

N° 3980.

CANADA ET POLOGNE

**Convention de commerce, avec
annexes. Signée à Ottawa, le
3 juillet 1935.**

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**Convention of Commerce, with
Annexes. Signed at Ottawa, July
3rd, 1935.**

No. 3980. — CONVENTION ¹ OF COMMERCE BETWEEN CANADA AND POLAND. SIGNED AT OTTAWA, JULY 3RD, 1935.

English and Polish official texts communicated by the Canadian Advisory Officer to the League of Nations. The registration of this Convention took place October 10th, 1936.

HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA, in respect of THE DOMINION OF CANADA, and THE PRESIDENT OF THE REPUBLIC OF POLAND, being desirous of facilitating and extending the commercial relations existing between Canada and Poland, have resolved to conclude a Convention of Commerce for this purpose, and have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA, for THE DOMINION OF CANADA :

The Right Honourable Richard Bedford BENNETT, Prime Minister, President of the Privy Council and Secretary of State for External Affairs ;
The Honourable Richard Burpee HANSON, Minister of Trade and Commerce ;

THE PRESIDENT OF THE REPUBLIC OF POLAND :

Doctor Jerzy ADAMKIEWICZ, Consul General of the Republic of Poland for Canada and Newfoundland ;

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.

Articles produced or manufactured in Canada shall not, on importation into Poland, be subjected to other or higher duties or charges than those paid on the like articles produced or manufactured in any other foreign country ; at the same time the articles enumerated in Schedule A to this Convention, produced or manufactured in Canada, shall not, on importation into Poland, be subjected to higher duties than those specified in the said Schedule and shall be subjected to the lowest rates of duty which Poland may grant to any other foreign country on the like articles.

Article 2.

The stipulations of Article 1 of this Convention shall not extend :

(a) To privileges which are or hereafter may be granted by Poland to purely border traffic within a zone not exceeding 15 kilometres wide on either side of its Customs frontier ;

¹ The exchange of ratifications took place at Warsaw, July 31st, 1936.
Came into force August 15th, 1936.

(b) To privileges granted by Poland to a State by virtue of a Customs Union with that State ;

(c) To tariff preferences or Customs facilities which hereafter may be granted by Poland to Estonia, Latvia, Lithuania or Finland so long as such privileges are not accorded to any other State ;

(d) To the regime for duties and quotas established temporarily between Polish Upper Silesia and German Upper Silesia by virtue of the German-Polish Convention¹ concerning Upper Silesia, signed at Geneva on May 15th, 1922.

Article 3.

Articles produced or manufactured in Poland shall not, on importation into Canada, be subjected to other or higher duties or charges than those paid on the like articles produced or manufactured in any other foreign country ; at the same time the articles enumerated in Schedule B to this Convention, produced or manufactured in Poland, shall not, on importation into Canada, be subjected to higher duties than those specified in the said Schedule, and shall be subjected to the lowest rates of duty which Canada may grant to any other foreign country on the like articles.

Article 4.

To enjoy the benefits of the tariff advantages provided for in Article 1 of this Convention, articles, produced or manufactured in Canada, shall be conveyed without transshipment from a Canadian port or from a port of a country enjoying most-favoured-nation treatment in tariff matters in Poland into a port or ports of the Polish Customs Territory.

Reciprocally, to enjoy the benefits of the tariff advantages provided for in Article 3 of this Convention, articles, produced or manufactured in Poland, shall be conveyed without transshipment from a port or ports of the Polish Customs Territory or from a port of a country enjoying the benefits of the British Preferential or Intermediate Tariff, into a sea, lake or river port of Canada.

Provided, however, that articles produced or manufactured in Poland, on importation into Canada, and articles produced or manufactured in Canada, on importation into Poland, shall not be subjected to other or more onerous conditions with respect to direct shipment than are imposed on the like articles imported from any other foreign country.

Article 5.

No prohibition or restriction shall be maintained or imposed by either of the High Contracting Parties on the importation of any article the produce or manufacture of the territories of the other Party which shall not equally extend to the importation of the like articles being the produce or manufacture of any other foreign country.

This provision shall not be applicable to prohibitions or restrictions, which already exist or may be imposed in future on importation or exportation, provided that such prohibitions or restrictions are issued with regard to :

(a) Public order or the internal or external security of the State ;

(b) Public health or the protection of animals or plants against disease ;

(c) Articles constituting a State monopoly.

In the event of import licences being required for the importation of any class of goods into the territories of either of the High Contracting Parties, the general conditions of procedure under

¹ Vol. IX, page 465 ; and Vol. XIX, page 282, of this Series.

which licences may be obtained for the importation of such goods shall not be less favourable than those applied in the case of similar goods the produce or manufacture of any other foreign country.

Article 6.

Articles produced or manufactured in the territories of either of the High Contracting Parties exported to the territories of the other, shall not be subjected to other or higher export duties or charges than those paid on the like articles exported to any other foreign country.

Nor shall any prohibition or restriction, with the exception of those enumerated in Article 5 of this Convention, be maintained or imposed on the exportation of any articles from the territories of either of the High Contracting Parties to the territories of the other which shall not equally extend to the exportation of the like articles to any other foreign country.

Article 7.

Articles produced or manufactured in the territories of either 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 or reloaded.

Article 8.

Internal duties or taxes which are, or hereafter may be, levied in the territories of either of the High Contracting Parties by, or on behalf of, the State or a local authority or other corporation on the production, manufacture, sale or consumption of goods shall not affect the goods of one Party imported into the territories of the other under any pretext whatever, to a greater extent or in a more restrictive way, than goods of the same kind, which are the produce or manufacture of the other Party.

Articles produced or manufactured in the territories of either of the High Contracting Parties imported into the territories of the other, and intended for transit or warehousing only, shall not be subjected to any internal duties or taxes.

Article 9.

Merchants and manufacturers, nationals 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 or specimens and such merchants, manufacturers, and their commercial travellers, while so making purchases and collecting orders, shall, in the matter of taxation and facilities, enjoy treatment not less favourable than that accorded to merchants, manufacturers and commercial travellers, nationals of any other foreign country.

If one of the High Contracting Parties should consider it necessary to require certificates attesting the character of certain persons as commercial travellers in order to accord them the above facilities, in that case the High Contracting Parties shall by exchange of notes agree on the form of such certificates and the authorities competent to issue them.

Articles, imported as samples and specimens for the purpose mentioned above, 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 of twelve months. But the foregoing privilege shall not extend to articles which, owing to their quality 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.

Samples of no commercial value shall be admitted into the territories of either of the High Contracting Parties free of duty.

The Customs Authorities of the importing country shall recognize as sufficient for the future identification of the samples or specimens the marks which have been affixed by the Customs Authorities of the exporting country, provided that the said samples or specimens are accompanied by a descriptive list certified by the Customs Authorities of the latter. Additional marks may, however, be affixed to the samples or specimens by the Customs Authorities of the importing country in all cases in which the latter consider the additional guarantee indispensable for ensuring the identification of the samples or specimens on re-exportation. Except in the latter case, Customs verification shall be confined to identifying the samples and deciding the total duties and charges to which they may eventually be liable.

The refund of duties paid on importation or the release of the security for the payment of these duties shall be effected without undue delay and subject to the deduction of the duties payable on samples or specimens which are neither produced for re-exportation nor placed in bond.

Article 10.

Nationals of each of the High Contracting Parties shall have, in the territories of the other, the same rights as nationals of that Party in regard to patents for inventions, trade-marks, industrial designs and patterns, commercial names, names of origin of products, and the prevention of unfair competition, upon fulfilment of the formalities provided for by law.

Article 11.

The vessels of each of the High Contracting Parties shall enjoy in the ports of the other High Contracting Party treatment not less favourable than that accorded to national vessels or to vessels of the most-favoured nation, excepting always coasting trade and river or lake traffic which each of the High Contracting Parties shall have the right to reserve to national vessels.

Each High Contracting Party shall permit the importation or exportation of all merchandise, the importation or exportation of which is permitted, as well as the carriage of passengers from or to their respective territories upon the vessels of the other. Such vessels, their passengers and cargoes, shall enjoy the same privileges as, and shall not be subject to duties or charges other or higher than, national vessels, their passengers and cargoes, or the vessels of the most-favoured nation and their passengers and cargoes.

Navigation companies of either of the High Contracting Parties engaged in the transport of emigrants shall in the territories of the other High Contracting Party enjoy the same treatment in every respect as the corresponding navigation companies of the most-favoured nation.

Article 12.

The nationality of a vessel shall be established in accordance with the laws of the State to which the vessel belongs by the aid of certificates of registry and other documents carried on the ship and issued by the proper authorities.

With the exception of sale under a judgment of a court of justice, the vessels of either of the High Contracting Parties shall not be liable to have their national character changed within the territories of the other unless a declaration that the vessel is no longer on its registry is issued by the authorities of the former State.

Article 13.

The nationals of each of the High Contracting Parties in the territory of the other shall enjoy free access to the courts of justice, either as plaintiffs or as defendants in all matters, without other

conditions, restrictions or taxes than those imposed on nationals ; and like them they shall be at liberty to have recourse in all matters to the services of advocates, attorneys, solicitors or other agents selected from among the persons admitted to the legal professions by the laws in force in the territory in question.

The above provisions shall not apply to the " *cautio judicatum solvi* " or to rights obtainable " *in forma pauperis* ", which matters will be settled by a separate convention.

Article 14.

The nationals of each of the High Contracting Parties in the territories of the other shall be at full liberty to acquire and possess every description of property, movable and immovable, within the limitations and subject to the conditions under which the laws of the other Party permit, or shall permit, the nationals of any other foreign country to acquire and possess property. They may dispose of the same by sale, exchange, gift, marriage, testament, or in any other manner, or acquire the same by inheritance, under the same conditions as are or shall be established with regard to nationals of any other foreign country. They shall not be subjected in any of the cases mentioned to any taxes, imposts or charges of whatever denomination other or higher than those which are, or shall be, generally applicable to nationals of any other foreign country.

Moreover, the nationals of either of the High Contracting Parties including companies and other associations organized and exercising their functions in accordance with the laws in force in the territories of that High Contracting Party shall enjoy unconditionally in every respect in the territories of the other High Contracting Party the most-favoured-nation treatment in all matters concerning the exercise of commerce and industry, exemption from domiciliary visits or from search of shops, or other premises or from inspection or examination of their books, papers and accounts except under due process of law. Nor shall they be subject to taxes, general or local, imposts, fees, rates or other official charges, other or greater than those imposed on the nationals or companies or other associations of the other High Contracting Party.

Article 15.

The nationals of each of the High Contracting Parties in the territories of the other shall be exempted from all compulsory military service whatsoever, whether in the army, navy, air force, national guard or militia, and from all taxes or requisitions levied in lieu of such services.

Article 16.

Each of the High Contracting Parties shall be at liberty to appoint consuls-general, consuls, vice-consuls, consular agents and trade commissioners to reside in the towns and ports of the territory of the other to which such consuls or agents of any other State are admitted. Such consuls-general, consuls, vice-consuls, consular agents, and trade commissioners, however, shall not enter upon their functions until after they shall have been accepted and admitted in the usual manner.

The heads of posts, titular or acting, as well as the agents of the consular service, chancellors, attaches or others, on condition of reciprocity, shall enjoy the personal privileges, immunities, and exemptions such as are or may be accorded to similar agents of the same class and grade of the most-favoured foreign nation.

The High Contracting Parties agree to conclude a convention with a view to determining and defining the powers and functions of these agents.

Article 17.

The stipulations of this Convention, and particularly of Articles 3, 4, 5, 6, 9, 11, 14 and 15 thereof, shall not extend to privileges, preferences or treatment which may at any time be in force,

exclusively between territories under the sovereignty of His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, or under His Majesty's suzerainty, protection or mandate.

Article 18.

Any dispute which may arise between the High Contracting Parties in regard to the proper interpretation or application of any of the provisions of this Convention and which cannot be solved by discussion between their representatives shall, by common consent, by submission in writing, be referred to a Court of Arbitration which shall in each particular case be constituted by each Party nominating one of its nationals as arbiter and an umpire who shall be chosen by agreement between the arbiters.

Article 19.

The Polish Government which is entrusted with the conduct of the foreign affairs of the Free City of Danzig under Article 104 of the Treaty of Versailles and Articles 2 and 6 of the Treaty¹ signed in Paris on November 9th, 1920, between Poland and the Free City of Danzig, reserves hereby the right to declare that the Free City of Danzig is a Contracting Party to this Convention and that it assumes the obligations and acquires the rights laid down therein.

This reservation does not relate to those stipulations of this Convention which the Republic of Poland has accepted with regard to the Free City in accordance with the Treaty rights conferred on Poland.

Article 20.

The present Convention shall be ratified and the ratifications shall be exchanged at Warsaw as soon as practicable.

It shall come into force fifteen days after the exchange of ratifications and shall be binding for a period of one year from the date of coming into force. In case neither of the High Contracting Parties shall have given notice to the other three months before the expiration of the said period of one year of its intention to terminate the present Convention, it shall be regarded as having been prolonged and shall remain in force until the expiration of three months from the date on which either of the High Contracting Parties shall have given to the other notice of its intention to terminate it.

In witness whereof the respective Plenipotentiaries have signed this Convention and have affixed thereto their seals.

Done in duplicate at Ottawa, in English and Polish texts, both authentic, this third day of July in the year of Our Lord one thousand nine hundred and thirty-five.

(L. S.) R. B. BENNETT.

(L. S.) R. B. HANSON.

¹ Vol. VI, page 189; Vol. CVII, page 459; and Vol. CXVI, page 5, of this Series.

SCHEDULE A.

CANADIAN PRODUCTS ENJOYING ON THEIR IMPORTATION INTO THE POLISH CUSTOMS TERRITORY THE PERCENTAGES OF DISCOUNT FROM COLUMN II OF THE POLISH CUSTOMS TARIFF INDICATED BELOW :

Number of Item in Polish Customs Tariff	Designation of Articles	Rates of Column II less a discount on the amount of the duty of
Ex 256 (3)	Herrings of the species named "Clupea harengus," spiced or otherwise prepared, together with the packing :	
	(a) Weighing more than 500 g.	65 p.c.
	(b) Weighing 500 g and less together with the immediate container	65 p.c.
Ex 256 (4)	Salmonoids, prepared in any manner, packed in air-tight receptacles	70 p.c.
Ex 256 (4)	Small clupeoid fish, designated "Canadian Sardines," caught near the shores of North America, marinated in vinegar, oil, sauces, stuffed or otherwise prepared, in air-tight receptacles .	65 p.c.
	<i>Note to ex 256 (4).</i> — Certificates issued by the proper Canadian Authorities to the effect that the said fish have been caught near the shores of North America shall be required in each particular case on importation into Poland.	
Ex 258 (1)	Lobsters, prepared in any manner, packed in air-tight receptacles.	75 p.c.
510	Leather, varnished, bronzed, silvered, gilded, painted or similarly processed :	
	(1) Whole and halves	55 p.c.
	(2) Cuttings and pieces	55 p.c.
Ex 516 (1)	Silver (black) fox skins, raw	80 p.c.
794	Chemical wood-pulp, bleached containing water :	
Sub-item 2	(b) 50 p. c. or less :	
	I. When imported by papermills for the manufacture of paper on the grounds of a permit issued by the Minister of Finance.	46.66 p.c.
	II. Other wood-pulp	33.33 p.c.
Ex 1248 (6)	Ice skates	35 p.c.

SCHEDULE B.

POLISH PRODUCTS SUBJECT ON THEIR IMPORTATION INTO CANADA TO THE INTERMEDIATE TARIFF RATES LESS DISCOUNTS AS HEREINAFTER INDICATED BASED UPON PERCENTAGES OF THE RATES PAYABLE BY VIRTUE OF SAID INTERMEDIATE TARIFF OR FREE.

Number of Item in Canadian Customs Tariff	Designation of Articles	
Ex 8	Canned hams	Intermediate Tariff less a discount of 20 p.c.
Ex 71 (b)	Clover seed	Intermediate Tariff less a discount of 25 p.c.
Ex 72 (c)	Seed of the sugar beet, for agricultural purposes	Free.
Ex 85	Mushrooms, dried, the weight of the packages to be included in the weight for duty	Intermediate Tariff less a discount of 45 p.c.
Ex 169	Books, viz. : Novels or works of fiction, or literature of a similar character, printed in Poland and in the Polish or Ukrainian language, unbound or paper bound in sheets, but not to include Christmas annuals or publications commonly known as juvenile and toy books	Free.
Ex 171	Books, printed, periodicals and pamphlets, or parts thereof, n.o.p., when printed in Poland and in the Polish or Ukrainian language, not to include blank account books, copy books, or books to be written or drawn upon	Free.
Ex 208	Sulphate of ammonia	Free.
Ex 308	Manufactures of alabaster, n.o.p.	Intermediate Tariff less a discount of 25 p.c.
Ex 326	Cut, pressed, moulded or crystal glass tableware, decorated or not ; blown glass tableware and other cut glass ware	Intermediate Tariff less a discount of 10 p.c.
Ex 345	Zinc dust and sheets	Free.
Ex 502	Staves of oak, sawn, split or cut, not further manufactured than listed or jointed	Free.
519	House, office, cabinet or store furniture of wood, iron or other material, in parts or finished	Intermediate Tariff less a discount of 10 p.c.
Ex 549 (a)	Horse hair, not further manufactured than simply cleaned and dipped or dyed	Free.
Ex 549 (b)	Horse hair, curled or dyed, n.o.p.	Intermediate Tariff less a discount of 15 p.c.
Ex 585	Pine pitch ; and pine tar, crude, in packages of not less than fifteen gallons	Free.
Ex 599	Hides and skins of cattle, raw, whether dry, salted or pickled	Free.
601	Fur skins of all kinds, not dressed in any manner	Free.

Number of Item in Canadian Customs Tariff	Designation of Articles	
622	Trunks, valises, hat boxes, carpet bags, tool bags, and baskets of all kinds, n.o.p.	Intermediate Tariff less a discount of 12½ p.c.
Ex 624	Ornaments, statues and statuettes, of alabaster . .	Intermediate Tariff less a discount of 15 p.c.
654	Bristles, broom corn, and hair brush pads	Free.
Ex 657 (a)	Cinematograph or moving picture films, positives, made in Poland and speaking the Polish or Ukrainian languages, one and one-eighth of an inch in width and over	Intermediate Tariff less a discount of 50 p.c.

This is certified to be a true copy of the Convention of Commerce between Canada and Poland signed at Ottawa, July 3rd, 1935.

Laurent Beaudry,
*Acting Under-Secretary of State
for External Affairs.*