

PROTOCOL TO TREATY OF FRIENDSHIP, COMMERCE,
AND NAVIGATION WITH DENMARK

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

PROTOCOL TO THE TREATY OF FRIENDSHIP, COMMERCE, AND
NAVIGATION BETWEEN THE UNITED STATES AND DENMARK OF
OCTOBER 1, 1951, SIGNED AT COPENHAGEN ON MAY 2, 2001



SEPTEMBER 2, 2003.—The Protocol was read the first time, and together
with the accompanying papers, referred to the Committee on Foreign
Relations and ordered to be printed for the use of the Senate

U.S. GOVERNMENT PRINTING OFFICE

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *September 2, 2003.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocol to the Treaty of Friendship, Commerce, and Navigation Between the United States and Denmark of October 1, 1951, signed at Copenhagen on May 2, 2001. I transmit also, for the information of the Senate, the report of the Department of State with respect to this protocol.

The protocol will establish the legal basis by which the United States may issue treaty-investor (E-2) visas to qualified nationals of Denmark, by supplementing the U.S.-Denmark friendship, commerce, and navigation (FCN) treaty to allow for entry and sojourn of investors, a benefit provided in the large majority of U.S. FCN treaties. United States investors are already eligible for Danish visas that offer comparable benefits to those that would be accorded nationals of Denmark under E-2 visa status.

The United States has long championed the benefits of an open investment climate, both at home and abroad. It is the policy of the United States to welcome market-driven foreign investment and to permit capital to flow freely to seek its highest return. Denmark also provides an open investment climate. Visas for investors facilitate investment activity, and thus directly support U.S. policy objectives.

I recommend that the Senate consider this protocol as soon as possible, and give its advice and consent to ratification of the protocol at an early date.

GEORGE W. BUSH.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
July 18, 2003.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you the Protocol to the Treaty of Friendship, Commerce, and Navigation Between the United States and Denmark of October 1, 1951, signed at Copenhagen on May 2, 2001. I recommend that this protocol be transmitted to the Senate for its advice and consent to ratification.

The protocol will establish the legal basis by which the United States may issue treaty-investor (E-2) visas to qualified nationals of Denmark by supplementing the U.S.-Denmark friendship, commerce, and navigation (FCN) treaty to allow for entry and sojourn of investors, a benefit provided in the large majority of U.S. FCN treaties. United States investors are already eligible for Danish visas that offer comparable benefits to those that would be accorded nationals of Denmark under E-2 visa status.

The United States has long championed the benefits of an open investment climate, both at home and abroad. It is the policy of the United States to welcome market-driven foreign investment and to permit capital to flow freely to seek its highest return. Denmark also provides an open investment climate. Visas for investors facilitate investment activity, and thus directly support U.S. policy objectives.

Danish direct investment in the United States totaled over \$5.9 billion at year-end 2000 (on a historical costs basis). The U.S. direct investment in Denmark amounted to about \$5.6 billion (on a historical costs basis) and U.S. investment accounts for one-third of Denmark's total direct investment.

THE U.S.-DENMARK PROTOCOL

The protocol is a precondition to the issuance of a treaty-investor visa to a Danish national, inasmuch as section 101(a)(15)(E)(ii) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1101(a)(15)(E)(ii), permits issuance of an E-2 visa only to a non-immigrant who is

. . . entitled to enter the United States under and in pursuance of the provisions of a treaty of commerce and navigation between the United States and the foreign state of which he is a national . . . solely to develop and direct the operation of an enterprise in which he has invested, or of an enterprise in which he is actively in the process of investing, a substantial amount of capital.

Although most U.S. FCN treaties contain a provision qualifying the treaty partner's nationals for E-2 visas, the U.S.-Denmark FCN does not. The protocol is intended to overcome this deficiency.

The treaty protocol reflects language found in the INA, the other U.S. FCNs and investment treaties generally. The principal substantive article of the protocol provides that

[n]ationals of either Contracting Party shall be permitted, subject to the laws relating to the entry and sojourn of aliens, to enter the territories of the other Party and to remain therein for the purpose of developing and directing the operations of an enterprise in which they have invested, or in which they are actively in the process of investing, a substantial amount of capital.

I support this protocol, and I favor its transmission to the Senate at an early date.

Respectfully submitted,

COLIN L. POWELL.

PROTOCOL BETWEEN THE
UNITED STATES OF AMERICA AND THE KINGDOM OF DENMARK
TO THE TREATY OF
FRIENDSHIP, COMMERCE AND NAVIGATION OF OCTOBER 1, 1951

The United States of America and the Kingdom of Denmark;

Desiring to make more effective the Treaty of Friendship, Commerce and Navigation between the Contracting Parties, signed at Copenhagen on October 1, 1951 (hereinafter "the Treaty");

Have decided to conclude a Protocol thereto; and

Have agreed upon the following articles:

Article I

Nationals of either Contracting Party shall be permitted, subject to the laws relating to the entry and sojourn of aliens, to enter the territories of the other Party and to remain therein for the purpose of developing and directing the operations of an enterprise in which they have invested, or in which they are actively in the process of investing, a substantial amount of capital.

Article II

This supplementary Protocol, which shall form an integral part of the Treaty, shall be subject to ratification.

Article III

This Protocol shall enter into force upon the exchange of instruments of ratification, and shall remain in force for so long as the Treaty shall remain in force.

IN WITNESS WHEREOF, the undersigned, duly authorized by their respective Governments, have signed this Protocol.

DONE at Copenhagen, in duplicate, in the English and Danish languages, both texts being equally authentic, this ~~second~~ day of ~~May~~, 2001.

For The
United States of America:



For The
Kingdom of Denmark:



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