

## COMMERCE AND NAVIGATION

*Treaty signed at Baghdad December 3, 1938*

*Senate advice and consent to ratification August 1, 1939*

*Ratified by the President of the United States August 30, 1939*

*Ratified by Iraq May 1, 1940*

*Ratifications exchanged at Bagdad May 20, 1940*

*Proclaimed by the President of the United States May 29, 1940*

*Entered into force June 19, 1940*

54 Stat. 1790; Treaty Series 960

### TREATY OF COMMERCE AND NAVIGATION BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF IRAQ

The United States of America and His Majesty the King of Iraq, taking cognizance of the provisions of Article 7 of the Convention, signed at London January 9, 1930,<sup>1</sup> to which the United States of America, Great Britain, and Iraq are Parties, whereby on the termination of the special relations existing between His Britannic Majesty and His Majesty the King of Iraq, negotiations shall be entered into between the United States and Iraq for the conclusion of a treaty in regard to their future relations, have resolved to conclude a treaty of Commerce and Navigation and for that purpose have appointed as their Plenipotentiaries:

THE PRESIDENT OF THE UNITED STATES OF AMERICA:

PAUL KNABENSHUE,

Minister Resident of the United States of America at Baghdad.

HIS MAJESTY THE KING OF IRAQ:

His Excellency Sayid TOWFIK AL SWAIDI,

Minister for Foreign Affairs.

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

#### ARTICLE I

In respect of import and export duties, all other charges imposed on or in connection with importation or exportation, and the method of levying such duties and charges, as well as in respect of transit, warehousing and

<sup>1</sup> TS 835, *ante*, vol. 2, p. 998.

customs formalities, and the treatment of commercial travelers' samples, the United States of America will accord to Iraq and Iraq will accord to the United States of America, its territories and possessions, unconditional most-favored-nation treatment.

Therefore, no higher or other duties shall be imposed on the importation into or the disposition in the United States of America, its territories or possessions, of any articles the growth, produce or manufacture of Iraq than are or shall be payable on like articles the growth, produce or manufacture of any other foreign country.

Similarly, no higher or other duties shall be imposed on the importation into or the disposition in Iraq of any articles the growth, produce or manufacture of the United States of America, its territories or possessions, than are or shall be payable on like articles the growth, produce or manufacture of any other foreign country.

Similarly, no higher or other duties shall be imposed in the United States of America, its territories or possessions, or in Iraq, on the exportation of any articles to the other or to any territory or possession of the other, than are payable on the exportation of like articles to any other foreign country.

Any advantage, of whatsoever kind, which either High Contracting Party may extend to any article, the growth, produce or manufacture of any other foreign country shall simultaneously and unconditionally, without request and without compensation, be extended to the like article the growth, produce or manufacture of the other High Contracting Party.

The stipulations of this Treaty regarding the treatment to be accorded by each High Contracting Party to the commerce of the other do not extend:

(a) to the advantages now accorded or which may hereafter be accorded by the United States of America, its territories or possessions or the Panama Canal Zone to one another or to the Republic of Cuba. The provisions of this paragraph shall continue to apply in respect of any advantages now or hereafter accorded by the United States of America, its territories or possessions or the Panama Canal Zone to one another, irrespective of any change in the political status of any of the territories or possessions of the United States of America;

(b) to any advantages in customs matters which Iraq may grant to goods the produce or manufacture of Turkey, or of any country whose territory was in 1914 wholly included in the Ottoman Empire in Asia;

(c) to any advantages which are, or may in the future be accorded by either Party to purely border traffic within a zone not exceeding ten miles (15 kilometres) wide on either side of the customs frontier;

(d) to any advantages in customs matters which are, or may in the future be accorded to States in customs union with either High Contracting Party so long as such advantages are not accorded to any other State.

## ARTICLE II

Having regard to the volume and nature of the trade between the two countries it is agreed that in all that concerns matters of prohibitions or restrictions on importations and exportations each of the two countries will accord, whenever they may have recourse to the said prohibitions or restrictions, to the commerce of the other country treatment equally favorable to that which is accorded to any other country and that in the event either country establishes or maintains import or customs quotas, or other quantitative restrictions, or any system of foreign exchange control, the share of the total permissible importation of any product or of the total exchange made available for importation of any product of the other country shall be equal to the share in the trade in such product which such other country enjoyed in a previous representative period.

## ARTICLE III

Vessels of the United States of America will enjoy in Iraq and Iraqi vessels will enjoy in the United States of America treatment not less favorable than that accorded to national vessels or the vessels of the most favored nation.

The coasting trade of the High Contracting Parties is exempt from the provisions of this Article and from the other provisions of this Treaty, and is to be regulated according to the laws of each High Contracting Party in relation thereto. It is agreed, however, that vessels of either High Contracting Party shall enjoy within the territory of the other with respect to the coasting trade the most-favored-nation treatment

## ARTICLE IV

Nothing in this Treaty shall be construed to prevent the adoption of measures prohibiting or restricting the exportation or importation of gold or silver, or to prevent the adoption of such measures as either Government may see fit with respect to the control of the export or sale for export of arms, ammunition or implements of war, and in exceptional circumstances, all other military supplies. It is agreed, further, that nothing in this Treaty shall be construed to prevent the adoption or enforcement of measures relating to neutrality or to rights and obligations arising under the Covenant of the League of Nations.<sup>2</sup>

Subject to the requirement that, under like circumstances and conditions, there shall be no arbitrary discrimination by either High Contracting Party against the other High Contracting Party in favor of any third country, nothing in this Treaty shall be construed to restrict the right of either High Contracting Party to impose (1) prohibitions or restrictions designed to

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<sup>2</sup> *Ante*, vol. 2, p. 48.

protect human, animal, or plant health or life or national treasures of artistic, historical or archaeological value; (2) prohibitions or restrictions applied to products which as regards production or trade are or may in the future be subject within the country to state monopoly or monopolies exercised under state control; or (3) regulations for the enforcement of revenue or police laws.

Each of the High Contracting Parties agrees that, in respect of the foreign purchases of any state monopoly for the importation, production, or sale of any commodity or of any agency having such monopoly privileges, the commerce of the other High Contracting Party shall receive fair and equitable treatment, and that, in making its foreign purchases, such monopoly or agency will be influenced solely by those considerations which would normally be taken into account by a private commercial enterprise interested solely in purchasing goods on the most favorable terms.

#### ARTICLE V

Should measures be taken by either High Contracting Party seriously affecting the chief exports of the other Party, the Party taking such measures will give sympathetic consideration to any representations which the other Party may make in respect to such measures. If agreement with respect to the question or questions involved in such representations shall not have been reached within ninety days from the date of the receipt of the said representations the Government making the representations may, notwithstanding the provisions of Article VII, terminate this Treaty, such termination to be effective at the expiration of thirty days from the date of the receipt of a notification given subsequent to the expiration of the ninety-day period provided herein.

#### ARTICLE VI

The present Treaty shall, from the day on which it comes into force, supplant Article 7 of the convention between the United States of America and Great Britain and Iraq signed at London January 9, 1930, in so far as commerce and navigation are concerned.

#### ARTICLE VII

The present Treaty shall take effect in all its provisions on the thirtieth day after the exchange of ratifications, and shall continue in force for the term of three years from that day. If neither High Contracting Party notifies to the other at least one year in advance an intention of terminating the Treaty upon the expiration of the aforesaid period of three years, the Treaty shall remain in full force and effect after the aforesaid period and until one year from such a time as either of the High Contracting Parties shall have notified to the other an intention of terminating the Treaty.

## ARTICLE VIII

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

In witness whereof the respective Plenipotentiaries have signed the present Treaty and have affixed their seals thereto.

Done in duplicate in the English and Arabic languages, which have the same value and shall have equal force, at Baghdad this 3rd day of December, 1938, of the Christian Era, corresponding with the 10th. day of Shawaal, 1357, of the Hijra.

PAUL KNABENSHUE [SEAL]

T. SWAIDI [SEAL]