

AMITY AND COMMERCE

Treaty and regulations signed at Yedo July 29, 1858

Senate advice and consent to ratification December 15, 1858

Ratified by Japan March 19, 1859

Entered into force July 4, 1859

Ratified by the President of the United States April 12, 1860

*Ratifications exchanged at Washington May 22, 1860*¹

Proclaimed by the President of the United States May 23, 1860

*Amended by convention of June 25, 1866*²

*Modified by convention of July 25, 1878*³

*Superseded July 17, 1899, by treaty of November 22, 1894*⁴

12 Stat. 1051; Treaty Series 185⁵

TREATY

The President of the United States of America and his Majesty the Ty-Coon of Japan, desiring to establish on firm and lasting foundations the relations of peace and friendship now happily existing between the two countries, and to secure the best interest of their respective citizens and subjects by encouraging, facilitating, and regulating their industry and trade, have resolved to conclude a treaty of amity and commerce for this purpose, and have, therefore, named as their plenipotentiaries, that is to say: The President of the United States, his excellency Townsend Harris, Consul General of the United States of America for the Empire of Japan, and his Majesty the Ty-Coon of Japan, their excellencies Jno-oo-ye, Prince of Sinano, and Iwasay, Prince of Hego, who, after having communicated to each other their respective full powers, and found them to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

There shall henceforward be perpetual peace and friendship between the United States of America and his Majesty the Ty-Coon of Japan and his successors.

¹ For convention of Mar. 19, 1859, postponing exchange of ratifications, see TS 185, *post*, p. 373.

² TS 188, *ante*, vol. 1, p. 18.

³ TS 189, *post*, p. 377.

⁴ TS 192, *post*, p. 387.

⁵ For a detailed study of this treaty, see 7 Miller 947.

The President of the United States may appoint a diplomatic agent to reside at the city of Yedo, and consuls or consular agents to reside at any or all of the ports in Japan which are opened for American commerce by this treaty. The diplomatic agent and consul general of the United States shall have the right to travel freely in any part of the empire of Japan from the time they enter on the discharge of their official duties.

The government of Japan may appoint a diplomatic agent to reside at Washington, and consuls or consular agents for any or all of the ports of the United States. The diplomatic agent and consul general of Japan may travel freely in any part of the United States from the time they arrive in the country.

ARTICLE II

The President of the United States, at the request of the Japanese government, will act as a friendly mediator in such matters of difference as may arise between the government of Japan and any European power.

The ships of war of the United States shall render friendly aid and assistance to such Japanese vessels as they may meet on the high seas, so far as can be done without a breach of neutrality; and all American consuls residing at ports visited by Japanese vessels shall also give them such friendly aid as may be permitted by the laws of the respective countries in which they reside.

ARTICLE III

In addition to the ports of Simoda and Hakodadi, the following ports and towns shall be opened on the dates respectively appended to them, that is to say: Kanagawa, on the (4th of July, 1859) fourth day of July, one thousand eight hundred and fifty-nine; Nagasaki, on the (4th of July, 1859) fourth day of July, one thousand eight hundred and fifty-nine; Nee-e-gata, on the (1st of January, 1860) first day of January, one thousand eight hundred and sixty; Hiogo, on the (1st of January, 1863) first day of January, one thousand and eight hundred and sixty-three.

If Nee-e-gata is found to be unsuitable as a harbor, another port on the west coast of Nipon shall be selected by the two governments in lieu thereof. Six months after the opening of Kanagawa the port of Simoda shall be closed as a place of residence and trade for American citizens. In all the foregoing ports and towns American citizens may permanently reside; they shall have the right to lease ground, and purchase the buildings thereon, and may erect dwellings and warehouses. But no fortification or place of military strength shall be erected under pretence of building dwellings or warehouses; and to see that this article is observed, the Japanese authorities shall have the right to inspect, from time to time, any buildings which are being erected, altered, or repaired. The place which the Americans shall occupy for their buildings, and the harbor regulations, shall be arranged by the American consul and the authorities of each place, and if they cannot agree the matter

shall be referred to and settled by the American diplomatic agent and the Japanese government.

No wall, fence, or gate shall be erected by the Japanese around the place of residence of the Americans, or anything done which may prevent a free egress and ingress to the same.

From the (1st of January, 1862) first day of January, one thousand eight hundred and sixty-two, Americans shall be allowed to reside in the city of Yedo; and from the (1st of January, 1863) first day of January, one thousand eight hundred and sixty-three, in the city of Osaca, for the purposes of trade only. In each of these two cities a suitable place within which they may hire houses, and the distance they may go, shall be arranged by the American diplomatic agent and the government of Japan. Americans may freely buy from Japanese and sell to them any articles that either may have for sale, without the intervention of any Japanese officers in such purchase or sale, or in making or receiving payment for the same; and all classes of Japanese may purchase, sell, keep, or use any articles sold to them by the Americans.

The Japanese government will cause this clause to be made public in every part of the empire as soon as the ratifications of this treaty shall be exchanged.

Munitions of war shall only be sold to the Japanese government and foreigners.

No rice or wheat shall be exported from Japan as cargo, but all Americans resident in Japan, and ships, for their crews and passengers, shall be furnished with sufficient supplies of the same. The Japanese government will sell, from time to time, at public auction, any surplus quantity of copper that may be produced. Americans residing in Japan shall have the right to employ Japanese as servants or in any other capacity.

ARTICLE IV

Duties shall be paid to the government of Japan on all goods landed in the country, and on all articles of Japanese production that are exported as cargo, according to the tariff hereunto appended.

If the Japanese custom-house officers are dissatisfied with the value placed on any goods by the owner, they may place a value thereon, and offer to take the goods at that valuation. If the owner refuses to accept the offer, he shall pay duty on such valuation. If the offer be accepted by the owner, the purchase money shall be paid to him without delay, and without any abatement or discount.

Supplies for the use of the United States navy may be landed at Kanagawa, Hakodadi, and Nagasaki, and stored in warehouse, in the custody of an officer of the American government, without the payment of any duty.

But, if any such supplies are sold in Japan, the purchaser shall pay the proper duty to the Japanese authorities.

The importation of opium is prohibited, and any American vessel coming to Japan for the purposes of trade, having more than three (3) cetties (four pounds avoirdupois) weight of opium on board, such surplus quantity shall be seized and destroyed by the Japanese authorities. All goods imported into Japan, and which have paid the duty fixed by this treaty, may be transported by the Japanese into any part of the empire without the payment of any tax, excise, or transit duty whatever.

No higher duties shall be paid by Americans on goods imported into Japan than are fixed by this treaty, nor shall any higher duties be paid by Americans than are levied on the same description of goods if imported in Japanese vessels, or the vessels of any other nation.

ARTICLE V^o

All foreign coin shall be current in Japan and pass for its corresponding weight of Japanese coin of the same description. Americans and Japanese may freely use foreign or Japanese coin in making payments to each other.

As some time will elapse before the Japanese will be acquainted with the value of foreign coin, the Japanese government will, for the period of one year after the opening of each harbor, furnish the Americans with Japanese coin, in exchange for theirs, equal weight being given and no discount taken for recoinage. Coins of all description (with the exception of Japanese copper coin) may be exported from Japan, and foreign gold and silver uncoined.

ARTICLE VI

Americans committing offences against Japanese shall be tried in American consular courts, and when guilty shall be punished according to American law. Japanese committing offences against Americans shall be tried by the Japanese authorities and punished according to Japanese law. The consular courts shall be open to Japanese creditors, to enable them to recover their just claims against American citizens, and the Japanese courts shall in like manner be open to American citizens for the recovery of their just claims against Japanese.

All claims for forfeitures or penalties for violations of this treaty, or of the articles regulating trade which are appended hereunto, shall be sued for in the consular courts, and all recoveries shall be delivered to the Japanese authorities.

Neither the American or Japanese governments are to be held responsible for the payment of any debts contracted by their respective citizens or subjects.

^o For an amendment of art. V, see art. VI of convention of June 25, 1866 (TS 188), *ante*, vol. 1, p. 20.

ARTICLE VII

In the opened harbors of Japan Americans shall be free to go, where they please, within the following limits:

At Kanagawa, the River Logo, (which empties into the Bay of Yedo between Kawasaki and Sinagawa,) and (10) ten ri in another direction.

At Hakodadi, (10) ten ri in any direction.

At Hiogo, (10) ten ri in any direction, that of Kioto excepted, which city shall not be approached nearer than (10) ten ri. The crews of vessels resorting to Hiogo shall not cross the River Enagawa, which empties into the Bay between Hiogo and Asaca. The distances shall be measured inland from Goyoso, or town hall, of each of the foregoing harbors, the ri being equal to (4,275) four thousand two hundred and seventy-five yards, American measure.

At Nagasaki Americans may go into any part of the imperial domain in its vicinity. The boundaries of Nee-e-gata, or the place that may be substituted for it, shall be settled by the American diplomatic agent and the government of Japan. Americans who have been convicted of felony, or twice convicted of misdemeanors, shall not go more than (1) one Japanese ri inland from the places of their respective residences, and all persons so convicted shall lose their right of permanent residence in Japan, and the Japanese authorities may require them to leave the country.

A reasonable time shall be allowed to all such persons to settle their affairs, and the American consular authority shall, after an examination into the circumstances of each case, determine the time to be allowed, but such time shall not in any case exceed one year, to be calculated from the time the person shall be free to attend to his affairs.

ARTICLE VIII

Americans in Japan shall be allowed the free exercise of their religion, and for this purpose shall have the right to erect suitable places of worship. No injury shall be done to such buildings, nor any insult be offered to the religious worship of the Americans. American citizens shall not injure any Japanese temple or mia, or offer any insult or injury to Japanese religious ceremonies, or to the objects of their worship.

The Americans and Japanese shall not do anything that may be calculated to excite religious animosity. The government of Japan has already abolished the practice of trampling on religious emblems.

ARTICLE IX

When requested by the American consul, the Japanese authorities will cause the arrest of all deserters and fugitives from justice, receive in jail all

persons held as prisoners by the consul, and give to the consul such assistance as may be required to enable him to enforce the observance of the laws by the Americans who are on land, and to maintain order among the shipping. For all such service, and for the support of prisoners kept in confinement, the consul shall in all cases pay a just compensation.

ARTICLE X

The Japanese government may purchase or construct in the United States ships of war, steamers, merchant ships, whale ships, cannon, munitions of war, and arms of all kinds, and any other things it may require. It shall have the right to engage in the United States scientific, naval and military men, artizans of all kinds, and mariners to enter into its service. All purchases made for the government of Japan may be exported from the United States, and all persons engaged for its service may freely depart from the United States: *Provided*, That no articles that are contraband of war shall be exported, nor any persons engaged to act in a naval or military capacity, while Japan shall be at war with any power in amity with the United States.

ARTICLE XI

The articles for the regulation of trade, which are appended to this treaty, shall be considered as forming a part of the same, and shall be equally binding on both the contracting parties to this treaty, and on their citizens and subjects.

ARTICLE XII

Such of the provisions of the treaty made by Commodore Perry, and signed at Kanagawa, on the 31st of March, 1854,⁷ as conflict with the provisions of this treaty are hereby revoked; and as all the provisions of a convention executed by the consul general of the United States and the governors of Simoda, on 17th of June, 1857,⁸ are incorporated in this treaty, that convention is also revoked.

The person charged with the diplomatic relations of the United States in Japan, in conjunction with such person or persons as may be appointed for that purpose by the Japanese government, shall have power to make such rules and regulations as may be required to carry into full and complete effect the provisions of this treaty, and the provisions of the articles regulating trade appended thereunto.

ARTICLE XIII

After the (4th of July, 1872) fourth day of July, one thousand eight hundred and seventy-two, upon the desire of either the American or Japanese governments, and on one year's notice given by either party, this treaty, and

⁷ TS 183, *ante*, p. 351.

⁸ TS 184, *ante*, p. 359.

such portions of the treaty of Kanagawa as remain unrevoked by this treaty, together with the regulations of trade hereunto annexed, or those that may be hereafter introduced, shall be subject to revision by commissioners appointed on both sides for this purpose, who will be empowered to decide on, and insert therein, such amendments as experience shall prove to be desirable.

ARTICLE XIV

This treaty shall go into effect on the (4th of July, 1859) fourth day of July, in the year of our Lord one thousand eight hundred and fifty-nine, on or before which day the ratifications of the same shall be exchanged at the city of Washington; but if, from any unforeseen cause, the ratifications cannot be exchanged by that time, the treaty shall still go into effect at the date above mentioned.

The act of ratification on the part of the United States shall be verified by the signature of the President of the United States, countersigned by the Secretary of State, and sealed with the seal of the United States.

The act of ratification on the part of Japan shall be verified by the name and seal of his Majesty the Ty-Coon, and by the seals and signatures of such of his high officers as he may direct.

This treaty is executed in quadruplicate, each copy being written in the English, Japanese, and Dutch languages, all the versions having the same meaning and intention, but the Dutch version shall be considered as being the original.

In witness whereof, the above named plenipotentiaries have hereunto set their hands and seals, at the city of Yedo, this twenty-ninth day of July, in the year of our Lord one thousand eight hundred and fifty-eight, and of the independence of the United States of America the eighty-third, corresponding to the Japanese era, the nineteenth day of the sixth month of the fifth year of Ansei Mma.

TOWNSEND HARRIS [SEAL]

REGULATIONS UNDER WHICH AMERICAN TRADE IS TO BE CONDUCTED IN JAPAN⁹

REGULATION FIRST

Within (48) forty-eight hours (Sundays excepted) after the arrival of an American ship in a Japanese port, the captain or commander shall exhibit to the Japanese custom-house authorities the receipt of the American consul, showing that he has deposited the ship's register and other papers, as required by the laws of the United States, at the American consulate, and

⁹ For amendments and modifications of the regulations, see conventions of June 25, 1866 (TS 188), *ante*, vol. 1, p. 18, and July 25, 1878 (TS 189), *post*, p. 377.

he shall then make an entry of his ship, by giving a written paper, stating the name of the ship, and the name of the port from which she comes, her tonnage, the name of her captain or commander, the names of her passengers, (if any,) and the number of her crew, which paper shall be certified by the captain or commander to be a true statement, and shall be signed by him; he shall at the same time deposit a written manifest of his cargo, setting forth the marks and numbers of the packages and their contents, as they are described in his bills of lading, with the names of the person or persons to whom they are consigned. A list of the stores of the ship shall be added to the manifest. The captain or commander shall certify the manifest to be a true account of all the cargo and stores on board the ship, and shall sign his name to the same. If any error is discovered in the manifest, it may be corrected within (24) twenty-four hours (Sundays excepted) without the payment of any fee; but for any alteration or post entry to the manifest made after that time, a fee of (\$15) fifteen dollars shall be paid. All goods not entered on the manifest shall pay double duties on being landed. Any captain or commander that shall neglect to enter his vessel at the Japanese custom-house within the time prescribed by this regulation shall pay a penalty of (\$60) sixty dollars for each day that he shall so neglect to enter his ship.

REGULATION SECOND

The Japanese government shall have the right to place custom-house officers on board any ship in their ports (men-of-war excepted.) All custom-house officers shall be treated with civility, and such reasonable accommodation shall be allotted to them as the ship affords. No goods shall be unladen from any ship between the hours of sunset and sunrise, except by special permission of the custom-house authorities, and the hatches, and all other places of entrance into that part of the ship where the cargo is stowed, may be secured by Japanese officers, between the hours of sunset and sunrise, by affixing seals, locks, or other fastenings; and if any person shall, without due permission, open any entrance that has been so secured, or shall break or remove any seal, lock, or other fastening that has been affixed by the Japanese custom-house officers, every person so offending shall pay a fine of (\$60) sixty dollars for each offence. Any goods that shall be discharged or attempted to be discharged from any ship, without having been duly entered at the Japanese custom-house, as hereinafter provided, shall be liable to seizure and confiscation.

Packages of goods made up with an attempt to defraud the revenue of Japan, by concealing therein articles of value which are not set forth in the invoice, shall be forfeited.

American ships that shall smuggle, or attempt to smuggle, goods in any of the non-opened harbors of Japan, all such goods shall be forfeited to the Japanese government, and the ship shall pay a fine of (\$1,000) one thousand

dollars for each offence. Vessels needing repairs may land their cargo for that purpose without the payment of duty. All goods so landed shall remain in charge of the Japanese authorities, and all just charges for storage, labor, and supervision shall be paid thereon. But if any portion of such cargo be sold, the regular duties shall be paid on the portion so disposed of. Cargo may be transhipped to another vessel in the same harbor without the payment of duty; but all transhipments shall be made under the supervision of Japanese officers, and after satisfactory proof has been given to the custom-house authorities of the *bona fide* nature of the transaction, and also under a permit to be granted for that purpose by such authorities. The importation of opium being prohibited, if any person or persons shall smuggle, or attempt to smuggle, any opium, he or they shall pay a fine of (\$15) fifteen dollars for each catty of opium so smuggled or attempted to be smuggled; and if more than one person shall be engaged in the offence, they shall collectively be held responsible for the payment of the foregoing penalty.

REGULATION THIRD

The owner or consignee of any goods, who desires to land them, shall make an entry of the same at the Japanese custom-house. The entry shall be in writing, and shall set forth the name of the person making the entry, and the name of the ship in which the goods were imported, and the marks, numbers, packages, and the contents thereof, with the value of each package extended separately in one amount, and at the bottom of the entry shall be placed the aggregate value of all the goods contained in the entry. On each entry the owner or consignee shall certify, in writing, that the entry then presented exhibits the actual cost of the goods, and that nothing has been concealed whereby the customs of Japan would be defrauded; and the owner or consignee shall sign his name to such certificate.

The original invoice or invoices of the goods so entered shall be presented to the custom-house authorities, and shall remain in their possession until they have examined the goods contained in the entry.

The Japanese officers may examine any or all of the packages so entered, and for this purpose may take them to the custom-house, but such examination shall be without expense to the importer or injury to the goods, and after examination, the Japanese shall restore the goods to their original condition in the packages, (so far as may be practicable,) and such examination shall be made without any unreasonable delay.

If any owner or importer discovers that his goods have been damaged on the voyage of importation before such goods have been delivered to him, he may notify the custom-house authorities of such damage, and he may have the damaged goods appraised by two or more competent and disinterested persons, who, after due examination, shall make a certificate setting forth the amount per cent. of damage on each separate package, describing it by its

mark and number, which certificates shall be signed by the appraisers in presence of the custom-house authorities, and the importer may attach the certificate to his entry, and make a corresponding deduction from it. But this shall not prevent the custom-house authorities from appraising the goods in the manner provided in article fourth of the treaty, to which these regulations are appended.

After the duties have been paid, the owner shall receive a permit authorizing the delivery to him of the goods, whether the same are at the custom-house or on ship-board. All goods intended to be exported shall be entered at the Japanese custom-house before they are placed on ship-board. The entry shall be in writing, and shall state the name of the ship by which the goods are to be exported, with the marks and numbers of the packages, and the quantity, description, and value of their contents. The exporter shall certify in writing that the entry is a true account of all the goods contained therein, and shall sign his name thereto. Any goods that are put on board of a ship for exportation before they have been entered at the custom-house, and all packages which contain prohibited articles, shall be forfeited to the Japanese government.

No entry at the custom-house shall be required for supplies for the use of ships, their crews and passengers, nor for the clothing, &c., of passengers.

REGULATION FOURTH

Ships wishing to clear shall give (24) twenty-four hours' notice at the custom-house, and at the end of that time they shall be entitled to their clearance; but if it be refused, the custom-house authorities shall immediately inform the captain or consignee of the ship of the reasons why the clearance is refused, and they shall also give the same notice to the American consul.

Ships of war of the United States shall not be required to enter or clear at the custom-house, nor shall they be visited by Japanese custom-house or police officers. Steamers carrying the mails of the United States may enter and clear on the same day, and they shall not be required to make a manifest, except for such passengers and goods as are to be landed in Japan; but such steamers shall, in all cases, enter and clear at the custom-house.

Whale ships touching for supplies, or ships in distress, shall not be required to make a manifest of their cargo; but if they subsequently wish to trade, they shall then deposit a manifest, as required in regulation first.

The word ship, wherever it occurs in these regulations, or in the treaty to which they are attached, is to be held as meaning ship, barque, brig, schooner, sloop, or steamer.

REGULATION FIFTH

Any person signing a false declaration or certificate with the intent to defraud the revenue of Japan shall pay a fine of (\$125) one hundred and twenty-five dollars for each offence.

REGULATION SIXTH

No tonnage duties shall be levied on American ships in the ports of Japan, but the following fees shall be paid to the Japanese custom-house authorities: For the entry of a ship (\$15) fifteen dollars; for the clearance of a ship (\$7) seven dollars; for each permit (\$1½) one dollar and a half; for each bill of health (\$1½) one dollar and a half; for any other document (\$1½) one dollar and a half.

REGULATION SEVENTH

Duties shall be paid to the Japanese government on all goods landed in the country according to the following tariff:

CLASS ONE.—All articles in this class shall be free of duty.

Gold and silver, coined or uncoined.

Wearing apparel in actual use.

Household furniture and printed books not intended for sale, but the property of persons who come to reside in Japan.

CLASS TWO.—A duty of (5) five per cent. shall be paid on the following articles: All articles used for the purpose of building, rigging, repairing, or fitting out of ships; whaling gear of all kinds; salted provisions of all kinds; bread and breadstuffs; living animals of all kinds; coals; timber for building houses; rice; paddy; steam machinery; zinc; lead; tin; raw silk.

CLASS THREE.—A duty of (35) thirty-five per cent. shall be paid on all intoxicating liquors, whether prepared by distillation, fermentation, or in any other manner.

CLASS FOUR.—All goods not included in any of the preceding classes shall pay a duty of (20) twenty per cent.

All articles of Japanese production, which are exported as cargo, shall pay a duty of (5) five per cent, with the exception of gold and silver coin and copper in bars. (5) Five years after the opening of Kanagawa the import and export duties shall be subject to revision if the Japanese government desires it.

TOWNSEND HARRIS [SEAL]