COMMERCE

Article signed at Philadelphia May 4, 1796, explanatory to article 3 of Jay Treaty [1]
Senate advice and consent to ratification May 9, 1796
Ratified by the President of the United States May 9, 1796
Ratified by Great Britain July 1796
Ratifications exchanged at Philadelphia October 6, 1796
Entered into force October 6, 1796
Proclaimed by the President of the United States November 4, 1796

8 Stat. 130; Treaty Series 106 [2]

Explanatory Article

Whereas by the third Article of the treaty of amity, commerce and navigation concluded at London on the nineteenth day of November, one thousand seven hundred and ninety four, between his Britannic Majesty and the United States of America, it was agreed that it should at all times be free to his Majesty's subjects and to the Citizens of the United States, and also to the Indians dwelling on either side of the boundary-line assigned by the treaty of peace to the United States, freely to pass and repass by land or inland navigation, into the respective territories and Countries of the two contracting parties, on the continent of America (the country within the limits of the Hudson's bay company only excepted) and to navigate all the Lakes, rivers and waters thereof, and freely to carry on trade and commerce with each other, subject to the provisions and limitations contained in the said Article: And Whereas by the eighth Article of the treaty of peace and friendship [3] concluded at Greenville on the third day of August, one thousand seven hundred and ninety five, between the United States and the Nations or tribes of Indians called the Wyandots, Delawares, Shawanoes, Ottawas, Chippewas, Putawatimies, Miamis, Eel-River, Weeas, Kickapoos, Piankashaws, and Kaskaskias, it was stipulated that no person should be permitted to reside at

[1] Art. 3 of Jay Treaty (TS 105, *ante*, p. 15), as far as it relates to certain Indians, appears to remain in force between the United States and Canada. In connection with termination of art. 3 in part, see *American Journal of International Law*, 1929, pp. 602 and 645; *Karnuth* v. *United States ex rel. Albro* (1929), 279 U.S. 231; *McCandless, Commissioner of Immigration* v. *United States ex rel. Diabo*, 25 F. (2d) 71, 72 (C.C.A. 3d, 1928); Hackworth's *Digest of International Law*, vol. III, pp. 753–755 and vol. V, pp. 379–383.

[2] For a detailed study of this article, see 2 Miller 346.

[3] 7 Stat. 49.

any of the towns or hunting Camps of the said Indian tribes as a trader, who is not furnished with a license for that purpose, under the authority of the United States: Which latter stipulation has excited doubts whether in its operation it may not interfere with the due execution of the said third Article of the treaty of amity, commerce and navigation: And it being the sincere desire of his Britannic Majesty and of the United States that this point should be so explained as to remove all doubts, and promote mutual satisfaction and friendship: And for this purpose his Britannic Majesty having named for his Commissioner, Phineas Bond Esquire his Majesty's Consul-General for the middle and southern States of America (and now his Majesty's chargé d'affaires to the United States) and the President of the United States having named for their Commissioner Timothy Pickering Esquire, Secretary of State of the United States, to whom, agreeably to the laws of the United States he has intrusted this negotiation; They the said Commissioners, having communicated to each other their full powers, have in virtue of the same, and conformably to the spirit of the last Article of the said treaty of Amity, Commerce, and Navigation, entered into this explanatory Article, and do by these presents explicitly Agree and declare, That no stipulations in any treaty subsequently concluded by either of the contracting parties with any other State or Nation, or with any Indian tribe, can be understood to derogate in any manner from the rights of free intercourse and commerce secured by the aforesaid third Article of the treaty of Amity, commerce and navigation, to the subjects of his Majesty and to the Citizens of the United States and to the Indians dwelling on either side of the boundary-line aforesaid; but that all the said persons shall remain at full liberty freely to pass and repass by land or inland navigation, into the respective territories and countries of the contracting parties, on either side of the said boundary-line, and freely to carry on trade and commerce with each other, according to the stipulations of the said third Article of the treaty of Amity, Commerce and Navigation.

This explanatory Article, when the same shall have been ratified by his Majesty, and by the President of the United States by and with the advice and consent of their Senate, and the respective ratifications mutually exchanged, shall be added to and make a part of the said treaty of amity, commerce and navigation, and shall be permanently binding upon his Majesty and the United States.

In Witness whereof We the said Commissioners of his Majesty the King of Great Britain and the United States of America, have signed this present explanatory Article, and thereto affixed our seals.

Done at Philadelphia, this fourth day of May, in the Year of our Lord, one thousand seven hundred and ninety six.

P. BOND [SEAL]
TIMOTHY PICKERING [SEAL]