SIAM

PROPOSED REVISION OF THE TREATY OF FRIENDSHIP AND COMMERCE BETWEEN THE UNITED STATES AND SIAM, SIGNED DECEMBER 16, 1920

711.922/70

The Siamese Ministry for Foreign Affairs to the American Legation in Siam

MEMORANDUM

Negotiation for treaty revision with U. S. A.

1. In a Memorandum dated October 23rd, 1933, His Majesty's Government put forward proposals for a revision of the present Treaty on the following points:

I. Article 1, paragraph 4: Military exactions or contributions.—It is desired to have these words struck out, so that either Contracting Party may have the right to requisition the property of the nationals of the other Party in its territory in time of war.

II. Article 3: Monopoly.—It is desired to modify this Article so that either Contracting Party should have the right to set up monopolies in its territory.

III. Article 7: Customs duties.—It is desired to modify the Article so that the most favoured nation treatment in regard to customs duties should be reciprocal and not unilateral as it now is.

IV. Article 18, paragraph 3: Consular privileges.—It is desired to have the condition of reciprocity added to the most favoured nation treatment that is now provided for.

The text of the Memorandum is attached herewith. (Annex 1.)

2. On February 1st, 1934, Mr. Stevens, who was entrusted with the negotiation with the Department of State, transmitted the counterproposals of the Department of State, the text of which is to be found in Annex 2.

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2 Handed to Assistant Secretary of State Sayre by the American Minister to Siam, temporarily in Washington, July 2.
3 Original memorandum not received by the Department, but see telegram No. 17, November 18, 1933, 1 p. m., to the Minister in Siam, Foreign Relations, 1933, vol. III, p. 770.
4 Proposals communicated to the Department by the Siamese Minister, October 16, 1933, ibid., p. 767.
5 Not printed.
6 Raymond B. Stevens, American adviser on foreign relations to the Siamese Government.
3. As the proposals regarding (1) military exactions or contributions, (2) customs duties, and (3) consular privileges, concern provisions which are also stipulated in the treaties with other Powers, it was considered desirable to take up the discussion of these points at the time of the general revision of treaties which was due to take place in 1936. As the limitation of the right to set up monopolies exists in the American Treaty only, His Majesty’s Government proposed that only Article 3 dealing with monopolies, should be dealt with in the Supplementary Treaty to be concluded, and, on this question, accepted the counter-proposal of the Department of State and, on the 21st of January 1935, authorized the Siamese Minister at Washington to sign the Supplementary Treaty accordingly.  

4. The Department of State, however, asked that the revision of Article 3 also should be left in abeyance pending the general revision.  

5. Subsequently, in December 1935, through the good offices of Dr. Sayre, the Department of State expressed its readiness to sign the Supplementary Treaty with a new Article 3 as per counter-proposal of the Department of State already accepted by His Majesty’s Government, or if His Majesty’s Government preferred, the Department of State would accept the provisions of the Article concerning monopolies in the Trade Agreement between the United States of America and Canada (cf. Annex 3), provided however that an exchange of Notes as per drafts in Annexes 4 and 5, should take place at the time of the signature of the Supplementary Treaty.  

6. As His Majesty’s Government hope to be able to start negotiations for the general revision of treaties with the various Powers in June next, it would appear to be desirable to resume the negotiation with the Department of State at that time. Instructions for this purpose will be sent to the Siamese Minister at Washington about June.  

7. The Siamese Minister at Washington will also be requested to keep H. E. Mr. Baker au courant of the lines along which the negotiation is to proceed.  

8. Apart from the points already under negotiation, on which His Majesty’s Government will endeavour to find solutions which would

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2 See memoranda by the Assistant Secretary of State, dated December 2 and December 9, 1935, ibid., pp. 1108 and 1110.  
3 Signed at Washington, November 15, 1935; Department of State Executive Agreement Series No. 91, or 49 Stat. 9900. See article VIII on monopolies.  
4 For Department’s draft note handed by Mr. Sayre to the Siamese Minister, December 2, 1935, see Foreign Relations, 1935, vol. iii, p. 1109.  
5 For draft reply from the Siamese Government, see ibid., p. 1111.  
6 Such instructions, if sent to the Siamese Minister, were not conveyed to the Department until November 5, 1936, when the Siamese Minister gave notice of the termination of the treaty. See memorandum by the Chief of the Division of Far Eastern Affairs, November 5, p. 998.  
7 James M. Baker, Minister to Siam, temporarily in Washington.
prove acceptable to the United States Government, it may be mentioned from now on that in view of the promulgation and putting into force as from October 1st, 1935, of all the Codes, His Majesty’s Government will take the opportunity, in the forthcoming negotiation for the revision of treaties, to secure the termination of the right of evocation which, according to the existing Jurisdiction Protocol, is to continue for a period of 5 years as from the promulgation and putting into force of all the Codes.

9. His Majesty’s Government will be very grateful for any assistance that H. E. Mr. Baker will be so good as to lend them in connection with their negotiations with the United States Government.

[Bangkok.] 23 April, 1936.

711.922/81

The Chargé in Siam (Chapman) to the Secretary of State

No. 432

Bangkok, October 14, 1936.

[Received October 28.]

Sir: I have the honor to refer to my telegram No. 14 of October 14, 1936, and to confirm to the Department that I have been confidentially advised of the intention of the Siamese Government to present the draft of a new proposed treaty between the United States and Siam some time within the next few weeks. It is understood that the treaty will include clauses relating to land ownership substantially as quoted in my air mail despatch No. 420 of August 29, 1936. I am informed further that the proposed treaty will incorporate much of the phraseology of model United States treaties of friendship, commerce, and consular rights, that the Siamese Government is particularly anxious to expedite the negotiation and conclusion of a favorable treaty with the United States, if possible, before initiating negotiations with, shall we say, less disinterested countries, and that the Foreign Office will desire to conduct the treaty negotiations at Bangkok.

It is obvious that the Siamese believe that they have a better chance of concluding a favorable treaty with the United States than with certain other countries, and that their hand will be much strengthened if, when negotiating with France, Great Britain and Japan, they can refer to the accepted provisions of a treaty already concluded with the United States.

I shall not fail to keep the Department fully and promptly informed of further developments on this subject.

Respectfully yours,

J. Holbrook Chapman

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*Not printed.
*Missing from Department files.*
The Siamese State Councilor for Foreign Affairs (Luang Pradit) to the American Chargé in Siam (Chapman) 27

No. 7150/2479  [BANGKOK,] 19 October, 1936.

MONSIEUR LE CHARGÉ D’AFFAIRES: You are aware that the Treaty of Friendship, Commerce and Navigation which has governed the relations between the United States of America and Siam has now been operative over the ten year period foreseen in the text, and will continue in force for an additional period of one year after denunciation by one of the Parties. This basic agreement contains many provisions whose usefulness has been proven during the period in question. There are however certain provisions which seem to His Majesty’s Government no longer appropriate, some in substance, others in matters of form. Similar remarks apply equally to the existing treaties between Siam and other Powers.

On several occasions the general attitude of His Majesty’s Government in these matters has been indicated in public statements. For instance a statement of Government policy made on September 22, 1934 contained the following remarks:

“In regard to the Principle of Independence, there still exist certain treaty provisions which restrict our jurisdictional and fiscal autonomy, and the Government will seek an opportunity for their revision in due course.”

The speech of the Council of Regency at the Opening of the Assembly August 1st 1934 contained the following statement:

“... at the present time, almost all our treaties with Foreign Powers are nearing expiration. Accordingly, the Government will seek an opportunity of negotiating for their revision in due course, with a view to giving them the form of complete equality.”

Even more recently, at the opening of the Assembly 1936, the Council of Regency stated: “As for the treaties with foreign Powers, almost all of which are nearing expiration, steps are being taken by the Government in order to negotiate for their revision, with a view to giving them the form of complete equality.”

As thus indicated His Majesty’s Government feel it their duty now to initiate measures looking toward a revision of the present treaties, or more exactly stated, the substitution of new texts or instruments for certain of the present ones.

In studying the problem thus presented the Government has come to the conclusion, for its part, that the interests of Siam on the one

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27 Copy transmitted to the Department by the Chargé in Siam in his despatch No. 436, October 20; received November 3.
28 Omission indicated in the original note.
hand, and of foreign States on the other, will be best defined and safeguarded if the basic treaties are uniform in character. As far as Siam is concerned, such a result will greatly simplify the problem of new legislation and permit interpretation of texts by the courts and administrative bodies in a way which will secure uniformity in regard to treatment of foreign interests. As no unusual provisions are contemplated, and in general the forms frequently employed in other modern treaties will be proposed, it is not considered that the uniformity thus suggested will give rise to any especial legislative or administrative problems so far as the other High Contracting Parties are concerned.

With this aim of revising their treaty system to accomplish uniformity, complete reciprocity and full jurisdictional and fiscal autonomy, His Majesty’s Government propose promptly to communicate a draft of a new treaty, after notice is given at an early date of their wish to terminate the present one. As provided in Article 17 of that document, the existing Treaty continues to have validity for a further one year from the date of such notification, during which time His Majesty’s Government will hope to reach full agreement on the terms of the new Treaty and bring it into effect so that no interruption of treaty relationship will intervene.

I avail myself [etc.]

LUANG PRADIT MANUDHARM

711.922/85

Memorandum by the Chief of the Division of Far Eastern Affairs (Hornbeck)

[WASHINGTON,] November 5, 1936.

The Siamese Minister called and, after making some remarks regarding the interest with which he had observed the political campaign and the election, said that his Government had decided to give notice to all of the Siamese “treaty powers” of termination of existing treaties. Such notice was being given today to each of the governments concerned, and therefore he had called to give here the notification contained in his note of this date to the Secretary of State, which note he thereupon handed me.39

The Minister stated that his Government hoped to be able to negotiate at Bangkok a new treaty with the United States. I asked at what time would the Siamese Government like to have such negotiations held. The Minister replied that he had not been informed. He went on to say that he understood that a text of a proposed new treaty would be handed to our Chargé at Bangkok and that he, the Minister, 39 *Infra.*
hoped that his Government would send him a copy. I offered no comment except a remark that it ought to be not difficult to dispose of the question of jurisdictional privilege.

The Minister said that our Minister to Siam, Mr. Baker, had at one time expressed the view that he would like to return to Bangkok for treaty negotiations and that Mr. Baker had at another time expressed doubt whether the state of his health would permit him to return to Bangkok. The Minister said that perhaps Mr. Baker would still "change his mind".

The Minister inquired whether Mr. Sayre was available, as he would like to call on him; and it was shortly arranged that the Minister call on Mr. Sayre at once.

COMMENT: It will probably be deemed desirable to make acknowledgment at an early date of the Siamese Minister's note of November 5, 1936 (here attached).

S[TANLEY] K. H[ORNBECK]

711.922/54

The Siamese Minister (Rajamaitri) to the Secretary of State

WASHINGTON, 5 November, 1936.

Sir: With reference to a note from the Siamese Councillor of State for Foreign Affairs of the 19th October, addressed to your representative in Bangkok, indicating that it is the desire of His Majesty's Government to secure in their treaties a large measure of uniformity, complete equality of form and entire fiscal and jurisdictional autonomy, I now have the honour to inform Your Excellency, under instructions from my Government, that His Majesty's Government hereby give notice for their part of the termination of the Treaty of Friendship, Commerce and Navigation with its Annex between Siam and the United States of America signed at Washington, 16th December, 1920.

It is very earnestly desired, in view of the fact that the Penal Code, the Civil and Commercial Codes, the Codes of Procedure and the Law for the Organization of Courts have been promulgated and have been in force for a certain period of time, to terminate the theoretical and unused right of evocation and to enjoy unrestricted jurisdictional autonomy. His Majesty's Government would therefore request friendly assent of your Excellency's Government to the discontinuation of a jurisdictional privilege which has outlived its time.

Acknowledgment was made November 17; for text, see Department of State, Treaty Information, Bulletin No. 86, November 1936, p. 19.

Original missing from Department files; reprinted from Department of State, Treaty Information, Bulletin No. 86, November 1936, p. 18.
It is however understood that, as provided in Article 17 of the Treaty, all the above-mentioned agreements shall remain in force for one year from the date of the receipt of this notice.

I have [etc.]

PHYA ABHIBAL RAJAMAITRI

711.922/83: Telegram

The Chargé in Siam (Chapman) to the Secretary of State

BANGKOK, November 6, 1936—9 a.m.
[Received November 6—4:28 a.m.]

16. Foreign Office last night presented draft of treaty to take the place of existing treaty which I am informed was denounced yesterday in Washington. Note of transmittal states “That for practical reasons it would be most acceptable if the negotiations might take place at Bangkok if possible at an early convenient date on the basis of the draft proposed”.

Text of draft of treaty will be forwarded air mail 7th. Most important provisions of the treaty from American standpoint are the inclusion of land ownership right subject to reciprocity governed by “laws of the place where the property is situated” and omission of monopoly restrictions.

All treaties with other countries have been simultaneously denounced.

CHAPMAN

* Missing from Department files.