

AMITY, SETTLEMENT, AND LIMITS

Treaty signed at Washington February 22, 1819; Spanish instrument of ratification

*Ratified by Spain October 24, 1820*¹

*Senate advice and consent to ratification February 19, 1821*²

Ratified by the President of the United States February 22, 1821

Ratifications exchanged at Washington February 22, 1821

Entered into force February 22, 1821

Proclaimed by the President of the United States February 22, 1821

*Terminated April 14, 1903, by treaty of July 3, 1902*³

8 Stat. 252; Treaty Series 327⁴

TREATY OF AMITY, SETTLEMENT AND LIMITS BETWEEN THE UNITED STATES OF AMERICA, AND HIS CATHOLIC MAJESTY

The United States of America and His Catholic Majesty desiring to consolidate on a permanent basis the friendship and good correspondence which happily prevails between the two Parties, have determined to settle and terminate all their differences and pretensions by a Treaty, which shall designate with precision the limits of their respective bordering territories in North America.

With this intention the President of the United States has furnished with their full Powers John Quincy Adams, Secretary of State of the said United States; and His Catholic Majesty has appointed the Most Excellent Lord Don Luis de Onis, Gonsalez, Lopez y Vara, Lord of the Town of Rayaces, Perpetual Regidor of the Corporation of the City of Salamanca, Knight Grand Cross of the Royal American Order of Isabella, the Catholic, decorated with the Lys of La Vendée, Knight Pensioner of the Royal and distinguished Spanish Order of Charles the Third, Member of the Supreme Assembly of the said

¹ The Spanish instrument of ratification (for text, see p. 535) is considered a part of the agreement, since it explains the treaty, particularly the provisions of art. 8.

² The Senate resolution of advice and consent reads as follows:

“Resolved, two thirds of the Senators present concurring therein, that the Senate having examined the treaty of Amity, Settlement and Limits between the United States of America and his Catholic Majesty made and concluded on the twenty second day of February 1819, and seen and considered the Ratification thereof, made by his said Catholic Majesty on the 24th day of October 1820, do consent to, and advise the President of the United States to ratify the same.”

³ TS 422, *post*, p. 628.

⁴ For a detailed study of this treaty, see 3 Miller 3.

Royal Order; of the Council of His Catholic Majesty; his Secretary with Exercise of Decrees, and his Envoy Extraordinary and Minister Plenipotentiary near the United States of America.

And the said Plenipotentiaries, after having exchanged their Powers, have agreed upon and concluded the following Articles.

ARTICLE 1

There shall be a firm and inviolable peace and sincere friendship between the United States and their Citizens, and His Catholic Majesty, his Successors and Subjects, without exception of persons or places.

ARTICLE 2

His Catholic Majesty cedes to the United States, in full property and sovereignty, all the territories which belong to him, situated to the Eastward of the Mississippi, known by the name of East and West Florida. The adjacent Islands dependent on said Provinces, all public lots and squares, vacant Lands, public Edifices, Fortifications, Barracks and other Buildings, which are not private property, Archives and Documents, which relate directly to the property and sovereignty of said Provinces, are included in this Article. The said Archives and Documents shall be left in possession of the Commissioners, or Officers of the United States, duly authorized to receive them.

ARTICLE 3

The Boundary Line between the two Countries, West of the Mississippi, shall begin on the Gulph of Mexico, at the mouth of the River Sabine in the Sea, continuing North, along the Western Bank of that River, to the 32^d degree of Latitude; thence by a Line due North to the degree of Latitude, where it strikes the Rio Roxo of Nachitoches, or Red-River, then following the course of the Rio-Roxo Westward to the degree of Longitude, 100 West from London and 23 from Washington, then crossing the said Red-River, and running thence by a Line due North to the River Arkansas, thence, following the Course of the Southern bank of the Arkansas to its source in Latitude, 42. North and thence by that parallel of Latitude to the South-Sea. The whole being as laid down in Melishe's Map of the United States, published at Philadelphia, improved to the first of January 1818. But if the Source of the Arkansas River shall be found to fall North or South of Latitude 42, then the Line shall run from the said Source due South or North, as the case may be, till it meets the said Parallel of Latitude 42, and thence along the said Parallel to the South Sea: all the Islands in the Sabine and the Said Red and Arkansas Rivers, throughout the Course thus described, to belong to the United States; but the use of the Waters and the navigation of the Sabine to the Sea, and of the said Rivers, Roxo and Arkansas, throughout the extent of the said Boundary, on their respective Banks, shall be common to the

respective inhabitants of both Nations. The Two High Contracting Parties agree to cede and renounce all their rights, claims and pretensions to the Territories described by the said Line: that is to say.—The United States hereby cede to His Catholic Majesty, and renounce forever, all their rights, claims, and pretensions to the Territories lying West and South of the above described Line; and, in like manner, His Catholic Majesty cedes to the said United States, all his rights, claims, and pretensions to any Territories, East and North of the said Line, and, for himself, his heirs and successors, renounces all claim to the said Territories forever.

ARTICLE 4

To fix this Line with more precision, and to place the Landmarks which shall designate exactly the limits of both Nations, each of the Contracting Parties shall appoint a Commissioner, and a Surveyor, who shall meet before the termination of one year from the date of the Ratification of this Treaty, at Nachitoches on the Red River, and proceed to run and mark the said Line from the mouth of the Sabine to the Red River, and from the Red River to the River Arkansas, and to ascertain the Latitude of the Source of the said River Arkansas, in conformity to what is above agreed upon and stipulated, and the Line of Latitude 42. to the South Sea: they shall make out plans and keep Journals of their proceedings, and the result agreed upon by them shall be considered as part of this Treaty, and shall have the same force as if it were inserted therein. The two Governments will amicably agree respecting the necessary Articles to be furnished to those persons, and also as to their respective escorts, should such be deemed necessary.

ARTICLE 5

The Inhabitants of the ceded Territories shall be secured in the free exercise of their Religion, without any restriction, and all those who may desire to remove to the Spanish Dominions shall be permitted to sell, or export their Effects at any time whatever, without being subject, in either case, to duties.

ARTICLE 6

The Inhabitants of the Territories which His Catholic Majesty cedes to the United States by this Treaty, shall be incorporated in the Union of the United States, as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights and immunities of the Citizens of the United States.

ARTICLE 7

The Officers and Troops of His Catholic Majesty in the Territories hereby ceded by him to the United States shall be withdrawn, and possession of the places occupied by them shall be given within six months after the exchange

of the Ratifications of this Treaty, or sooner if possible, by the Officers of His Catholic Majesty, to the Commissioners or Officers of the United States, duly appointed to receive them; and the United States shall furnish the transports and escort necessary to convey the Spanish Officers and Troops and their baggage to the Havana.

ARTICLE 8⁵

All the grants of land made before the 24th of January 1818. by His Catholic Majesty or by his lawful authorities in the said Territories ceded by His Majesty to the United States, shall be ratified and confirmed to the persons in possession of the lands, to the same extent that the same grants would be valid if the Territories had remained under the Dominion of His Catholic Majesty. But the owners in possession of such lands, who by reason of the recent circumstances of the Spanish Nation and the Revolutions in Europe, have been prevented from fulfilling all the conditions of their grants, shall complete them within the terms limited in the same respectively, from the date of this Treaty; in default of which the said grants shall be null and void—all grants made since the said 24th of January 1818. when the first proposal on the part of His Catholic Majesty, for the cession of the Floridas was made, are hereby declared and agreed to be null and void.

ARTICLE 9

The two High Contracting Parties animated with the most earnest desire of conciliation and with the object of putting an end to all the differences which have existed between them, and of confirming the good understanding which they wish to be forever maintained between them, reciprocally renounce all claims for damages or injuries which they, themselves, as well as their respective citizens and subjects may have suffered, until the time of signing this Treaty.

The renunciation of the United States will extend to all the injuries mentioned in the Convention of the 11th of August 1802.⁶

2. To all claims on account of Prizes made by French Privateers, and condemned by French consuls, within the Territory and Jurisdiction of Spain.

3. To all claims of indemnities on account of the suspension of the right of Deposit at New Orleans in 1802.

4. To all claims of Citizens of the United States upon the Government of Spain, arising from the unlawful seizures at Sea, and in the ports and territories of Spain or the Spanish Colonies.

5. To all claims of Citizens of the United States upon the Spanish Government, statements of which, soliciting the interposition of the Govern-

⁵ See also Spanish instrument of ratification, p. 535.

⁶ TS 326, *ante*, p. 526.

ment of the United States have been presented to the Department of State, or to the Minister of the United States in Spain, since the date of the Convention of 1802, and until the signature of this Treaty.

The renunciation of His Catholic Majesty extends,

1. To all the injuries mentioned in the Convention of the 11th of August 1802.
2. To the sums which His Catholic Majesty advanced for the return of Captain Pike from the Provincias Internas.
3. To all injuries caused by the expedition of Miranda that was fitted out and equipped at New York.
4. To all claims of Spanish subjects upon the Government of the United States arising from unlawful seizures at Sea or within the ports and territorial Jurisdiction of the United States.

Finally, to all the claims of subjects of His Catholic Majesty upon the Government of the United States, in which the interposition of His Catholic Majesty's Government has been solicited before the date of this Treaty, and since the date of the Convention of 1802, or which may have been made to the Department of Foreign Affairs of His Majesty, or to His Minister in the United States.

And the High Contracting Parties respectively renounce all claim to indemnities for any of the recent events or transactions of their respective Commanders and Officers, in the Floridas.

The United States will cause satisfaction to be made for the injuries, if any, which by process of Law, shall be established to have been suffered by the Spanish Officers, and individual Spanish inhabitants, by the late operations of the American Army in Florida.

ARTICLE 10

The Convention entered into between the two Governments on the 11. of August 1802, the Ratifications of which were exchanged the 21st December 1818, is annulled.

ARTICLE 11

The United States, exonerating Spain from all demands in future, on account of the claims of their Citizens, to which the renunciations herein contained extend, and considering them entirely cancelled, undertake to make satisfaction for the same, to an amount not exceeding Five Millions of Dollars. To ascertain the full amount and validity of those claims, a Commission, to consist of three Commissioners, Citizens of the United States, shall be appointed by the President, by and with the advice and consent of the Senate; which Commission shall meet at the City of Washington, and within the space of three years, from the time of their first meeting,

shall receive, examine and decide upon the amount and validity of all the claims included within the descriptions above mentioned.

The said Commissioners shall take an oath or affirmation, to be entered on the record of their proceedings, for the faithful and diligent discharge of their duties; and in case of the death, sickness, or necessary absence of any such Commissioner, his place may be supplied by the appointment, as aforesaid, or by the President of the United States during the recess of the Senate, of another Commissioner in his stead. The said Commissioners shall be authorized to hear and examine on oath every question relative to the said claims, and to receive all suitable authentic testimony concerning the same. And the Spanish Government shall furnish all such documents and elucidations as may be in their possession, for the adjustment of the said claims, according to the principles of Justice, the Laws of Nations, and the stipulations of the Treaty between the two Parties of 27th October 1795;⁷ the said Documents to be specified, when demanded at the instance of the said Commissioners.

The payment of such claims as may be admitted and adjusted by the said Commissioners, or the major part of them, to an amount not exceeding Five Millions of Dollars, shall be made by the United States, either immediately at their Treasury or by the creation of Stock bearing an interest of Six per Cent per annum, payable from the proceeds of Sales of public lands within the Territories hereby ceded to the United States, or in such other manner as the Congress of the United States may prescribe by Law.

The records of the proceedings of the said Commissioners, together with the vouchers and documents produced before them, relative to the claims to be adjusted and decided upon by them, shall, after the close of their transactions, be deposited in the Department of State of the United States; and copies of them or any part of them, shall be furnished to the Spanish Government, if required, at the demand of the Spanish Minister in the United States.

ARTICLE 12

The Treaty of Limits and Navigation of 1795. remains confirmed in all and each one of its Articles, excepting the 2, 3, 4, 21 and the second clause of the 22d Article, which, having been altered by this Treaty, or having received their entire execution, are no longer valid.

With respect to the 15th Article of the same Treaty of Friendship, Limits and Navigation of 1795, in which it is stipulated, that the Flag shall cover the property, the Two High Contracting Parties agree that this shall be so understood with respect to those Powers who recognize this principle; but

⁷ TS 325, *ante*, p. 516.

if either of the two Contracting Parties shall be at War with a Third Party, and the other Neutral, the Flag of the Neutral shall cover the property of Enemies, whose Government acknowledge this principle, and not of others.

ARTICLE 13

Both Contracting Parties, wishing to favour their mutual Commerce, by affording in their ports every necessary Assistance to their respective Merchant Vessels, have agreed, that the Sailors who shall desert from their Vessels in the ports of the other, shall be arrested and delivered up, at the instance of the Consul—who shall prove nevertheless, that the Deserters belonged to the Vessels that claim them, exhibiting the document that is customary in their Nation: that is to say, the American Consul in a Spanish Port, shall exhibit the Document known by the name of *Articles*, and the Spanish Consul in American Ports, the Roll of the Vessel; and if the name of the Deserter or Deserters, who are claimed, shall appear in the one or the other, they shall be arrested, held in custody and delivered to the Vessel to which they shall belong.

ARTICLE 14

The United States hereby certify, that they have not received any compensation from France for the injuries they suffered from her Privateers, Consuls, and Tribunals, on the Coasts and in the Ports of Spain, for the satisfaction of which provision is made by this Treaty; and they will present an authentic statement of the prizes made, and of their true value, that Spain may avail herself of the same in such manner as she may deem just and proper.

ARTICLE 15

The United States to give to His Catholic Majesty, a proof of their desire to cement the relations of Amity subsisting between the two Nations, and to favour the Commerce of the Subjects of His Catholic Majesty, agree that Spanish Vessels coming laden only with productions of Spanish growth, or manufactures directly from the Ports of Spain or of her Colonies, shall be admitted for the term of twelve years to the Ports of Pensacola and St. Augustine in the Floridas, without paying other or higher duties on their cargoes or of tonnage than will be paid by the Vessels of the United States. During the said term no other Nation shall enjoy the same privileges within the ceded Territories. The twelve years shall commence three months after the exchange of the Ratifications of this Treaty.

ARTICLE 16

The present Treaty shall be ratified in due form by the Contracting Parties, and the Ratifications shall be exchanged in Six Months⁸ from this time or sooner if possible.

⁸ See Spanish instrument of ratification, p. 535.

In Witness whereof, We the Underwritten Plenipotentiaries of the United States of America and of His Catholic Majesty, have signed, by virtue of Our Powers, the present Treaty of Amity, Settlement and Limits, and have thereunto affixed our Seals respectively.

Done at Washington, this Twenty-Second day of February, One Thousand Eight Hundred and Nineteen.

JOHN QUINCY ADAMS	[SEAL]
LUIS DE ONIS	[SEAL]

SPANISH INSTRUMENT OF RATIFICATION

[TRANSLATION]

Ferdinand the Seventh by the grace of God, and by the Constitution of the Spanish Monarchy, King of the Spains.

Whereas on the twenty second day of February of the year one thousand eight hundred and nineteen last past, a treaty was concluded and signed in the City of Washington between Don Luis de Onis, my Envoy Extraordinary and Minister Plenipotentiary, and John Quincy Adams Esquire, Secretary of State of the United States of America, competently authorized by both parties, consisting of sixteen articles, which had for their object the arrangement of differences, and of limits between both Governments and their respective territories; which are of the following form and literal tenor.

[Here follows text of treaty.]

Therefore having seen and examined the sixteen articles aforesaid, and having first obtained the consent and authority of the General Cortes of the Nation with respect to the Cession mentioned and stipulated in the 2^d and 3^d articles, I approve and ratify all and every one of the articles referred to and the clauses which are contained in them; and in virtue of these presents I approve and ratify them; promising on the faith and word of a King to execute and observe them, and to cause them to be executed and observed entirely as if I myself had signed them: and that the circumstance of having exceeded the term of six months, fixed for the exchange of the ratifications in the 16th article may afford no obstacle in any manner; it is my deliberate will that the present ratification be as valid and firm and produce the same effects as if it had been done within the determined period. Desirous at the same time of avoiding any doubt or ambiguity concerning the meaning of the 8th article of the said treaty in respect to the date which is pointed out in it as the period for the confirmation of the grants of lands in the Floridas, made by me or by the competent authorities in my Royal name, which point of date was fixed in the positive understanding of the three grants of land made in favour of the Duke of Alagon, the Count of Punonrostro, and Don Pedro de

Vargas, being annulled by its tenor; I think proper to declare that the said three grants have remained and do remain entirely annulled and invalid; and that neither the three individuals mentioned, nor those who may have title or interest through them, can avail themselves of the said grants at any time or in any manner: under which explicit declaration the said 8th article is to be understood as ratified.

In the faith of all which I have commanded to despatch these presents signed by my hand, sealed with my secret seal, and countersigned by the underwritten my Secretary of Despatch of State.

Given at Madrid the twenty fourth of October one thousand eight hundred and twenty.

FERNANDO
EVARISTO PEREZ DE CASTRO