

N° 2895.

JAPON ET LITHUANIE

Traité de commerce et de navigation, signé à Berlin, le 2 mai 1930, et échange³ de notes y relatif de la même² date.

JAPAN AND LITHUANIA

Treaty of Commerce and Navigation, signed at Berlin, May 2, 1930, and Exchange of Notes relating thereto of the same date.

No. 2895. - TREATY¹ OF COMMERCE AND NAVIGATION BETWEEN
JAPAN AND LITHUANIA. SIGNED AT BERLIN, MAY 2, 1930.

Texte officiel anglais communiqué par le directeur du Bureau du Japon à la Société des Nations. L'enregistrement de ce traité a eu lieu le 16 février 1932.

HIS MAJESTY THE EMPEROR OF JAPAN and THE PRESIDENT OF THE LITHUANIAN REPUBLIC, 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 :

His Excellency M. Harukazu NAGAOKA His Imperial Majesty's Ambassador Extraordinary and Plenipotentiary to Germany ; and

THE PRESIDENT OF THE LITHUANIAN REPUBLIC :

His Excellency M. Venceslas SIDZIKAIUSKAS, Envoy Extraordinary and Minister Plenipotentiary of the Lithuanian Republic to Germany ;

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 I.

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, subject only to the laws and regulations relating to passports, police, public safety and sanitation, which are applicable to all foreigners alike ; 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, educational studies and investigations 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 Berlin, le 23 novembre 1931.

¹ TRADUCTION. — TRANSLATION.N^o 2895. — TRAITÉ² DE COMMERCE ET DE NAVIGATION ENTRE LE JAPON ET LA LITHUANIE. SIGNÉ A BERLIN, LE 2 MAI 1930.

English official text communicated by the Director of the Japanese Office accredited to the League of Nations. The registration of this Treaty took place February 16, 1932.

SA MAJESTÉ L'EMPEREUR DU JAPON et LE PRÉSIDENT DE LA RÉPUBLIQUE DE LITHUANIE, désireux de resserrer les liens d'amitié et de bonne entente qui existent heureusement entre les deux nations, et de faciliter et de 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 :

Son Excellence M. Harukazu NAGAOKA, ambassadeur extraordinaire et plénipotentiaire de Sa Majesté impériale en Allemagne ; et

LE PRÉSIDENT DE LA RÉPUBLIQUE DE LITHUANIE :

Son Excellence M. Venceslas SIDZIKAUSKAS, envoyé extraordinaire et ministre plénipotentiaire de la République de Lithuanie en Allemagne ;

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

Article premier.

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, sous la seule réserve des lois et règlements relatifs aux passeports, à la police, à la sûreté publique et à l'hygiène, applicables également à tous les étrangers ; et, sous la condition de se conformer aux lois du pays :

1. Ils seront pour tout ce qui concerne les voyages et la résidence, placés, à tous égards, sur le même pied que les sujets ou citoyens nationaux.

2. Ils auront le même droit que les citoyens ou sujets nationaux d'exercer leur commerce ou leur industrie et de faire le négoce de toutes les marchandises dont le commerce est licite, personnellement ou par l'entremise de représentants, à titre individuel ou en association avec des étrangers ou des sujets ou citoyens nationaux.

3. Pour tout ce qui concerne l'exercice de leurs industries, emplois, professions, la poursuite de leurs études ou recherches scientifiques, 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, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.

² The exchange of ratifications took place at Berlin, November 23, 1931.

4. They shall be permitted to own or 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 the subjects or citizens of the most favoured nation.

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 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 II.

The subjects or citizens of each of the High Contracting Parties in the territories of the other shall be exempted from all compulsory military services, whether in the army, navy, air force, national guard or militia ; from all contributions imposed in lieu of personal service ; and from all forced loans and military requisitions or contributions unless imposed on them equally with native subjects or citizens as owners, lessees or occupiers of immovable property.

In the above respects the subjects or citizens of each of the High Contracting Parties shall not be accorded in the territories of the other less favourable treatment than that which is or may be accorded to the subjects or citizens of the most favoured nation.

Article III.

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 IV.

Each of the High Contracting Parties may appoint Consuls-General, Consuls, Vice-Consuls and Consular Agents in all the ports, cities and places of the other, except in those where it may

not be convenient to recognize such officers. This exception, however, shall not be made in regard to one of the High Contracting Parties without being made likewise in regard to all other Powers.

Such Consuls-General, Consuls, Vice-Consuls and Consular Agents, having received exequaturs or other sufficient authorisations from the Government of the country to which they are appointed, shall, on condition of reciprocity, have the right to exercise their functions, and to enjoy the privileges, exemptions and immunities which are or may be granted to the Consular officers of the most favoured nation. The Government issuing exequaturs or other authorisations has the right in its discretion to cancel the same on explaining the reasons for which it thought proper to do so.

Article V.

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

The subjects or citizens of either of the High Contracting Parties shall have liberty freely to come with their ships and cargoes to all places, ports and rivers in the territories of the other, which are or may hereafter be opened to foreign commerce, and, conforming themselves to the laws of the country to which they thus come, shall enjoy the same rights, privileges, liberties, favours, immunities and exemptions in matters of commerce and navigation as are or may be enjoyed by native subjects or citizens.

Article VI.

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

Article VII.

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 VIII.

No prohibition or restriction of any kind whatever shall be maintained or imposed by either of the High Contracting Parties on the import from or export to the territories of the other, of any article, the produce or manufacture of the territories of either of the High Contracting Parties, which shall not equally extend to the like article imported from or exported to any other country. This provision is not applicable to the sanitary or other restrictions or prohibitions imposed with the object of securing the safety of the State, of individuals or of animals or plants.

Article IX.

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

Article X.

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 XI.

Merchants and manufacturers, subjects or citizens of one of the High Contracting Parties, 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 charges 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 qualification of samples for duty-free admission rests in all cases exclusively with the competent authorities of the place where the importation is effected.

The stipulations of this Article shall not apply to itinerant trading, or to hawking, or to the soliciting of orders from persons not engaged in trade or industry, on which subject each of the High Contracting Parties reserves full freedom of legislation.

Article XII.

Marks, stamps or seals placed upon the samples mentioned in the preceding Article by the Customs authorities of either High Contracting Party at the time of exportation, and any officially attested list of such samples containing a full description thereof issued by them, shall be reciprocally accepted by the Customs officials of the other as establishing their identity. The Customs authorities of either High Contracting Party may, however, affix a supplementary mark to such samples in special cases where they may think this precaution necessary.

Article XIII.

Any authorities recognized in the territories of one of the High Contracting Parties as competent for the issue of such certificates as may be required for commercial travellers shall be accepted by the other as competent authorities in that regard.

Each of the Contracting Parties will inform the other what are the competent authorities for the issue of these certificates as well as the forms which are required.

Article XIV.

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.

The provisions of Nos. 4, 5 and 6 of Article I, and of Articles II and III, of this Treaty, so far as they are applicable to the juridical persons, shall apply to the aforesaid companies and associations.

Except as otherwise expressly provided in this Treaty, the said companies and associations shall enjoy in all respects, in the territories of the other Party, the same rights, privileges and favours, including those regarding the admission to the exercise of commerce, industry or insurance, as those which are or may be granted to the similar companies and associations of the most favoured nation.

Article XV.

The coasting trade and the fisheries in the territorial waters of the High Contracting Parties are excepted from the provisions of the present Treaty and shall be regulated according to the laws of Japan and Lithuania respectively.

Article XVI.

Except as otherwise expressly provided in this Treaty, the High Contracting Parties agree that, in all that concerns commerce, industry and navigation, any favour, privilege or immunity which either High Contracting Party has actually granted, or may hereafter grant, to the ships, subjects or citizens of any other foreign State shall be extended immediately and unconditionally to the ships, subjects or citizens of the other High Contracting Party, it being their intention that the commerce, navigation and industry of each country shall be placed in all respects on the footing of the most favoured nation.

Article XVII.

The stipulations of this Treaty shall not apply :

(1) To tariff concessions which are or may be 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, so long as such concessions are not extended to any other country ;

(2) To the treatment which is or may be 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 ;

(3) To favours which are or may be granted to a third Party by an agreement in order to avoid the double taxation ;

(4) To favours which are or may be granted by Lithuania to the Baltic Republics (Latvia and Esthonia), so long as such favours are not extended to any other country.

Article XVIII.

The stipulations of the present Treaty shall be applicable to all the territories and possessions belonging to or administered by either of the High Contracting Parties.

Article XIX.

The present Treaty shall be ratified and the ratifications thereof shall be exchanged at Berlin 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 for three years. In case neither of the High Contracting Parties shall have given notice to the other six months before the expiration of the said period, of its intention to terminate the Treaty, it shall continue operative until the expiration of six months from the date on which either of the High Contracting Parties shall have denounced it.

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

Done at Berlin in duplicate this 2nd day of the 5th month of the 5th year of Showa, corresponding to the 2nd day of May, in the nineteen hundred and thirtieth year of the Christian era.

(L. S.) Harukazu NAGAOKA.

(L. S.) Venceslas SIDZIKAIUSKAS.

EXCHANGE OF NOTES

RELATIVE TO THE INTERPRETATION OF THE TREATY OF COMMERCE AND NAVIGATION
BETWEEN JAPAN AND LITHUANIA.

BERLIN, *May 2nd, 5 Showa* (1930).

MONSIEUR LE MINISTRE,

With reference to Article VI of the Treaty of Commerce and Navigation signed this day between Japan and Lithuania, I have the honour, in order to avoid any possible misunderstanding in future, to declare that the Japanese Government understand that the stipulations of the said Article will not be held to preclude the Japanese Government from making any special reduction of customs duty for goods imported over the land frontier of her territory which may be shown to be justified by the considerations referred to in Article 7 of the Statute¹ on the International Régime of Maritime Ports adopted by the Second General Conference on Communications and Transit which met at Geneva on the 15th November, 1923.

I should be much gratified to be assured that Your Excellency's Government concur in the interpretation above given.

I avail myself of this opportunity to renew to Your Excellency, Monsieur le Ministre, the assurances of my highest consideration.

H. NAGAOKA.

His Excellency
Monsieur Venceslas Sidzikauskas,
Envoy Extraordinary and Minister Plenipotentiary
of Lithuania to Germany.

¹ Vol. LVIII, page 285 ; vol. LXIX, page 102 ; vol. LXXII, page 485 ; vol. LXXXIII, page 416 ; vol. CVII, page 491 ; vol. CXVII, page 184 ; et vol. CXXII, page 349, de ce recueil.

BERLIN, *May 2nd*, 1930.

MONSIEUR L'AMBASSADEUR,

In reply to Your Excellency's note of to-day regarding the interpretation of Article VI of the Treaty of Commerce and Navigation signed this day between Lithuania and Japan, I have the honour to state that the Lithuanian Government entirely concurs in the interpretation given by the Japanese Government to the said Article and that the Lithuanian Government understands that the stipulations of the said Article will not be held to preclude the Japanese Government from making any special reduction of customs duty for goods imported over the land frontier of her territory which may be shown to be justified by the considerations referred to in Article 7 of the Statute on the International Régime of Maritime Ports adopted by the Second General Conference on Communications and Transit, which met at Geneva on the 15th November, 1923.

I avail myself of this opportunity to renew to Your Excellency, Monsieur l'Ambassadeur, the assurances of my highest consideration.

V. SIDZIKAIUSKAS.

His Excellency
Monsieur Harukazu Nagaoka,
Ambassador Extraordinary and Plenipotentiary
of Japan to Germany.
