Minister for Foreign Affairs

Embassy of Dominican Republic

Bonn, December 23, 1957

Excellence:

I have the honor to acknowledge receipt of your note of December 23, 1957 which states:

"On the occasion of the conclusion of the Treaty of Amity, Commerce and Navigation signed today between the Federal Republic of Germany and the Dominican Republic, I have the honor to inform you of the following:

The Government of the Federal Republic of Germany assumes that the special provisions contained in Chapter II of the Treaty of 27 October 1956 between the Federal Republic of Germany and the French Republic for the settlement of the Saar problem are not affected by The aforementioned Treaty of Amity, Commerce and Navigation between the Federal Republic of Germany and the Dominican Republic. Chapter II of the said Treaty of 27 October 1956 provides that the territory of the Saar does not belong during a transitional period of at most three years to the customs and monetary zone of the Federal Republic of Germany.

I have the honor to inform you that the Government of the Dominican Republic has been informed of the contents of the foregoing note.

Please accept, Sir, the assurances of my highest consideration.

S. Ortiz

To Your Excellency

The Federal Minister for Federal Council and State Affairs

Mr Hans-Joachim von Merkat on behalf of the Federal Minister for Foreign Affairs Bonn