

No. 4054

**NORWAY
and
JAPAN**

**Treaty of Commerce and Navigation (with Protocol).
Signed at Tokyo, on 28 February 1957**

Official text: English.

Registered by Norway on 1 November 1957.

**NORVÈGE
et
JAPON**

**Traité de commerce et de navigation (avec Protocole).
Signé à Tokyo, le 28 février 1957**

Texte officiel anglais.

Enregistré par la Norvège le 1^{er} novembre 1957.

No. 4054. TREATY¹ OF COMMERCE AND NAVIGATION
BETWEEN NORWAY AND JAPAN. SIGNED AT TOKYO,
ON 28 FEBRUARY 1957

The Royal Norwegian Government and the Government of Japan, desirous of strengthening the bonds of peace and friendship traditionally existing between their respective countries and of facilitating the trade and commercial relations between their peoples, have resolved to conclude a Treaty of Commerce and Navigation, based in general upon the principles of national and of most-favoured-nation treatment unconditionally accorded, and for that purpose have appointed as their Plenipotentiaries,

The Royal Norwegian Government :

Halvard Lange, Minister for Foreign Affairs of Norway, and

The Government of Japan :

Nobusuke Kishi, Minister for Foreign Affairs of Japan,

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

Article I

1. Nationals of either Party shall be permitted to enter the territories of the other Party in accordance with the provisions of the laws and regulations of such other Party and shall be accorded most-favoured-nation treatment in all matters relating to their entry.
2. Nationals of either Party shall be accorded national treatment and most-favoured-nation treatment in all matters relating to their sojourn, travel and residence within the territories of the other Party. In the enjoyment of such treatment, however, they shall conform themselves to the special laws and regulations of such other Party which are generally applicable to all foreigners alike.

Article II

Nationals of either Party, within the territories of the other Party :

- (a) shall be accorded most-favoured-nation treatment in all matters relating to their study and research, the pursuit of their profession, and their commercial, industrial, financial and other business activities;

¹ Came into force on 14 October 1957, one month after the day of the exchange of the instruments of ratification which took place at Oslo on 14 September 1957, in accordance with article XIX.

- (b) shall be accorded national treatment and most-favoured-nation treatment with respect to the protection and security for their persons;
- (c) shall be accorded most-favoured-nation treatment, on a basis of reciprocity, with respect to acquiring, owning, leasing, occupying and using immovable property;
- (d) shall be accorded most-favoured-nation treatment with respect to acquiring, owning, leasing and possessing movable property, and with respect to disposing of property of all kinds;
- (e) shall enjoy national treatment and most-favoured-nation treatment with respect to access to the courts of justice and administrative tribunals and agencies, in all degrees of jurisdiction, both in pursuit and in defence of their rights;
- (f) shall be—both in time of peace and in time of war—exempt from any compulsory military service and from any disbursement imposed in place of such service, and shall be accorded national treatment and most-favoured-nation treatment with respect to all compulsory loans, military exactions, requisitions or compulsory billeting; and
- (g) shall not be obliged to subject themselves to taxes, fees or charges of any kind other or more burdensome than those imposed upon nationals of the other Party and of any third country.

Article III

1. Commercial, industrial or financial companies and associations including shipping or insurance companies and associations (hereinafter referred to as “companies”), organized in accordance with the laws of either Party and domiciled within its territories, shall be deemed companies thereof within the territories of the other Party.
2. The provisions of Article II shall be equally applied to companies as far as they are applicable to companies.

Article IV

1. Nationals and companies of either Party shall, within the territories of the other Party, be accorded national treatment and most-favoured-nation treatment with respect to the protection of their property.
2. The dwellings, offices, warehouses, factories, shops and other premises of nationals and companies of either Party located within the territories of the other Party and used for lawful purposes shall not be subject to unlawful entry or molestation. Official searches and examinations of such premises and their contents, when necessary, shall be made only according to law and with careful regard for the convenience of the occupants and the conduct of business.

Article V

1. Either Party shall have the right to appoint consular officers in the ports, towns and other localities within the territories of the other Party where any third country is permitted to have consular officers or in such other places as may be agreed upon by the Parties.
2. Consular officers of either Party, on a basis of reciprocity, shall enjoy, within the territories of the other Party, treatment no less favourable than that accorded to consular officers of any third country with respect to the rights, competence, honours, privileges, immunities and exemptions of a consular officer performing functions in the territories of such other Party.

Article VI

1. If a national of either Party dies within the territories of the other Party, the appropriate authorities of such other Party shall, to the extent practicable under existing procedures and within the limits of the information normally available to them, make every effort to notify the nearest competent consular officer of the country of which the deceased was a national. If the deceased leaves no known heir or testamentary executor within the territories of the country where the death took place, the competent consular officer shall have the right to represent the heirs of the deceased in compliance with the formalities laid down in the laws of the country within the territories of which the death took place. He may take all such steps and carry out all such acts as are necessary for a proper administration and liquidation of the estate, which are not contrary to or incompatible with the laws of the country within the territories of which such estate is located. None of the provisions of the present Article shall be understood to prejudice the jurisdiction of the courts of the country within the territories of which the possessions of the deceased are located.
2. The provisions of the preceding paragraph shall also apply when a national of either Party, having possessions within the territories of the other Party, dies outside such territories without leaving any known heir or testamentary executor therein.

Article VII

1. Each Party shall accord most-favoured-nation treatment to products of the other Party and to products destined for exportation to the territories of such other Party with respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation.

2. Products of either Party shall be accorded, within the territories of the other Party, national treatment and most-favoured-nation treatment in all matters affecting internal taxation, sale, distribution, storage and use.

Article VIII

1. Trade or exchange restrictions shall not be imposed by either Party in a manner unnecessarily detrimental or arbitrarily discriminatory to the commercial or economic interest of nationals and companies of the other Party.

2. Moreover, exchange restrictions shall not be imposed by either Party in such a manner as to hamper the participation of merchant vessels of the other Party in the transportation of passengers and goods to and from the territories of the former Party.

Article IX

1. Each Party undertakes

(a) that enterprises owned or controlled by its Government, and monopolies or agencies granted exclusive or special privileges within its territories, shall make their purchases and sales involving either imports or exports affecting the commerce or navigation of the other Party solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions; and

(b) that nationals and companies of such other Party shall be afforded adequate opportunity, in accordance with customary business practice, to compete for participation in such purchases and sales or transportation of the goods involved.

2. Each Party shall accord to nationals and companies of the other Party fair and equitable treatment, as compared with that accorded to nationals and companies of any third country, with respect to the governmental purchase of supplies and the awarding of concessions and other government contracts.

Article X

Vessels under the flag of either Party, and carrying the papers required by its law in proof of nationality, shall be deemed to be vessels of that Party both on the high seas and within the ports, places and waters of the other Party.

Article XI

1. Merchant vessels of either Party shall have liberty, on equal terms with merchant vessels of the other Party and of any third country, to come with their

passengers and cargoes to all ports, places and waters of such other Party open to foreign commerce and navigation. Such vessels shall in all respects be accorded national treatment and most-favoured-nation treatment within the ports, places and waters of such other Party. Such treatment shall be accorded with respect to facilities of all kinds, such as allocation of berths and loading and unloading facilities, and with respect to dues and charges of all kinds levied in the name or for the profit of the Government, public authorities, concessionaries and undertakings of any kind.

2. Merchant vessels of either Party shall be accorded national treatment and most-favoured-nation treatment by the other Party with respect to the right to carry all goods and persons that may be carried by vessel to or from the territories of such other Party; and such goods and persons shall be accorded treatment no less favourable than that accorded to like goods and persons carried in merchant vessels of such other Party with respect to duties and all other fees and charges, to bounties, drawbacks and other privileges of this nature, as well as to the administration of the customs.

Article XII

1. The coasting trade of the Parties is excepted from the application of the provisions of the present Treaty and shall be regulated according to the laws of each of the Parties. Each Party may, however, admit foreign vessels to the coasting trade only on a reciprocity basis.

2. Merchant vessels of either Party which abroad have loaded cargoes and passengers destined for two or more ports of importation within the territories of the other Party shall have the right to unload part of their cargoes and passengers in one of the ports, and, when proceeding their voyage to the other port or ports of destination, there to unload the remaining cargoes and passengers, always complying with the laws of the country of destination. In the same manner, and with the same reservations, merchant vessels of either Party shall have the right to load cargoes and passengers in two or more ports of the other Party for their voyage abroad.

Article XIII

1. In case of shipwreck, damage at sea or forced putting in, either Party shall extend to vessels of the other Party the same assistance and protection and the same exemptions as are in like cases accorded to its own vessels. Goods salvaged from such vessels shall be exempt from all customs duties, unless the goods are entered for domestic consumption, in which case the prescribed duties shall be paid.

2. If a vessel of either Party has stranded or has been wrecked on the coasts of the other Party, the appropriate authorities of such other Party shall notify the occurrence to the nearest competent consular officer of the country to which the vessel belongs.

Article XIV

If a seaman deserts from a merchant vessel of either Party while the vessel is within the territorial waters of the other Party, the appropriate authorities of such other Party shall, within the limits of law, render every assistance in their power in order that the seaman may be apprehended, detained and sent back to the vessel, provided that a request to this effect has been made by the competent consular officer of the country to which the vessel belongs, and provided that assurance is given of reimbursement of the expenses to be incurred. The provisions of the present Article, however, shall not apply to a seaman who is a national of the country where the desertion takes place.

Article XV

The competent consular officer of either Party may, within the territories of the other Party, take steps to maintain the internal order on board merchant vessels of his country and decide disputes between the master and members of the crew, including disputes as to wages and contracts of service. The appropriate authorities of such other Party may, however, exercise their jurisdiction over disorders or offences on board such vessel within the territorial waters of such other Party :

- (a) when the authorities deem such disorders or offences to be of such nature as tending to affect peace and order outside the vessel;
- (b) when persons other than the master or members of the crew or persons possessing the nationality of such other Party are involved in such disorders or offences;
- (c) when such offences involve the laws of such other Party regarding customs, public health or the safety of life at sea; and
- (d) when such offences constitute grave offences.

Article XVI

1. The provisions of the present Treaty shall not be interpreted as precluding each Party from adopting or executing measures relating to :

- (a) the public security or national defence or the maintenance of international peace and security, provided, however, that the provisions of Article II (f) shall not be prejudiced thereby;

- (b) traffic in arms, ammunition and implements of war;
 - (c) the protection of public health and the protection of animals and vegetables against diseases, harmful insects and parasites; and
 - (d) trade in gold or silver.
2. Notwithstanding the provisions of Article II (g), each Party reserves the right to accord special tax advantages on a basis of reciprocity or by virtue of agreements for the avoidance of double taxation or the mutual protection of revenue.
3. The provisions of Article VII, paragraph 1 shall not apply to special advantages accorded by either Party :
- (a) to adjacent countries in order to facilitate frontier traffic;
 - (b) to members of a customs union or a free-trade area of which it may become a member, provided that such advantages are accorded in conformity with the provisions of the General Agreement on Tariffs and Trade¹; or
 - (c) to products of its national fisheries.

Article XVII

1. The term “ national treatment ” means treatment accorded within the territories of a Party upon terms no less favourable than the treatment accorded therein, in like situations, to nationals, companies, products, vessels or other objects, as the case may be, of such Party.
2. The term “ most-favoured-nation treatment ” means treatment accorded within the territories of a Party upon terms no less favourable than the treatment accorded therein, in like situations, to nationals, companies, products, vessels or other objects, as the case may be, of any third country.

Article XVIII

1. Each Party shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such representations as the other Party may make with respect to any matter affecting the operation of the present Treaty.
2. Any dispute between the Parties as to interpretation or application of the present Treaty, not satisfactorily adjusted by diplomacy, shall be submitted to the International Court of Justice, unless the Parties agree to settlement by some other pacific means.

¹ See footnote 1, p. 350 of this volume.

Article XIX

1. The present Treaty shall be ratified, and the instruments of ratification shall be exchanged at Oslo as soon as possible.
2. The present Treaty shall enter into force one month after the day of the exchange of the instruments of ratification. It shall remain in force for five years and shall continue in force thereafter until terminated as provided herein.
3. Either Party may, by giving one year's written notice to the other Party, terminate the present Treaty at the end of the initial five year period or at any time thereafter.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Treaty and have affixed thereunto their seals.

DONE in duplicate at Tokyo, this twenty-eighth day of February, one thousand nine hundred fifty-seven.

For Norway :
(*Signed*) Halvard LANGE

For Japan :
(*Signed*) Nobusuke KISHI

PROTOCOL

At the time of signing the Treaty of Commerce and Navigation¹ between Norway and Japan (hereinafter referred to as "the Treaty"), the undersigned Plenipotentiaries, duly authorized by their respective Governments, have further agreed on the following provisions, which shall be considered integral parts of the Treaty :

1. With reference to Article I, paragraph 1, either Party may require that all matters relating to passports and visas shall be regulated by special agreements on a basis of reciprocity.
2. With reference to Article II (*a*), either Party may require that rights to engage in mining shall be dependent on reciprocity.
3. It is understood that nothing in the Treaty shall be construed so as to grant any right or impose any obligations in respect of copyright and industrial property right.

4. The term "consular officer" as used in the Treaty means any individual who is authorized by the sending state to exercise consular functions and granted

¹ See p. 88 of this volume.

an exequatur or provisional or other authorization by the appropriate authorities of the receiving state.

5. The most-favoured-nation treatment provisions of the Treaty shall not apply with respect to those rights and privileges which are or may hereafter be accorded by Japan to :

- (a) persons who originated in the territories to which all right, title and claim were renounced by Japan in accordance with the provisions of Article 2 of the Treaty of Peace with Japan signed at the city of San Francisco on September 8, 1951;¹ or
- (b) the native inhabitants and vessels of, and trade with, any area set forth in Article 3 of the said Treaty of Peace, as long as the situation set forth in the second sentence of the said Article continues with respect to the administration, legislation and jurisdiction over such area.

6. The most-favoured-nation treatment provisions of the Treaty shall not apply to such special advantages as are accorded or may be accorded by Norway exclusively to Denmark, Finland, Iceland and Sweden.

7. It is understood that no provision of the Treaty (including the present Protocol) shall affect the rights and obligations that either Party has or may have as a contracting party to the General Agreement on Tariffs and Trade or the Articles of Agreement of the International Monetary Fund² or any multilateral agreement amendatory or supplementary thereto, so long as both Parties are contracting parties to the relevant agreement or agreements. It is further understood that, in case either of the two Parties has ceased to be a contracting party to any of such agreements, both Parties shall immediately consult with each other with a view to determining whether, in the light of circumstances then prevailing, any adjustment may be necessary with respect to the provisions of the Treaty relating to trade, exchange or customs.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Protocol and have affixed thereunto their seals.

DONE in duplicate at Tokyo, this twenty-eighth day of February, one thousand nine hundred fifty-seven.

For Norway :
(Signed) Halvard LANGE

For Japan :
(Signed) Nobusuke KISHI

¹ United Nations, *Treaty Series*, Vol. 136, p. 45; Vol. 163, p. 385; Vol. 184, p. 358; Vol. 199, p. 344; Vol. 243, p. 326, and Vol. 260, p. 450.

² United Nations, *Treaty Series*, Vol. 2, p. 40; Vol. 19, p. 280; Vol. 141, p. 355; Vol. 199, p. 308, and Vol. 260, p. 432.