

No. 4627

**JAPAN
and
AUSTRALIA**

**Agreement on Commerce (with exchange of notes). Signed at
Hakone, on 6 July 1957**

Official texts: English and Japanese.

Registered by Japan on 31 December 1958.

**JAPON
et
AUSTRALIE**

**Accord commercial (avec échange de notes). Signé à Hakone,
le 6 juillet 1957**

Textes officiels anglais et japonais.

Enregistré par le Japon le 31 décembre 1958.

No. 4627. AGREEMENT¹ ON COMMERCE BETWEEN
JAPAN AND THE COMMONWEALTH OF AUSTRALIA.
SIGNED AT HAKONE, ON 6 JULY 1957

The Government of Japan and the Government of the Commonwealth of Australia,

Being desirous of improving and developing the commercial relations between the two countries,

Have agreed as follows :

Article I

1. 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, and 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, and with respect to the application of internal taxes to exported goods and with respect to all internal taxes or other internal charges of any kind imposed on or in connection with imported goods and with respect to all laws, regulations and requirements affecting internal sale, offering for sale, purchase, distribution or use of imported goods, any advantage, favour, privilege or immunity which has been or may hereafter be granted by the Government of either country to any product originating in or destined for any third country shall be accorded immediately and unconditionally to the like product originating in or destined for the other country.

2. The provisions of paragraph 1 shall not entitle the Government of Japan to claim the benefit of any preference or advantage which may at any time be accorded by the Government of the Commonwealth of Australia to any member country of the Commonwealth of Nations including its dependent territories, or to the Republic of Ireland.

Article II

1. No prohibitions or restrictions, whether made effective through quotas, import or export licences or other measures, shall be instituted or maintained by the Government of either country on the importation of any product of the other country or on the exportation or sale for export of any product destined for the other country unless such prohibitions or restrictions are applied to all third countries.

¹ Came into force provisionally on 6 July 1957 by an exchange of notes and definitively on 4 December 1957, the date of the exchange of the instruments of ratification, in accordance with article VII.

2. In all matters relating to the allocation of foreign exchange affecting transactions involving the importation and exportation of goods, the Government of each country shall accord to the other country treatment no less favourable than it accords to any third country.

3. Notwithstanding the provisions of paragraphs 1 and 2 either Government may take such measures as are necessary to safeguard its external financial position and balance of payments.

Article III

1. With respect to trade between Japan and Australia,

(a) Each Government undertakes that if it establishes or maintains a state trading enterprise, wherever located, or grants to any trading enterprise, formally or in effect, exclusive or special privileges, such trading enterprise shall, in its purchases or sales involving imports or exports, act in a manner consistent with the general principles of non-discriminatory treatment prescribed in this Agreement for governmental measures affecting imports or exports by private traders.

(b) The provisions of sub-paragraph (a) of this paragraph shall be understood to require that such trading enterprises shall, having due regard to the other provisions of this Agreement, make any such purchases or sales solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale, and shall afford trading enterprises of the other country adequate opportunity, in accordance with customary business practice, to compete for participation in such purchases or sales.

(c) Neither Government shall prevent any enterprise (whether or not an enterprise described in sub-paragraph (a) of this paragraph) under its jurisdiction from acting in accordance with the principles of sub-paragraphs (a) and (b) of this paragraph.

2. The provisions of paragraph 1 of this Article shall not apply to imports of products for immediate or ultimate consumption in governmental use and not otherwise for re-sale or use in the production of goods for sale. With respect to such imports, the Government of each country shall accord to the trade of the other country fair and equitable treatment.

Article IV

1. The provisions of this Agreement shall not be regarded as conferring any more favourable treatment on the trade of either country than the Government of the other country is entitled or obliged to accord to those countries in respect of which it applies the General Agreement on Tariffs and Trade.¹ The two

¹ See footnote 2, p. 164 of this volume.

Governments shall, so far as practicable and as may be agreed between them from time to time, base their commercial relations upon the provisions of the General Agreement on Tariffs and Trade in respect of matters not covered by this Agreement.

2. The provisions of this Agreement or any action taken under the Agreement shall not affect the rights of either Government under Article XXXV of the General Agreement on Tariffs and Trade nor detract from the freedom of either Government in any negotiations for the application of the General Agreement on Tariffs and Trade between the two countries.

Article V

1. It is the expectation of both Governments that mutual trade will be increased as a result of this Agreement. It is further expected that this expansion of trade will be achieved without serious injury being caused or threatened to domestic producers in Japan or Australia. If, nevertheless, as a result of unforeseen developments, the Government of either country finds that any product is being imported from the other country under such conditions as to cause or threaten serious injury to producers in the country of importation of like or directly competitive products, that Government may, in respect of such product, suspend obligations under this Agreement to the extent and for such time as may be necessary to prevent or remedy such injury.

2. Before either Government takes action pursuant to the provisions of paragraph 1 of this Article, it shall give written notice to the other Government as far in advance as may be practicable and shall afford the other Government an opportunity to consult with it as fully as circumstances permit in respect of the proposed action.

3. In the event that either Government finds it necessary to take action under this Article which affects such a number of products or such a volume of trade that in the view of the other Government the achievement of the objectives of this Agreement is seriously impaired, the Government which considers its interests adversely affected may request consultations with the other Government on the situation which has developed including the action taken; and may after two months from the time of the action being taken, if no mutually satisfactory solution is reached or at an earlier date if it is agreed that no solution is likely to emerge seek a renegotiation of the terms of this Agreement. Such renegotiation shall be commenced as soon as practicable after a written request has been made. In the event that a satisfactory solution is not reached within two months after such renegotiation is requested, the Government which sought renegotiation may terminate the Agreement on two months' notice, notwithstanding the provisions of paragraph 2 of Article VII.

Article VI

1. Each Government shall accord sympathetic consideration to representations made by the other Government on matters arising out of the operation of this Agreement and shall afford to the other Government adequate opportunity for consultation.

2. Consultation shall in any event be held annually on the operation of this Agreement.

Article VII

1. This Agreement shall be ratified by each Government and shall enter into force on the date of the exchange of instruments of ratification.

2. This Agreement shall remain in force until the fifth day of July, 1960 and shall continue in force thereafter provided that it shall be terminated on that date or thereafter if either Government has previously given to the other Government at least three months written notice of its intention to terminate the Agreement.

IN WITNESS WHEREOF the representatives of the two Governments, duly authorized for the purpose, have signed this Agreement.

DONE in the Japanese and English languages, both equally authentic, this sixth day of July, 1957 at Hakone.

For the Government of Japan :
Nobusuke KISHI

For the Government of the Commonwealth of Australia :
J. MCEWEN
A. S. WATT

[TRANSLATION — TRADUCTION]

6th July, 32nd year of Showa (1957)

Your Excellency,

[See note II]

I avail myself, Excellency, of this opportunity to renew assurances of my highest consideration.

Nobusuke KISHI
Minister for Foreign Affairs of Japan

H.E. J. McEwen
The Minister for Trade
Commonwealth of Australia

II

Hakone, 6th July, 1957

Your Excellency,

I have the honour to acknowledge receipt of your Excellency's Note dated July 6, 1957, which reads as follows :

"With reference to the Agreement on Commerce between Japan and the Commonwealth of Australia signed today,¹ I have the honour to inform your Excellency that the most-favoured-nation provisions of the said Agreement shall not apply to advantages which are accorded or which may be accorded hereafter by Japan to such areas as are set forth in Article 3 of the Treaty of Peace with Japan signed at the city of San Francisco on September 8, 1951,² so long as the situation set forth in the second sentence of the said Article continues with respect to the administration, legislation and jurisdiction over those areas.

"I have further the honour to request your Excellency to be good enough to confirm the foregoing understanding on behalf of your Government."

On behalf of the Government of the Commonwealth of Australia I have the honour to confirm the understanding stated in your Excellency's Note with respect to the application of the Agreement on Commerce between the Commonwealth of Australia and Japan signed today to the areas specified in Article 3 of the Treaty of Peace with Japan.

I avail myself, Excellency, of this opportunity to renew assurances of my highest consideration.

J. MCEWEN
Minister for Trade

The Minister for Foreign Affairs
Tokyo

¹ See p. 394 of this volume.

² 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.

III

Hakone, 6th July, 1957

Your Excellency,

With reference to the Agreement on Commerce between the Commonwealth of Australia and Japan signed today, I have the honour to inform your Excellency that the provisions of this Agreement shall not apply to any of the external territories administered by the Government of the Commonwealth of Australia nor to any advantages which are accorded or which may be accorded hereafter between the external territories and the metropolitan territory of Australia.

I have the honour to request your Excellency to be good enough to confirm the foregoing understanding on behalf of your Government.

I avail myself, Excellency, of this opportunity to renew assurances of my highest consideration.

J. McEWEN
Minister for Trade

The Minister for Foreign Affairs
Tokyo

[TRANSLATION — TRADUCTION]

6th July, 32nd year of Showa (1957)

Your Excellency,

I have the honour to acknowledge receipt of Your Excellency's note dated 6 July 1957, which reads as follows :

[*See note III*]

On behalf of the Government of Japan I have the honour to confirm the understanding stated in Your Excellency's note with respect to the application by the Government of the Commonwealth of Australia of the provisions of the Agreement on Commerce between Japan and the Commonwealth of Australia signed today to the external territories.

I avail myself, Excellency, of this opportunity to renew assurances of my highest consideration.

Nobusuke KISHI
Minister of Foreign Affairs of Japan

H.E. J. McEwen
The Minister of Trade
Commonwealth of Australia