

# Tripoli

## PEACE AND FRIENDSHIP

*Treaty signed at Tripoli November 4, 1796, and at Algiers January 3, 1797*

*Senate advice and consent to ratification June 7, 1797*

*Ratified by the President of the United States June 10, 1797*

*Entered into force June 10, 1797*

*Proclaimed by the President of the United States June 10, 1797*

*Superseded April 17, 1806, by treaty of June 4, 1805*<sup>1</sup>

8 Stat. 154; Treaty Series 358<sup>2</sup>

[TRANSLATION OF 1796]<sup>3</sup>

### TREATY OF PEACE AND FRIENDSHIP BETWEEN THE UNITED STATES OF AMERICA AND THE BEY AND SUBJECTS OF TRIPOLI OF BARBARY

#### ARTICLE 1

There is a firm and perpetual Peace and friendship between the United States of America and the Bey and subjects of Tripoli of Barbary, made by

<sup>1</sup> TS 359, *post*, p. 1081.

<sup>2</sup> For a detailed study of this treaty, see 2 Miller 349.

<sup>3</sup> This translation from the Arabic by Joel Barlow, Consul General at Algiers, has been printed in all official and unofficial treaty collections since it first appeared in 1797 in the Session Laws of the Fifth Congress, first session. In a "Note Regarding the Barlow Translation" Hunter Miller stated: ". . . Most extraordinary (and wholly unexplained) is the fact that Article 11 of the Barlow translation, with its famous phrase, 'the government of the United States of America is not in any sense founded on the Christian Religion,' does not exist at all. There is no Article 11. The Arabic text which is between Articles 10 and 12 is in form a letter, crude and flamboyant and withal quite unimportant, from the Dey of Algiers to the Pasha of Tripoli. How that script came to be written and to be regarded, as in the Barlow translation, as Article 11 of the treaty as there written, is a mystery and seemingly must remain so. Nothing in the diplomatic correspondence of the time throws any light whatever on the point." (2 Miller 384.)

The Miller edition also contains an annotated translation from the original Arabic made in 1930 by Dr. C. Snouck Hurgronje of Leiden; for text, see p. 1075.

the free consent of both parties, and guaranteed by the most potent Dey & regency of Algiers.

#### ARTICLE 2

If any goods belonging to any nation with which either of the parties is at war shall be loaded on board of vessels belonging to the other party they shall pass free, and no attempt shall be made to take or detain them.

#### ARTICLE 3

If any citizens, subjects or effects belonging to either party shall be found on board a prize vessel taken from an enemy by the other party, such citizens or subjects shall be set at liberty, and the effects restored to the owners.

#### ARTICLE 4

Proper passports are to be given to all vessels of both parties, by which they are to be known. And, considering the distance between the two countries, eighteen months from the date of this treaty shall be allowed for procuring such passports. During this interval the other papers belonging to such vessels shall be sufficient for their protection.

#### ARTICLE 5

A citizen or subject of either party having bought a prize vessel condemned by the other party or by any other nation, the certificate of condemnation and bill of sale shall be a sufficient passport for such vessel for one year; this being a reasonable time for her to procure a proper passport.

#### ARTICLE 6

Vessels of either party putting into the ports of the other and having need of provisions or other supplies, they shall be furnished at the market price. And if any such vessel shall so put in from a disaster at sea and have occasion to repair, she shall be at liberty to land and reembark her cargo without paying any duties. But in no case shall she be compelled to land her cargo.

#### ARTICLE 7

Should a vessel of either party be cast on the shore of the other, all proper assistance shall be given to her and her people; no pillage shall be allowed; the property shall remain at the disposition of the owners, and the crew protected and succoured till they can be sent to their country.

#### ARTICLE 8

If a vessel of either party should be attacked by an enemy within gun-shot of the forts of the other she shall be defended as much as possible. If she be in

port she shall not be seized or attacked when it is in the power of the other party to protect her. And when she proceeds to sea no enemy shall be allowed to pursue her from the same port within twenty four hours after her departure.

#### ARTICLE 9

The commerce between the United States and Tripoli,—the protection to be given to merchants, masters of vessels and seamen,—the reciprocal right of establishing consuls in each country, and the privileges, immunities and jurisdictions to be enjoyed by such consuls, are declared to be on the same footing with those of the most favoured nations respectively.

#### ARTICLE 10

The money and presents demanded by the Bey of Tripoli as a full and satisfactory consideration on his part and on the part of his subjects for this treaty of perpetual peace and friendship are acknowledged to have been received by him previous to his signing the same, according to a receipt which is hereto annexed, except such part as is promised on the part of the United States to be delivered and paid by them on the arrival of their Consul in Tripoli, of which part a note is likewise hereto annexed. And no pretence of any periodical tribute or farther payment is ever to be made by either party.

#### ARTICLE 11

As the government of the United States of America is not in any sense founded on the Christian Religion,<sup>†</sup>—as it has in itself no character of enmity against the laws, religion or tranquility of Musselmen,—and as the said States never have entered into any war or act of hostility against any Mehomitan nation, it is declared by the parties that no pretext arising from religious opinions shall ever produce an interruption of the harmony existing between the two countries.

#### ARTICLE 12

In case of any dispute arising from a violation of any of the articles of this treaty no appeal shall be made to arms, nor shall war be declared on any pretext whatever. But if the Consul residing at the place where the dispute shall happen shall not be able to settle the same, an amicable reference shall be made to the mutual friend of the parties, the Dey of Algiers, the parties hereby engaging to abide by his decision. And he by virtue of his signature to this treaty engages for himself and successors to declare the justice of the case according to the true interpretation of the treaty, and to use all the means in his power to enforce the observance of the same.

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<sup>†</sup> See footnote 3, p. 1070.

Signed and sealed at Tripoli of Barbary the 3<sup>d</sup> day of Jumad in the year of the Higera 1211—corresponding with the 4<sup>th</sup> day of Nov<sup>r</sup> 1796 by

JUSSUF BASHAW MAHOMET *Bey*  
 MAMET—*Treasurer*  
 AMET—*Minister of Marine*  
 AMET—*Chamberlain*  
 ALLY—*Chief of the Divan*

SOLIMAN *Kaya*  
 GALIL—*Gen<sup>t</sup> of the Troops*  
 MAHOMET—*Com<sup>t</sup> of the city*  
 MAMET—*Secretary*

Signed and sealed at Algiers the 4<sup>th</sup> day of Argib 1211—corresponding with the 3<sup>d</sup> day of January 1797 by

HASSAN BASHAW *Dey*

and by the Agent plenipotentiary of the United States of America

JOEL BARLOW [SEAL]

[THE "RECEIPT"]

Praise be to God &c—

The present writing done by our hand and delivered to the American Captain OBrien makes known that he has delivered to us forty thousand Spanish dollars,—thirteen watches of gold, silver & pins-back,—five rings, of which three of diamonds, one of saphire and one with a watch in it,—one hundred & forty piques of cloth, and four caftans of brocade,—and these on account of the peace concluded with the Americans.

Given at Tripoli in Barbary the 20<sup>th</sup> day of Jumad 1211, corresponding with the 21<sup>st</sup> day of Nov<sup>r</sup> 1796—

JUSSUF BASHAW—*Bey*  
 whom God *Exalt*

The foregoing is a true copy of the receipt given by Jussuf Bashaw—Bey of Tripoli—

HASSAN BASHAW—*Dey of Algiers*

The foregoing is a literal translation of the writing in Arabic on the opposite page

JOEL BARLOW

[THE "NOTE"]

On the arrival of a consul of the United States in Tripoli he is to deliver to Jussuf Bashaw Bey—

twelve thousand Spanish dollars  
 five hawsers—8 Inch  
 three cables—10 Inch  
 twenty five barrels tar  
 twenty five d<sup>o</sup> pitch  
 ten d<sup>o</sup> rosin

five hundred pine boards  
 five hundred oak d<sup>o</sup>  
 ten masts (without any measure mentioned, suppose for vessels from 2 to 300 ton)  
 twelve yards  
 fifty bolts canvas  
 four anchors

And these when delivered are to be in full of all demands on his part or on that of his successors from the United States according as it is expressed in the tenth article of the following treaty. And no farther demand of tributes, presents or payments shall ever be made.

Translated from the Arabic on the opposite page, which is signed & sealed by Hassan Bashaw Dey of Algiers—the 4<sup>th</sup> day of Argib 1211— or the 3<sup>d</sup> day of Jan<sup>r</sup> 1797—by—

JOEL BARLOW

[APPROVAL OF U.S. MINISTER AT LISBON]

To all to whom these Presents shall come or be made known.

Whereas the Underwritten David Humphreys hath been duly appointed Commissioner Plenipotentiary by Letters Patent, under the Signature of the President and Seal of the United States of America, dated the 30<sup>th</sup> of March 1795, for negotiating and concluding a Treaty of Peace with the Most Illustrious the Bashaw, Lords and Governors of the City & Kingdom of Tripoli; whereas by a Writing under his Hand and Seal dated the 10<sup>th</sup> of February 1796, he did (in conformity to the authority committed to me therefor) constitute and appoint Joel Barlow and Joseph Donaldson Junior Agents jointly and seperately in the business aforesaid; whereas the annexed Treaty of Peace and Friendship was agreed upon, signed and sealed at Tripoli of Barbary on the 4<sup>th</sup> of November 1796, in virtue of the Powers aforesaid and guaranteed by the Most potent Dey and Regency of Algiers; and whereas the same was certified at Algiers on the 3<sup>d</sup> of January 1797, with the Signature and Seal of Hassan Bashaw Dey, and of Joel Barlow one of the Agents aforesaid, in the absence of the other.

Now Know ye, that I David Humphreys Commissioner Plenipotentiary aforesaid, do approve and conclude the said Treaty, and every article and clause therein contained, reserving the same nevertheless for the final Ratification of the President of the United States of America, by and with the advice and consent of the Senate of the said United States.

In testimony whereof I have signed the same with my Name and Seal, at the City of Lisbon this 10<sup>th</sup> of February 1797.

DAVID HUMPHREYS [SEAL]  
 [*United States Minister at Lisbon*]

TRANSLATION OF 1930<sup>5</sup>

Praise be to God! Declaration from [*sic*] this noble affair and this clear and important speech, being the agreement consisting of the articles of peace and fellowship and all friendship and love and good trust and all confidence on account of the peace treaty between us with the Americans and [*sic*] with our Lord and Master the exalted Lord Yussuf Pasha of Tripoli, may God strengthen him by His grace, amen! and in agreement with his whole Divan, the whole population of his regency and his Divan, may God strengthen them by His grace and His favor, amen!

Praise be to God! Declaration thereof from the first article. That we have agreed upon a perfect, valid, everlasting peace, without modification or change from the beginning to the end, in permanency, with the Americans and [*sic*] with our honored Lord, the Lord Yussuf Pasha of Tripoli, may God strengthen him and likewise his Divan, and what we have arranged between us [has been arranged] with a pure heart from our side and from their side. This treaty of peace has been displayed [the Arabic word here used generally denotes "to break a seal," or something of that sort] and worked out in detail by our honored and exalted Master, our supreme [the word here used is uncommon; it may have the meaning of sovereign] Master, the Lord Yussuf Pasha, in the protected [*i. e.*, by God] Algiers, may God strengthen him by His grace, amen!

Praise be to God! Declaration thereof: the second article. We have agreed concerning all goods carried by ships of the Americans, that it shall not be lawful to seize them from [on] the part of Tripoli ships; and likewise ships of Tripoli carrying goods, no American warship shall commit inimical acts against them. Thus it shall be with us and with them, from both of the two [*sic*] sides.

Glory be to God! Declaration of the third article. We have agreed that if American Christians are traveling with a nation that is at war with the well-preserved Tripoli, and he [evidently the Tripolitan] takes [prisoners] from the Christian enemies and from the American Christians with whom we are at peace [the Arabic sentence is here most confused], then he sets him [*sic*] free; neither he nor his goods shall be taken. Likewise, the Americans, when they take [literally "bring"] ships of their enemies and there are on board people from Tripoli, they shall not take one of them nor their goods. Thus! [This word, occurring at the end of several articles, seems to take the place of a full stop.]

Praise be to God! Declaration of the fourth article. We have also agreed concerning all the ships sailing out from the well-preserved Tripoli, that they [evidently the Tripolitans] are not allowed to take any of the American ships until a term of eighteen months shall have expired, and likewise there

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<sup>5</sup> See footnote 3, p. 1070.

shall not be taken any of the Tripolitan ships until the condition of eighteen months shall be fulfilled, because the country of the Americans is at a great distance. This stipulation is connected with the passports; when the number of months of the term that we have mentioned shall be complete, and we have observed the term of one year and a half, beginning by the date which we have mentioned, then all the ships of the Americans must have passports. Thus.

Praise be to God! Declaration of the fifth article. We have agreed that, if persons of the American nation have bought a prize from the nation which has been by correspondence [writing] that they have bought it [apart from the obscurity of this Arabic sentence, it seems that some words after "nation" have been omitted], then the written document shall be valid between us from both sides, because the correspondence has the validity of a passport, and term shall be of one year from the date of their buying the prize. Thus.

Praise be to God! Declaration of the sixth article. We have agreed that all American vessels putting into the port of the well-preserved Tripoli, of the Americans [*sic*], shall buy anything they are entitled to, provisions and other things. If the ship has suffered any damage, she shall repair it and so forth, like all the other Christian nations. And if an American ship, while sailing, has encountered winds or heavy storm at sea and is shipwrecked, and she is in want of lifting [?] or of anything else, she shall take whatever is necessary [or "whatever belongs to her"], and if she is bound to another country, being full of cargo, while such a misfortune befell her at sea, and she put into the port of Tripoli in order to repair all her damages, [she shall be allowed to do so]. And if she wants to sell her merchandise, she shall pay the customs according to the custom of other [Christian] nations. But if she has repaired all her damages and discharged her load and merchandise, and then reloads it again as it was before, [the cargo] shall be free. Thus.

Praise be to God! Declaration of the seventh article. We have agreed that if any vessel of the Americans is shipwrecked or damaged on the shore of Tripoli, the Moslems shall assist them until their goods are completely recovered from him who withholds. And if the vessel has merchandise or anything else, the Moslems shall be with them guarding the goods from thieves [deceivers] and shall watch over them until they have finished their affairs. Thus.

Praise be to God! Declaration of the eighth article. We have agreed upon this matter from both the two [*sic*] sides. If there is an American ship in the neighborhood of the Tripoli shore, and an enemy of their own kind [*i.e.*, a Christian enemy] encounters them and pursues them, trying to take them, then they shall be assisted from the side of the Moslems with guns from the forts of Tripoli for their defense [?], that they commit no hostility against

them within gunshot. Likewise, if they are in the port, lying at anchor, the enemy shall not be allowed to expel them. Likewise, if there are at anchor in the port two ships [belonging to nations] which are at enmity with each other, and one of them wishes to sail out, then her enemy shall not be allowed to sail out within twenty-four hours, as is the custom of all the [Christian] nations. Thus.

Praise be to God! Declaration of the ninth article. We have agreed that all the tradesmen and likewise the merchants [the two words used here are the Arabic *musabbibîn* and the foreign word *merkantiyye*; perhaps it is simply a pleonastic expression, or perhaps two different classes of commercial people are meant] of the American nation who bring merchandise to the well-preserved Tripoli, and likewise the captains and sailors, shall have to pay the customs as all the [Christian] nations pay them, and as it is the custom, and the Consul of the Americans shall continue doing his official duty as it is done by all the [Christian] nations, namely, the kiss of the Feast and of the [*mifdâ?*]. Thus.

The word not translated (*mifdâ*, or something like it), is of uncertain reading; the Italian translation renders it by "godimento." It may have denoted some periodical, probably annual, entertainment or feast of non-religious character, at which the authorities had to pay a complimentary visit to the Sultan. The "Feast" seems to denote that of the 1st of Shawwal, the conclusion of the Ramadan fasting. I guess that on such occasions the consuls had to "kiss" the Pasha's cloak or even the floor in front of His Highness, and most probably they were obliged to accompany that act of reverence with the offering of costly presents.

Praise be to God! Declaration of the tenth article. Be it known that the Americans have paid the present and the money for the peace treaty on the hand of the exalted Lord, our Master, the Lord Hassan Pasha, who [*al-munshî?*] in Algiers, may God strengthen him, and they are now acquitted of the number of presents [literally "the number, the present"] and likewise of the money, and this money and these presents they have given [shall be counted] forever, and they shall not continue to pay every year. This which they have given shall be at once complete, remaining forever. Thus.

The word not translated, probably to be read *al-munshî*, seems to be the equivalent of "residing" or "governing," but is not used in that sense in common Arabic.

The eleventh article of the Barlow translation has no equivalent whatever in the Arabic. The Arabic text opposite that article is a letter from Hassan Pasha of Algiers to Yussuf Pasha of Tripoli. The letter gives notice of the treaty of peace concluded with the Americans and recommends its observation. Three fourths of the letter consists of an introduction, drawn up by a stupid secretary who just knew a certain number of bombastic words and expressions occurring in solemn documents, but entirely failed to catch their real meaning. Here the only thing to be done by a translator is to try to give the reader an impression of the nonsensical original:

Praise be to God, who inspires the minds of rulers with causes of well-being and righteousness! The present matter may be in the interest of the land and the servants [of God], in order that things may be put in their place. This whole affair has been opened [by omission of one letter the Arabic reads



“victories” instead of “opened”] by the intermediary of the exalted, honored Prince, the Lord Hassan Pasha, in the protected [by God] Algiers, may God strengthen him and give him victory and help him in accomplishing good things; thus in the beginning and in the end, and may the acquiescence in his order take place by considering all his affairs, and may his endeavor repose on the fitness of his reflection. So may God make it, the beginning of this peace, a good and graceful measure and an introduction having for result exaltation and glorification, out of love for our brother and friend and our most beloved, the exalted Lord Yussuf Pasha, [here follows the same word as in Article 10: *al-munshî?*, “residing” or “governing”] in the well-protected [by God] Tripoli, may God strengthen him by His grace and His favor, amen! Because our interests are one and united, because our aim is that acts may succeed by overflowing justice, and the observance [of duty?; of treaties?; of the Sacred Law?] becomes praiseworthy by facts entirely, amen! by making successful safety and security by permanence of innumerable benefits and pure and unmixed issue. Prosperity accompanies highness and facilitation of good by length of the different kinds of joy makes permanent. Praise be to God for the comprehensive benefit and your perfect gifts, may God make them permanent for us and for you, thus till the day of resurrection and judgment, as long as times last, amen!

Further, if there are American people coming to the well-protected Tripoli, they wish to be, by your carefulness, honored [and free] from all disagreements as are, indeed, all the [Christian] nations, so that nobody molests them and no injury befalls them; and likewise people from Tripoli, if they proceed to the country of the Americans, they shall be honored, elevated upon the heads, nobody molesting or hindering them until they travel [homeward] in good state and prosperity. Thus. And greetings!

Praise be to God! Declaration of the twelfth article. If there arises a disturbance between us on both sides, and it becomes a serious dispute, and the American Consul is not able to make clear [settle] his affair, and [then] the affair shall remain suspended between them both, between the Pasha of Tripoli, may God strengthen him, and the Americans, until the Lord Hassan Pasha, may God strengthen him, in the well-protected Algiers, has taken cognizance of the matter. We shall accept whatever decision he enjoins on us, and we shall agree with his condition and his seal [*i. e.*, the decision sealed by him]; may God make it all permanent love and a good conclusion between us in the beginning and in the end, by His grace and favor, amen!

[THE “RECEIPT”]

forty thousand duros	watches	seal rings	ells of cloth	<i>sersâr</i> [ ? ] garments
40,000	13	5	140	4

Praise be to God! Explanation: This is our memorandum delivered to [in the hand of] its bearer, the Captain Ibrahîm [*sic*], the American: We have received forty thousand royal duros and thirteen watches, some of them gold, some silver, some *tumbâk*, and five seal rings, three of which diamond, one sapphire, one with a watch in it, hundred and forty one [*sic*] ells of cloth, and four *sersâr* [?] garments. That is on account of the peace treaty of His [God's] servant, Yussuf Pasha, with the Americans and the completeness [perhaps the last word means only that the memorandum is hereby finished].

The seal, badly imprinted on this "receipt," is the same as the topmost of those which follow Article 12 of the treaty; it represents the signature of Hassan Pasha.

On the right side of the seal there are four small lines of script, written by the same hand that wrote the names of the goods and the figures at the top of the page, and the two lines under the seal, but a hand other than that which wrote the three lines of text. Those four lines of script read as follows: "Karamaili [*sic*], may his glory last, amen! 20th day of Jumada al-awwl, year 1211." The last two lines read: "This is the copy from [*sic*] the memorandum of the exalted Lord Yussuf Pasha, in the well-preserved Tripoli, and his seal.

The word used for "silver" (*fejra*) is uncommon, although not altogether unknown. The word corresponding to "pinsback" in the Barlow translation is *tumbâk*, which may be derived from Portuguese "tambaca" (from Malay "tembaga"), which denotes copper and a certain number of alloys of that metal. That word is derived from the Sanskrit; the thus-named alloy of copper and zinc used to be imported from Indo-Chinese countries (see Hobson-Jobson—A Glossary of Colloquial Anglo-Indian Words and Phrases, 929, and the references in Note A of that work, List of Glossaries, *in verbo*).

The 20th day of Jumada I, A. H. 1211, coincided with November 21, 1796, or thereabout.

"Karamaili" is probably a corruption of the clan-name, "Karamanli," which occurs several times in the signatures to the treaty, *e. g.*, in the signature of Yussuf Pasha of Tripoli, but not in that of Hassan Pasha of Algiers; so it seems to be here not an adscript to the seal of Hassan Pasha, but rather a substitute for the seal of Yussuf Pasha; but even then it remains an enigma why he did not seal this receipt and why his name should have been written so incompletely, with the essential elements lacking.

#### [THE "NOTE"]

Praise be to God! This is a memorandum and a statement of what the Americans are still obliged to pay on account of the peace treaty: The amount of money being the value of twelve thousand royal duros; and likewise hawsers, being five, eight inches thick; and also cables, being three, each ten inches thick; and also tar, twenty-five barrels; and also pitch, twenty-five barrels; and likewise rosin, ten barrels; and also boards of *rubel* [this denotation of a sort of wood is unknown to me; it is not the common Arabic word for oak], five hundred; and likewise boards of *binu flamank* [also unknown to me; *flamank* means Dutch; perhaps "Dutch pine" is meant], five hundred; and also masts, being ten; and likewise yards, twelve; and also canvas for sails [the text adds the qualification *dhî lamûnah*, which I cannot explain], fifty pieces; and also anchors, being four. This is what the Americans are still obliged to pay in this mentioned number as has been mentioned [*sic*] and afterwards, when the Consul comes from his country, they shall have to bring all that we have mentioned, amounting to this

number, when he arrives at the well-preserved Tripoli, may God protect her by His grace, amen! Contained [certified?] completely on the first day of Rajab in this above-mentioned rescript, year 1211.

The seal imprinted on this "note" is illegible; it is, however, the seal of Hassan Pasha, Dey of Algiers, and the same as the topmost of those which follow Article 12 of the treaty, where the imprint is clearer.

The "4th" of Rajab is not in the Arabic text. The 1st of Rajab, 1211, may have corresponded to December 31, 1796, or to January 1, 1797; but compare "four days from the beginning" in the lines written at the left of the seal of Hassan Pasha, following Article 12 of the treaty, which are translated below in the account of the seals.<sup>9</sup> The Arabic rendering of "1st Rajab" may also mean "beginning of Rajab."

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<sup>9</sup> See 2 Miller 373.