

SMUGGLING OF INTOXICATING LIQUORS

Convention and exchange of notes signed at Washington August 21, 1924

Senate advice and consent to ratification December 10, 1924

Ratified by the President of the United States February 26, 1925

Ratified by the Netherlands March 31, 1925

Ratifications exchanged at Washington April 8, 1925

Entered into force April 8, 1925

Proclaimed by the President of the United States April 8, 1925

44 Stat. 2013; Treaty Series 712

CONVENTION

The President of the United States of America and Her Majesty the Queen of the Netherlands being desirous of avoiding any difficulties which might arise between them in connection with the laws in force in the United States on the subject of alcoholic beverages have decided to conclude a Convention for that purpose, and have appointed as their Plenipotentiaries:

The President of the United States of America: Charles Evans Hughes, Secretary of State of the United States; and

Her Majesty the Queen of the Netherlands: Jonkheer Dr. A. C. D. de Graeff, Her Envoy Extraordinary and Minister Plenipotentiary to the United States of America;

Who, having communicated their full powers found in good and due form, have agreed as follows:

ARTICLE I

The High Contracting Parties declare that it is their firm intention to uphold the principle that 3 marine miles extending from the coastline outwards and measured from low-water mark constitute the proper limits of territorial waters.

ARTICLE II

(1) Her Majesty agrees that she will raise no objection to the boarding of private vessels under the Netherlands flag outside the limits of territorial waters by the authorities of the United States, its territories or possessions in order that enquiries may be addressed to those on board and an examination

be made of the ship's papers for the purpose of ascertaining whether the vessel or those on board are endeavoring to import or have imported alcoholic beverages into the United States, its territories or possessions in violation of the laws there in force. When such enquiries and examination show a reasonable ground for suspicion, a search of the vessel may be initiated.

(2) If there is reasonable cause for belief that the vessel has committed or is committing or attempting to commit an offense against the laws of the United States, its territories or possessions prohibiting the importation of alcoholic beverages, the vessel may be seized and taken into a port of the United States, its territories or possessions for adjudication in accordance with such laws.

(3) The rights conferred by this article shall not be exercised at a greater distance from the coast of the United States, its territories or possessions than can be traversed in one hour by the vessel suspected of endeavoring to commit the offense. In cases, however, in which the liquor is intended to be conveyed to the United States, its territories or possessions by a vessel other than the one boarded and searched, it shall be the speed of such other vessel and not the speed of the vessel boarded, which shall determine the distance from the coast at which the right under this article can be exercised.

ARTICLE III

No penalty or forfeiture under the laws of the United States shall be applicable or attach to alcoholic liquors or to vessels or persons by reason of the carriage of such liquors, when such liquors are listed as sea stores or cargo destined for a port foreign to the United States, its territories or possessions on board Netherlands vessels voyaging to or from ports of the United States, or its territories or possessions or passing through the territorial waters thereof, and such carriage shall be as now provided by law with respect to the transit of such liquors through the Panama Canal, provided that such liquors shall be kept under seal continuously while the vessel on which they are carried remains within said territorial waters and that no part of such liquors shall at any time or place be unladen within the United States, its territories or possessions.

ARTICLE IV

Any claim by a Netherlands vessel for compensation on the grounds that it has suffered loss or injury through the improper or unreasonable exercise of the rights conferred by Article II of this Treaty or on the ground that it has not been given the benefit of Article III shall be referred for the joint consideration of two persons, one of whom shall be nominated by each of the High Contracting Parties.

Effect shall be given to the recommendations contained in any such joint report. If no joint report can be agreed upon, the claim shall be referred to

the Permanent Court of Arbitration at The Hague described in the Convention for the Pacific Settlement of International Disputes, concluded at The Hague, October 18, 1907.¹ The arbitral tribunal shall be constituted in accordance with Article 87 (Chapter IV) and with Article 59 (Chapter III) of the said Convention. The proceedings shall be regulated by so much of Chapter IV of the said Convention and of Chapter III thereof (special regard being had for Articles 70 and 74, but excepting Articles 53 and 54) as the tribunal may consider to be applicable and to be consistent with the provisions of this agreement. All sums of money which may be awarded by the Tribunal on account of any claim shall be paid within eighteen months after the date of the final award without interest and without deduction, save as hereafter specified. Each Government shall bear its own expenses. The expenses of the Tribunal shall be defrayed by a ratable deduction of the amount of the sums awarded by it, at a rate of five per cent on such sums, or at such lower rate as may be agreed upon between the two Governments; the deficiency, if any, shall be defrayed in equal moieties by the two Governments.

ARTICLE V

This Treaty shall be subject to ratification and shall remain in force for a period of one year from the date of the exchange of ratifications.

Three months before the expiration of the said period of one year, either of the High Contracting Parties may give notice of its desire to propose modifications in the terms of the Treaty.

If such modifications have not been agreed upon before the expiration of the term of one year mentioned above, the Treaty shall lapse.

If no notice is given on either side of the desire to propose modifications, the Treaty shall remain in force for another year, and so on automatically, but subject always in respect of each such period of a year to the right on either side to propose as provided above, three months before its expiration, modifications in the Treaty, and to the provision that if such modifications are not agreed upon before the close of the period of one year, the Treaty shall lapse.

ARTICLE VI

In the event that either of the High Contracting Parties shall be prevented either by judicial decision or legislative action from giving full effect to the provisions of the present Treaty the said Treaty shall automatically lapse, and, on such lapse or whenever this Treaty shall cease to be in force, each High Contracting Party shall enjoy all the rights which it would have possessed had this Treaty not been concluded.

¹ TS 536, *ante*, vol. 1, p. 577.

The present Convention shall be duly ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by Her Majesty the Queen of the Netherlands; and the ratifications shall be exchanged at Washington as soon as possible.

In witness whereof, the respective Plenipotentiaries have signed the present Convention in duplicate in the English and Dutch languages and have thereunto affixed their seals.

Done at the city of Washington this twenty-first day of August, in the year of our Lord one thousand nine hundred and twenty-four.

CHARLES EVANS HUGHES [SEAL]

DE GRAEFF [SEAL]

EXCHANGE OF NOTES

The Netherlands Minister to the Secretary of State

LÉGATION DES PAYS-BAS

No. 2330

WASHINGTON, D.C., August 21, 1924

SIR:

In connection with the signing today of a convention pertaining to avoid difficulties which might arise between our two Governments in connection with the laws in force in the United States on the subject of alcoholic beverages and in pursuance of our previous correspondence on the subject, I have the honor to inform you that the Royal Government understands that in the event of the adhesion by the United States to the Protocol of December 16, 1920² under which the Permanent Court of International Justice has been created at The Hague, the Government of the United States will not be averse to considering a modification of the said Convention, or the making of a separate agreement, providing that claims as mentioned in Article IV of that Convention, which cannot be settled in the way as indicated in the first paragraph of that article, shall be referred to the Permanent Court of International Justice instead of the Permanent Court of Arbitration.

I shall be glad to have you confirm this understanding on behalf of your Government.

Accept, Sir, the renewed assurances of my highest consideration.

DE GRAEFF

Honorable CHARLES E. HUGHES,
Secretary of State, Washington, D. C.

² 6 LNTS 380.

The Secretary of State to the Netherlands Minister

DEPARTMENT OF STATE
WASHINGTON, August 21, 1924

SIR:

I have the honor to acknowledge the receipt of your note of today's date, in which you were so good as to inform me, in connection with the signing this day of the Convention between the United States and the Netherlands to aid in the prevention of the smuggling of intoxicating liquors into the United States, that the Government of the Netherlands understands that in the event of the adhesion by the Government of the United States to the Protocol of December 16, 1920, under which the Permanent Court of International Justice has been created at The Hague, the Government of the United States will not be averse to considering a modification of the said Convention, or the making of a separate Agreement, providing that claims mentioned in Article IV of that Convention which can not be settled in the way indicated in the first paragraph of that Article, shall be referred to the Permanent Court of International Justice instead of to the Permanent Court of Arbitration.

Complying with your request for confirmation of this understanding, I have the honor to state that the Netherlands Government's understanding of the attitude of the Government of the United States in this respect is correct, and that in the event that the Senate gives its assent to the proposal made by the President on February 24, 1923, that it consent under certain stated conditions to the adhesion by the United States to the Protocol of December 16, 1920, under which the Permanent Court of International Justice has been created at The Hague, the Government of the United States will not be averse to considering a modification of the Convention this day signed, or the making of a separate Agreement, providing for the reference of claims mentioned in Article IV of the Convention which can not be settled in the way indicated in the first paragraph of that Article, to the Permanent Court of International Justice instead of to the Permanent Court of Arbitration.

Accept, Sir, the renewed assurances of my highest consideration.

CHARLES E. HUGHES

Jonkheer Dr. A. C. D. DE GRAEFF,
Minister of the Netherlands