

**No. 4866**

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**POLAND  
and  
JAPAN**

**Treaty on commerce (with agreed minutes). Signed at  
Tokyo, on 26 April 1958**

*Official text: English.*

*Registered by Poland on 9 September 1959.*

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**POLOGNE  
et  
JAPON**

**Traité de commerce (avec procès-verbal approuvé). Signé  
à Tokyo, le 26 avril 1958**

*Texte officiel anglais.*

*Enregistré par la Pologne le 9 septembre 1959.*

No. 4866. TREATY ON COMMERCE<sup>1</sup> BETWEEN THE POLISH PEOPLE'S REPUBLIC AND JAPAN. SIGNED AT TOKYO, ON 26 APRIL 1958

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The Polish People's Republic and Japan,  
Desiring to promote the development of commercial relations between the two countries, and

Considering that the Treaty of Commerce and Navigation between Poland and Japan, signed on December 7, 1922,<sup>2</sup> had ceased to be in force,

Have resolved to conclude the treaty on commerce envisaged in Article V of the Agreement concerning the Reestablishment of Normal Relations between the Polish People's Republic and Japan, signed on February 8, 1957,<sup>3</sup> and for that purpose have appointed as their Plenipotentiaries,

The Polish People's Republic :

Dr. Tadeusz Żebrowski, Ambassador Extraordinary and Plenipotentiary to Japan, and

Japan :

Mr. Hisanari Yamada, Administrative Vice-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 1*

Each Contracting Party shall accord to the products originating in or destined for the other Contracting Party most-favoured-nation treatment in all matters with respect to customs duties and charges of any kind imposed on or in connection with importation or exportation, and with respect to the methods of levying such duties and charges, as well as with respect to rules, formalities and charges connected with the clearance of goods through customs.

*Article 2*

1. The products of either Contracting Party after they had been in transit through the territories of one or more third countries shall not, upon their importation into the territories of the other Contracting Party, be subject to

<sup>1</sup> Came into force on 16 January 1959 by the exchange of the instruments of ratification at Warsaw, in accordance with article 12.

<sup>2</sup> League of Nations, *Treaty Series*, Vol. XXXII, p. 61.

<sup>3</sup> United Nations, *Treaty Series*, Vol. 318, p. 251.

duties or charges higher than those to which they would be subject if they were imported directly from the territories of such Contracting Party.

2. The provisions of the preceding paragraph are also applicable to goods which during their transportation through the territories of a third country underwent transshipment, repacking and storing in warehouses.

### *Article 3*

Subject to the internal laws and regulations in force, each Contracting Party shall accord most-favoured-nation treatment with respect to exemption from duties and charges on the following articles of the other Contracting Party which are brought into temporarily and taken out of its territories :

- (a) samples of commodities;
- (b) articles destined for tests and experiments;
- (c) articles destined for exhibitions, contests and fairs;
- (d) tools to be used by assemblers in assembling and installing equipment;
- (e) articles to be processed or repaired and materials required for processing or repairing;
- (f) containers of exported or imported goods.

### *Article 4*

Each Contracting Party shall accord to the products of the other Contracting Party most-favoured-nation treatment in all matters 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 within the territories of such Contracting Party.

### *Article 5*

1. No prohibitions or restrictions shall be applied by either Contracting Party on the importation or exportation of any product from or to the territories of the other Contracting Party, which are not similarly applied to the importation or exportation of the like product from or to the territories of all third countries.

2. Notwithstanding the provisions of the preceding paragraph, either Contracting Party may apply import or exchange restrictions for the purpose of

safeguarding the external financial position and balance of payments provided that such restrictions are applicable to all countries in like circumstances.

#### *Article 6*

1. Each Contracting Party undertakes that if it establishes or maintains a state enterprise or grants to any enterprise, formally or in effect, exclusive or special privileges, such enterprise shall, in its purchases or sales involving either imports or exports, act in a manner consistent with the general principles of non-discriminatory treatment.

2. The provisions of the preceding paragraph shall be understood to require that such enterprises shall, having due regard to the other provisions of this Treaty, make any such purchases or sales solely in accordance with commercial considerations, including price, quality, availability, marketability and other conditions of purchase or sale.

#### *Article 7*

1. Vessels under the flag of either Contracting Party and carrying the papers required by its laws and regulations in proof of nationality shall be deemed to be vessels of that Contracting Party.

2. Merchant vessels of either Contracting Party shall have the right to the same extent and under the same conditions as the merchant vessels of the other Contracting Party and of any third country, to enter, leave and anchor in all ports, places and waters of such other Contracting Party open to foreign commerce and navigation.

3. Merchant vessels of either Contracting Party, and the crew, passengers and cargoes thereof, shall in all respects be accorded by the other Contracting Party treatment no less favourable than that accorded to merchant vessels of such other Contracting Party and of any third country, and the crew, passengers and cargoes thereof, in the ports, places and waters of such other Contracting Party.

4. The certificates concerning measurement of vessels issued by the competent authorities of either Contracting Party shall be recognized by the competent authorities of the other Contracting Party as equivalent to the certificates issued by the latter.

#### *Article 8*

The provisions of the preceding Article shall not apply to coasting trade. However, the voyages of merchant vessels of either Contracting Party from port to port of the other Contracting Party, in accordance with the laws and regula-

tions of the other Contracting Party, for the purpose of landing the whole or a part of passengers or cargoes brought from abroad or of taking on board the whole or a part of passengers or cargoes for a foreign country shall not be considered as the coasting trade mentioned above.

#### *Article 9*

In case of shipwreck, damage at sea or forced putting in, either Contracting Party shall grant to vessels of the other Contracting Party, and the crew, passengers and cargoes thereof, the same assistance and protection as well as the same privileges and immunities as are in like cases accorded by such Contracting Party to its own vessels and the crew, passengers and cargoes thereof. Goods salvaged from such vessels shall be exempt from all customs duties, unless the goods are entered for domestic consumption.

#### *Article 10*

1. Both Contracting Parties assume the responsibility for enforcing arbitration awards on disputes which may arise from or in relation to commercial contracts concluded between natural and juridical persons of the Polish People's Republic on the one hand and natural and juridical persons of Japan on the other, provided that the settlement of such disputes by arbitration has been stipulated in the contracts themselves or in separate agreements executed in due form.

2. Enforcement of an arbitration award may be rejected in the following cases :

- (a) if the award has not become enforceable as a final decision according to the laws of the country where it was rendered;
- (b) if the award commits the parties to an action inadmissible under the laws of the Contracting Party in which the enforcement of the award is sought;
- (c) if the award is contrary to public order of the Contracting Party in which the enforcement of the award is sought;
- (d) if the party against whom it is sought to use the award was not given notice of the arbitration proceedings in sufficient time to enable him to present his cases; or if, being under a legal incapacity, he was not properly represented.

3. Arbitration awards shall be enforced in accordance with the laws of the Contracting Party in which the enforcement of the awards is sought.

#### *Article 11*

No provision of this Treaty shall be construed so as to prevent either Contracting Party from taking any measures directed to the protection of its essential security interests.

*Article 12*

1. This Treaty shall be ratified, and the instruments of ratification shall be exchanged at Warsaw as soon as possible.

2. This Treaty shall enter into force on the date of the exchange of the instruments of ratification, and shall remain in force for a period of five years and shall continue in force thereafter until terminated as provided herein.

3. Either Contracting Party may, by giving six months' written notice to the other Contracting Party, terminate this Treaty at the end of the initial five year period or at any time thereafter.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed this Treaty and have affixed thereto their seals.

DONE in duplicate in the English language, at Tokyo, this twenty-sixth day of April, 1958.

For the Polish People's  
Republic :  
T. ZEBROWSKI

For Japan :  
H. YAMADA

## AGREED MINUTES

1. With reference to Article 6 of the Treaty on Commerce between the Polish People's Republic and Japan signed today<sup>1</sup> (hereinafter referred to as the "Treaty"), the Plenipotentiary of the Polish People's Republic and the Plenipotentiary of Japan hereby record the following :

The Plenipotentiary of Japan stated that, under the laws and regulations currently in force in Japan, the Japan Monopoly Corporation (dealing with salt, tobacco and crude camphor including camphor oil) and the Food Agency (dealing with rice, wheat and barley) fell under the category of enterprises mentioned in this Article.

The Plenipotentiary of the Polish People's Republic took note of the statement.

2. With reference to Article 7 of the Treaty, the Plenipotentiary of the Polish People's Republic and the Plenipotentiary of Japan reached the following understanding :

<sup>1</sup> See p. 222 of this volume.

Notwithstanding the provisions of this Article, either Contracting Party may reserve the right to give special privileges with respect to inland navigation to its own vessels and vessels of any adjacent country as well as the right to give special privileges with respect to port regulations to vessels of any adjacent country which has no sea ports.

For the Polish People's  
Republic :  
T. ŻEBROWSKI

For Japan :  
H. YAMADA

Tokyo, April 26, 1958