

THE FIRST SCHEDULE

PART VIII

FINAL CLAUSES

Article 38

1. Except where another procedure is specifically provided under any Article of the present Treaty, any dispute concerning the interpretation or execution of the Treaty, which is not settled by direct diplomatic negotiations, shall be referred to the Three Heads of Mission acting under Article 37, except that in this case the Heads of Mission will not be restricted by the time limit provided in that Article. Any such dispute not resolved by them within a period of two months shall, unless the parties to the dispute mutually agree upon another means of settlement, be referred at the request of either party to the dispute to a Commission composed of one representative of each party and a third member selected by mutual agreement of the two parties from nationals of a third country. Should the two parties fail to agree within a period of one month upon the appointment of the third member, the Secretary-General of the United Nations may be requested by either party to make the appointment.

2. The decision of the majority of the members of the Commission shall be the decision of the Commission, and shall be accepted by the parties as definitive and binding.

ANNEX IV

Special Provisions Relating to Certain Kinds of Property

A. INDUSTRIAL, LITERARY AND ARTISTIC PROPERTY

- (a) (a) A period of one year from the coming into force of the present Treaty shall be accorded to the Allied and Associated Powers and their nationals without extension fees or other penalty of any sort in order to enable them to accomplish all necessary acts for the obtaining or preserving in Roumania of rights in industrial, literary and artistic property which were not capable of accomplishment owing to the existence of a state of war.
- (b) Allied and Associated Powers or their nationals who had duly applied in the territory of any Allied or Associated Power for a patent or registration of a utility model not earlier than twelve months before the outbreak of the war with Roumania or during the war, or for the registration of an industrial design or model or trade mark not earlier than six months before the outbreak of the war with Roumania or during the war, shall be entitled within twelve months after the coming into force of the present Treaty to apply for corresponding rights in Roumania, with a right of priority based upon the previous filing of the application in the territory of that Allied or Associated Power.
- (c) Each of the Allied and Associated Powers and its nationals shall be accorded a period of one year from the coming into force of the present Treaty during which they may institute proceedings in Roumania against those natural or juridical persons who are alleged illegally to have infringed their rights in industrial, literary or artistic property between the date of the outbreak of the war and the coming into force of the Treaty.

2. A period from the outbreak of the war until a date eighteen months after the coming into force of the present Treaty shall be excluded in determining the time within which a patent must be worked or a design or trade mark used.

3. The period from the outbreak of the war until the coming into force of the present Treaty shall be excluded from the normal term of rights in industrial, literary and artistic property which were in force in Roumania at the outbreak of the war or which are recognised or established under part A of this Annex and belong to any of the Allied and Associated Powers or their nationals. Consequently,

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the normal duration of such rights shall be deemed to be automatically extended in Roumania for a further term corresponding to the period so excluded.

4. The foregoing provisions concerning the rights in Roumania of the Allied and Associated Powers and their nationals shall apply equally to the rights in the territories of the Allied and Associated Powers of Roumania and its nationals. Nothing, however, in these provisions shall entitle Roumania or its nationals to more favourable treatment in the territory of any of the Allied and Associated Powers than is accorded by such Power in like cases to other United Nations or their nationals, nor shall Roumania be thereby required to accord to any of the Allied and Associated Powers or its nationals more favourable treatment than Roumania or its nationals receive in the territory of such Power in regard to the matters dealt with in the foregoing provisions.

5. Third parties in the territories of any of the Allied and Associated Powers or Roumania who, before the coming into force of the present Treaty, had *bona fide* acquired industrial, literary or artistic property rights conflicting with rights restored under part A of this Annex or with rights obtained with the priority provided thereunder, or had *bona fide* manufactured, published, reproduced, used or sold the subject matter of such rights, shall be permitted, without any liability for infringement, to continue to exercise such rights and to continue or to resume such manufacture, publication, reproduction, use or sale which had been *bona fide* acquired or commenced. In Roumania, such permission shall take the form of a non-exclusive licence granted on terms and conditions to be mutually agreed by the parties thereto or, in default of agreement, to be fixed by the Conciliation Commission established under Article 32 of the present Treaty. In the territories of each of the Allied and Associated Powers, however, *bona fide* third parties shall receive such protection as is accorded under similar circumstances to *bona fide* third parties whose rights are in conflict with those of the nationals of other Allied and Associated Powers.

6. Nothing in part A of this Annex shall be construed to entitle Roumania or its nationals to any patent or utility model rights in the territory of any of the Allied and Associated Powers with respect to inventions, relating to any article listed by name in Annex III of the present Treaty, made, or upon which applications were filed, by Roumania, or any of its nationals, in Roumania or in the territory of any other of the Axis Powers, or in any territory occupied by the Axis forces, during the time when such territory was under the control of the forces or authorities of the Axis Powers.

7. Roumania shall likewise extend the benefits of the foregoing provisions of this Annex to France, and to other United Nations which are not Allied or Associated Powers, whose diplomatic relations with Roumania have been broken off during the war and which undertake to extend to Roumania the benefits accorded to Roumania under the said provisions.

8. Nothing in part A of this Annex shall be understood to conflict with Articles 24, 27 and 29 of the present Treaty.

B. INSURANCE

1. No obstacles, other than any applicable to insurers generally, shall be placed in the way of the resumption by insurers who are United Nations nationals of their former portfolios of business.

2. Should an insurer, who is a national of any of the United Nations, wish to resume his professional activities in Roumania, and should the value of the guarantee deposits or reserves required to be held as a condition of carrying on business in Roumania be found to have decreased as a result of the loss or depreciation of the securities which constituted such deposits or reserves, the Roumanian Government undertakes to accept, for a period of eighteen months, such securities as still remain as fulfilling any legal requirements in respect of deposits and reserves.

ANNEX V

Contracts, Prescription and Negotiable Instruments

A. CONTRACTS

1. Any contract which required for its execution intercourse between any of the parties thereto having become enemies as defined in part D of this Annex, shall, subject to the exceptions set out in paragraphs 2 and 3 below, be deemed to have been dissolved as from the time when any of the parties thereto became enemies. Such dissolution, however, is without prejudice to the provisions of Article 29 of the present Treaty, nor shall it relieve any party to the contract from the obligation to repay amounts received as advances or as payments on account and in respect of which such party has not rendered performance in return.

2. Notwithstanding the provisions of paragraph 1 above, there shall be excepted from dissolution and, without prejudice to the rights contained in Article 27 of the present Treaty, there shall remain in force such parts of any contracts as are severable and did not require for their execution intercourse between any of the parties thereto, having become enemies as defined in part D of this Annex. Where the provisions of any contract are not so severable, the contract shall be deemed to have been dissolved in its entirety. The foregoing shall be subject to the application of domestic laws, orders or regulations made by any of the Allied and Associated Powers having jurisdiction over the contract or over any of the parties thereto and shall be subject to the terms of the contract.

3. Nothing in part A of this Annex shall be deemed to invalidate transactions lawfully carried out in accordance with a contract between enemies if they have been carried out with the authorization of the Government of one of the Allied and Associated Powers.

4. Notwithstanding the foregoing provisions, contracts of insurance and re-insurance shall be subject to separate agreements between the Government of the Allied or Associated Power concerned and the Government of Roumania.

B. PERIODS OF PRESCRIPTION

1. All periods of prescription or limitation of right of action or of the right to taken conservatory measures in respect of relations affecting persons or property, involving United Nations nationals and Roumanian nationals who, by reason of the state of war, were unable to take judicial action or to comply with the formalities necessary to safeguard their rights, irrespective of whether these periods commenced before or after the outbreak of war, shall be regarded as having been suspended, for the duration of the war, in Roumanian territory on the one hand, and on the other hand in the territory of those United Nations which grant to Roumania, on a reciprocal basis, the benefit of the provisions of this paragraph. These periods shall begin to run again on the coming into force of the present Treaty. The provisions of this paragraph shall be applicable in regard to the periods fixed for the presentation of interest or dividend coupons or for the presentation for payment of securities drawn for repayment or repayable on any other ground.

2. Where, on account of failure to perform any act or to comply with any formality during the war, measures of execution have been taken in Roumanian territory to the prejudice of a national of one of the United Nations, the Roumanian Government shall restore the rights which have been detrimentally affected. If such restoration is impossible or would be inequitable, the Roumanian Government shall provide that the United Nations national shall be afforded such relief as may be just and equitable in the circumstances.

C. NEGOTIABLE INSTRUMENTS

1. As between enemies, no negotiable instrument made before the war shall be deemed to have become invalid by reason only of failure within the required time to present the instrument for acceptance or payment, or to give notice of non-acceptance or non-payment to drawers or endorsers, or to protest the instrument, nor by reason of failure to complete any formality during the war.

2. Where the period within which a negotiable instrument should have been presented for acceptance or for payment, or within which notice of non-acceptance or non-payment should have been given to the drawer or endorser, or within which the instrument should have been protested, has elapsed during the war, and the party who should have presented or protested the instrument or have given notice of non-acceptance or non-payment has failed to do so during the war, a period of

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not less than three months from the coming into force of the present Treaty shall be allowed within which presentation, notice of non-acceptance or non-payment, or protest may be made.

3. If a person has, either before or during the war, incurred obligations under a negotiable instrument in consequence of an undertaking given to him by a person who has subsequently become an enemy, the latter shall remain liable to indemnify the former in respect of these obligations, notwithstanding the outbreak of war.

D. SPECIAL PROVISIONS

1. For the purposes of this Annex, natural or juridical persons shall be regarded as enemies from the date when trading between them shall have become unlawful under laws, orders or regulations to which such persons or the contracts were subject.

2. Having regard to the legal system of the United States of America, the provisions of this Annex shall not apply as between the United States of America and Roumania.