

N° 806.

JAPON ET POLOGNE

Traité de commerce et de navigation,
signé à Varsovie, le 7 décembre
1922.

JAPAN AND POLAND

Treaty of Commerce and Navigation,
signed at Warsaw, December 7,
1922.

No. 806. — TREATY¹ OF COMMERCE AND NAVIGATION BETWEEN JAPAN AND POLAND, SIGNED AT WARSAW, DECEMBER, 7, 1922.

Texte officiel anglais communiqué par le Chef du Bureau du Japon à la Société des Nations. L'enregistrement de ce traité a eu lieu le 26 janvier 1925.

HIS MAJESTY THE EMPEROR OF JAPAN and THE CHIEF OF THE POLISH STATE, being desirous to strengthen the relations of amity and good understanding which happily exist between the two nations and to facilitate and extend their reciprocal commercial relations, have resolved to conclude a Treaty of Commerce and Navigation for that purpose, and to that end have named their Plenipotentiaries, that is to say :

HIS MAJESTY THE EMPEROR OF JAPAN,

Toshitsune KAWAKAMI, Jushii, a Member of the third class of the Imperial Order of the Sacred Treasure, His Imperial Majesty's Envoy Extraordinary and Minister Plenipotentiary at the seat of the Government of the Polish Republic ; and

THE CHIEF OF THE POLISH STATE,

M. Gabriel NARUTOWICZ, Minister of Foreign Affairs ; and
Dr. Henryk STRASBURGER, Acting Minister of Industry and Commerce ;

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon the following articles :

Article 1.

The subjects or citizens of each of the High Contracting Parties shall have full liberty to enter and sojourn in the territories of the other, and, conforming themselves to the laws of the country :

1. Shall, in all that relates to travel and residence, be placed in all respects on the same footing as native subjects or citizens.

2. They shall have the right, equally with native subjects or citizens, to carry on their commerce and manufacture and to trade in all kinds of merchandise of lawful commerce, either in person or by agents, singly or in partnerships with foreigners or native subjects or citizens.

3. They shall in all that relates to the pursuit of their industries, callings, professions, and educational studies, be placed in all respects on the same footing as the subjects or citizens of the most-favoured nation.

¹ L'échange des ratifications a eu lieu à Varsovie, le 8 janvier 1925.

¹ TRADUCTION. — TRANSLATION.No. 806. — TRAITÉ² DE COMMERCE ET DE NAVIGATION ENTRE LE JAPON ET LA POLOGNE, SIGNÉ A VARSOVIE, LE 7 DÉCEMBRE 1922.

English official text communicated by the Head of the Japanese Bureau accredited to the League of Nations. The registration of this Treaty took place January 26, 1925.

SA MAJESTÉ L'EMPEREUR DU JAPON et LE CHEF DE L'ÉTAT POLONAIS, désireux de raffermir les liens d'amitié et la bonne entente qui existent heureusement entre les deux nations et de faciliter et développer leurs relations commerciales réciproques, ont résolu de conclure un Traité de commerce et de navigation à cet effet et ont, à cette fin, désigné pour leurs Plénipotentiaires :

SA MAJESTÉ L'EMPEREUR DU JAPON :

Toshitsune KAWAKAMI, Jushii, Membre de troisième classe de l'Ordre Impérial du Trésor sacré, Envoyé extraordinaire et Ministre plénipotentiaire de Sa Majesté Impériale au siège du Gouvernement de la République polonaise ; et

LE CHEF DE L'ÉTAT POLONAIS,

M. Gabriel NARUTOWICZ, Ministre des Affaires étrangères et

M. le Dr Henryk STRASBURGER, Ministre du Commerce et de l'Industrie par intérim ;

qui, après s'être communiqué leurs pleins-pouvoirs respectifs, trouvés en bonne et due forme, sont convenus des dispositions suivantes :

Article I.

Les sujets ou citoyens de chacune des Hautes Parties contractantes auront toute liberté de pénétrer et de séjourner dans les territoires de l'autre Partie et, en se conformant aux lois du pays,

1. Seront, pour tout ce qui concerne les conditions de voyage et de résidence, placés, à tous égards, sur le même pied que les sujets ou citoyens nationaux ;

2. Ils auront le droit d'y exercer leurs négoce et industries, de faire le commerce de toutes espèces de marchandises, en personne, ou par des agents, seuls ou associés avec des étrangers ou des sujets ou citoyens nationaux ;

3. Pour tout ce qui concerne l'exercice de leurs industries, emplois, professions et la poursuite de leurs études, ils seront placés, à tous égards, sur le même pied que les sujets ou citoyens de la nation la plus favorisée.

¹ Traduit par le Secrétariat de la Société des Nations.

¹ Translated by the Secretariat of the League of Nations.

² The exchange of ratifications took place at Warsaw, January 8, 1925.

4. They shall be permitted to hire and occupy houses, manufactories, warehouses, shops, and premises which may be necessary for them, and to lease land for residential, commercial, industrial, and other lawful purposes, in the same manner as native subjects or citizens.

5. They shall, on condition of reciprocity, be at full liberty to acquire and possess every description of property, movable or immovable, which the laws of the country permit or shall permit the subjects or citizens of any other foreign country to acquire and possess, subject always to the conditions and limitations prescribed in such laws. They may dispose of the same by sale, exchange, gift, marriage, testament, or in any other manner, under the same conditions which are or shall be established with regard to native subjects or citizens. They shall also be permitted, on compliance with the laws of the country, freely to export the proceeds of the sale of their property and their goods in general without being subjected as foreigners to other or higher duties than those to which subjects or citizens of the country would be liable under similar circumstances.

6. They shall enjoy constant and complete protection and security for their persons and property ; shall have free and easy access to the Courts of Justice and other tribunals in pursuit and defence of their claims and rights ; and shall have full liberty, equally with native subjects or citizens, to choose and employ lawyers and advocates to represent them before such Courts and tribunals ; and generally shall have on condition of reciprocity the same rights and privileges as native subjects or citizens in all that concerns the administration of justice.

7. They shall not be compelled to pay taxes, fees, charges, or contributions of any kind whatever, other or higher than those which are or may be paid by native subjects or citizens or the subjects or citizens of the most-favoured nation.

Article 2.

The subjects or citizens of each of the High Contracting Parties in the territories of the other shall be exempted from all compulsory military service, whether in the army, navy, including air forces, national guard, or militia, and from all contributions imposed in lieu of personal service.

In regard to forced loans and military requisitions or contributions, the subjects or citizens of each of the High Contracting Parties shall in the territories of the other enjoy the same privileges, immunities and exemptions as may now or may hereafter be granted to the subjects or citizens of the most-favoured nation.

Article 3.

The dwellings, warehouses, manufactories, and shops of the subjects or citizens of each of the High Contracting Parties in the territories of the other, and all premises appertaining thereto used for lawful purposes, shall be respected. It shall not be allowable to proceed to make a domiciliary visit to, or a search of, any such buildings and premises or to examine or inspect books, papers, or accounts, except under the conditions and with the forms prescribed by the laws for native subjects or citizens.

Article 4.

There shall be between the territories of the two High Contracting Parties reciprocal freedom of commerce and navigation.

Article 5.

Articles, the produce or manufacture of the territories of one High Contracting Party, upon importation into the territories of the other, from whatever place arriving, shall enjoy the lowest rates of customs duty applicable to similar articles of any other foreign origin.

Article 6.

No prohibition or restriction of any kind whatever shall be maintained or imposed on the import or export of any article the produce or manufacture of the territories of either of the High Contracting Parties into or from the territories of the other, from whatever place arriving, which shall not equally extend to the like article imported from or exported to any other country.

This provision is not applicable :

1. to articles which constitute a state monopoly,
2. to sanitary or other restrictions or prohibitions occasioned by the desirability of securing the safety of the state, of individuals, or of animals or plants.

Article 7.

Articles the produce or manufacture of the territories of one of the High Contracting Parties exported to the territories of the other, shall not be subjected on export to other or higher charges than those paid on the like articles exported to any other foreign country.

Article 8.

The High Contracting Parties grant reciprocally freedom of transit to persons, vessels, goods, carriages and wagons in conformity with the laws of the country.

Articles the produce or manufacture of the territories of one of the High Contracting Parties passing in transit through the territories of the other, shall be reciprocally free from all transit duties, whether they pass direct or whether during transit they are unloaded, warehoused, and reloaded.

Article 9.

No internal duties levied for the benefit of the State, local authorities, or corporations which affect, or may affect, the production, manufacture, or consumption of any article in the territories of either of the High Contracting Parties shall for any reason be a higher or more burdensome charge on articles the produce or manufacture of the territories of the other than on similar articles of native origin.

The produce or manufacture of the territories of either of the High Contracting Parties imported into the territories of the other, and intended for warehousing or transit, shall not be subjected to any internal duty.

Article 10.

Merchants and manufacturers, subjects or citizens of one of the High Contracting Parties, as well as merchants and manufacturers domiciled and exercising their commerce and industries in

the territories of such Party, may, in the territories of the other, either personally or by means of commercial travellers, make purchases or collect orders, with or without samples, and such merchants, manufacturers, and their commercial travellers, while so making purchases and collecting orders, shall, in the matter of taxation and facilities, enjoy the most-favoured-nation treatment.

Articles imported as samples for the purposes above-mentioned shall, in each country, be temporarily admitted free of duty on compliance with the Customs regulations and formalities established to assure their re-exportation or the payment of the prescribed Customs duties if not re-exported within the period allowed by law. But the foregoing privilege shall not extend to articles which, owing to their quantity or value, cannot be considered as samples, or which, owing to their nature, could not be identified upon re-exportation. The determination of the question of the qualification of samples for duty-free admission rests in all cases exclusively with the competent authorities of the place where the importation is effected.

Article 11.

Joint-stock companies and other commercial, industrial and financial companies and associations, including insurance companies domiciled in the territories of one of the High Contracting Parties and having legal existence according to the laws in force of such Party, shall be recognized as having legal existence in the territories of the other and authorized to appear in Court as plaintiffs and defendants according to the laws of that other Party.

Their admission to the pursuit of their industry or their commerce, as well as to acquisition of property in the territories of the other Party, shall be dependent upon the laws and ordinances of the country.

With regard to the enjoyment of rights, the Polish Government undertakes, however, to grant, on condition of reciprocity, to the Japanese companies established in Poland the most-favoured-nation treatment provided that this treatment should be granted to any other country which is not contiguous to Poland.

Article 12.

Each of the High Contracting Parties shall permit the importation or exportation of all merchandise which may be legally imported or exported, and also the carriage of passengers from or to their respective territories, upon the vessels of the other; and such vessels, their cargoes and passengers shall enjoy the same privileges as, and shall not be subjected to any other or higher duties or charges than, national vessels and their cargoes and passengers.

Article 13.

In all that regards the stationing, loading, and unloading of vessels in the ports, docks, roadsteads, and harbours of the High Contracting Parties, no privileges or facilities shall be granted by either Party to national vessels which are not equally, in like cases, granted to the vessels of the other country; the intention of the High Contracting Parties being that in these respects also the vessels of the two countries shall be treated on the footing of perfect equality.

Article 14.

Merchant vessels navigating under the flag of one High Contracting Party and carrying the papers required by their national laws to prove their nationality shall in the territorial waters of the other be deemed to be vessels of that Party.

Article 15.

No duties of tonnage, transit or canalage, harbour, pilotage, lighthouse, quarantine, or other analogous duties or charges of whatever nature, or under whatever denomination, levied in the name or for the profit of Government, public functionaries, private individuals, corporations, or establishments of any kind shall be imposed in the ports of either country upon the vessels of the other which shall not equally, under the same conditions, be imposed in like cases on national vessels in general, or vessels of the most-favoured nation. Such equality of treatment shall apply to the vessels of either country from whatever place they may arrive and whatever may be their destination.

Article 16.

Vessels charged with performance of regular scheduled postal service of one of the High Contracting Parties shall enjoy in the territorial waters of the other the same special facilities, privileges, and immunities as are granted to like vessels of the most-favoured nation.

Article 17.

The coasting trade of the High Contracting Parties is excepted from the provisions of the present Treaty, and shall be regulated according to the laws of each of the High Contracting Parties.

Article 18.

The stipulations of this Treaty do not apply :

1. to tariff concessions granted by either of the High Contracting Parties to contiguous States solely to facilitate frontier traffic within a limited zone on each side of the frontier ;
2. to the special favours resulting from a Customs union ;
3. to the provisional regulations of Customs between Polish and German parts of Upper Silesia ;
4. to the treatment accorded to the produce of the national fisheries of the High Contracting Parties or to special tariff favours granted by Japan in regard to fish and other aquatic products taken in the foreign waters in the vicinity of Japan ;
5. to the special laws of protection of the national commercial vessels according to the international custom.

Article 19.

The present Treaty shall be ratified and the ratifications thereof shall be exchanged at Warsaw as soon as possible.

It shall enter into operation on the tenth day after the day of the exchange of ratifications and remain in force until the expiration of six months after either of the High Contracting Parties shall have given notice to the other of its intention to terminate the same, and no longer.

In witness whereof, the respective Plenipotentiaries have signed the present Treaty and have affixed thereto the seal of their arms.

Done at Warsaw, in duplicate, this 7th day of December, 1922.

(L. S.) T. KAWAKAMI.
(L. S.) G. NARUTOWICZ.
(L. S.) HENRYK STRASBURGER.

PROTOCOL.

At the moment of proceeding this day to the signature of the present Treaty of Commerce and Navigation between JAPAN and POLAND, the undersigned Plenipotentiaries of the two High Contracting Parties have agreed as follows :

1. — To Article 4. It is, however, understood that the stipulation of this article shall not affect anything in the laws, dispositions or regulations in matters of commerce, industry, police, general safety and execution of certain trades or professions, now or hereafter in force, in either or both of the countries and applicable to all foreigners.

2. — To Article 5. Being understood that the products or manufacture indicated in this article shall be originated in the countries of the High Contracting Parties, the Customs authorities shall have the right to require, on the importation of the above mentioned articles, certificates of origin.

3. — To Article 8. The stipulations of this Treaty shall not be interpreted as affecting in any way the rights and duties of each of the High Contracting Parties with regard to the transit of arms and munitions, military equipment and military articles.

4. — To Article 14. The High Contracting Parties agree to conclude an agreement upon an equitable basis concerning the reciprocal recognition of the ship's papers as soon as possible.

5. — It is understood that the terms of the treatment of the most-favoured-nation in this Treaty are to be interpreted as immediate and unconditional unless expressly otherwise provided.

(L. S.) T. KAWAKAMI.

(L. S.) G. N ARUTOWICZ.

(L. S.) HENRYK STRASBURGER.