

No. 4883

**JAPAN
and
YUGOSLAVIA**

**Treaty of Commerce and Navigation (with Protocol and
exchange of notes). Signed at Belgrade, on 28 February
1959**

Official text: English.

Registered by Japan on 15 September 1959.

**JAPON
et
YUGOSLAVIE**

**Traité de commerce et de navigation (avec Protocole et
échange de notes). Signé à Belgrade, le 28 février 1959**

Texte officiel anglais.

Enregistré par le Japon le 15 septembre 1959.

No. 4883. TREATY¹ OF COMMERCE AND NAVIGATION
BETWEEN JAPAN AND THE FEDERAL PEOPLE'S RE-
PUBLIC OF YUGOSLAVIA. SIGNED AT BELGRADE,
ON 28 FEBRUARY 1959

The Government of Japan and the Government of the Federal People's Republic of Yugoslavia, being desirous of strengthening the bonds of friendship and mutual collaboration and of promoting the development of economic relations between the two countries, have resolved to conclude a Treaty of Commerce and Navigation, based upon the principles of equity and mutual benefit, and for that purpose have appointed as their Plenipotentiaries,

The Government of Japan :

Toshikazu Kasé, Ambassador Extraordinary and Plenipotentiary of Japan
to the Federal People's Republic of Yugoslavia,

The Government of the Federal People's Republic of Yugoslavia :

Bogdan Crnobrnja, Ambassador, Assistant Secretary of State for Foreign
Affairs of the Federal People's Republic of Yugoslavia,

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

Article 1

Nationals of either High Contracting Party shall be accorded within the territories of the other High Contracting Party :

(a) national treatment and most-favoured-nation treatment with respect to the protection by law of their persons; and

(b) most-favoured-nation treatment with respect to the protection of their property.

Nationals of either High Contracting Party shall be authorized, on the basis of national treatment and most-favoured-nation treatment, to defend their rights before the authorities of the other High Contracting Party and to appear in court, either to bring an action or to defend themselves, according to the laws of such other High Contracting Party.

¹ Came into force on 20 July 1959, one month after the day of the exchange of the instruments of ratification at Tokyo, in accordance with article 19.

Article 2

Nationals of either High Contracting Party shall enjoy, throughout the territories of the other High Contracting Party, most-favoured-nation treatment with respect to the right of entry, travel, residence and sojourn.

Any advantages, facilities, privileges or favours which are accorded, or may be accorded later, by either High Contracting Party to nationals of any third country with respect to acquisition of property and business and other activities, shall be accorded to nationals of the other High Contracting Party. However, neither High Contracting Party will be bound to grant to nationals of the other High Contracting Party more favourable treatment concerning the acquisition of immovable property and the rights of engagement in mining than those granted by the latter High Contracting Party to the nationals of the former High Contracting Party.

Nationals of either High Contracting Party shall not, within the territories of the other High Contracting Party, be subject to taxes, fees or charges of any kind other or more burdensome than those imposed upon nationals of the most-favoured-nation. However, each High Contracting Party reserves the right to extend specific tax advantages on the basis of reciprocity or to accord special tax advantages by virtue of agreements for the avoidance of double taxation or the mutual protection of revenue.

Article 3

Nationals of either High Contracting Party shall be exempted, within the territories of the other High Contracting Party, from any military service or service in the National Guard or Militia and from all taxes and military charges in replacement of such personal services.

With respect to the above exemption and all forced war-loans and any military exaction, requisition or compulsory billeting, nationals of either High Contracting Party shall be accorded treatment no less favourable than that accorded to nationals of any third country.

Article 4

Legal persons engaging in commercial, industrial and financial activities, including shipping or insurance activities, organized in accordance with the laws of either High Contracting Party and having their seats within its territories, shall be recognized as such within the territories of the other High Contracting Party. The capacity of such legal persons shall be assessed in the light of the national legislation of such other High Contracting Party.

Such legal persons shall have the right to be represented through agents within the territories of the other High Contracting Party in accordance with the regulations of such other High Contracting Party.

The provisions of Articles 1, 2 and 3 of the present Treaty shall be equally applied to the said legal persons as far as they are applicable to legal persons.

Article 5

Either High Contracting Party shall be authorized to appoint consular representatives in the territories of the other High Contracting Party, in accordance with the principles of international law and international custom, and on the basis of reciprocity.

Article 6

The High Contracting Parties shall accord to each other favourable treatment in all matters regarding trade and navigation between the two countries. The High Contracting Parties undertake, within the framework of their legislations, to take all appropriate measures necessary for facilitating and encouraging the mutual exchange of commodities and services.

Article 7

Either High Contracting Party shall accord most-favoured-nation treatment to products originating in, or consigned to, the territories of the other High Contracting Party in all matters concerning customs duties and charges of any kind, the system of collection of such customs duties and charges, regulations and formalities affecting, or which may affect later, the clearing of the products through the customs, as well as their transfer and storage.

Article 8

Any advantages, facilities, privileges or favours which are accorded, or may be accorded later, by either High Contracting Party, concerning the matters referred to in Article 7, to products originating in, or consigned to, the territories of any third country, shall be accorded to products originating in, or consigned to, the territories of the other High Contracting Party.

Article 9

Either High Contracting Party shall accord to the products of the other High 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 High Contracting Party.

Either High Contracting Party shall accord to the other High Contracting Party most-favoured-nation treatment regarding the interior or transit transportation of products originating in the territories of such other High Contracting Party.

Article 10

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

- (a) samples, provided that their value is insignificant and that they are used for the advertising purpose only;
- (b) articles designed for testing or experiment;
- (c) articles designed for exhibitions, fairs or competitions;
- (d) articles to be repaired or finished; and
- (e) wrappings or receptacles used in commerce and designed for the transportation of commodities.

Article 11

Neither High Contracting Party shall establish or maintain in its regulations any prohibitions or restrictions on the importation of any product of the other High Contracting Party, on the exportation of any product to the territories of such other High Contracting Party, or on the transit of any product en route to or from the territories of such other High Contracting Party, unless the importation of the like product of, the exportation of the like product to, or the transit of the like product en route to or from any third country is similarly prohibited or restricted. Exceptions to this rule are permitted :

- (a) for reasons of essential security interests;
- (b) for sanitary reasons or for the protection of useful animals and plants; and
- (c) for the need to safeguard its external financial position or balance of payments.

Either High Contracting Party undertakes that enterprises owned or controlled by its Government, and monopolies or agencies granted exclusive or

special privileges within its territories, shall make their purchases or sales involving either imports or exports solely in accordance with commercial considerations.

Article 12

The High Contracting Parties undertake, within the framework of their respective legislations, to take appropriate measures in order to facilitate land, sea and air traffic, as well as postal, telegraphic and telephonic communications between the two countries.

Article 13

The nationality of vessels of either High Contracting Party shall be recognized by the other High Contracting Party in virtue of their flags and according to documents issued by the competent authorities of such High Contracting Party in accordance with its legislation.

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

Merchant vessels of either High Contracting Party shall enjoy most-favoured-nation treatment with respect to entry into and exit from all ports, places and waters of the other High Contracting Party open to foreign trade and navigation together with their cargoes. Such merchant vessels and cargoes shall in all respects be accorded most-favoured-nation treatment within such ports, places and waters.

Merchant vessels of either High Contracting Party shall be accorded by the other High Contracting Party most-favoured-nation treatment with respect to commercial operations, including those for carrying all products to or from the territories of such other High Contracting Party; products carried in such merchant vessels shall be accorded most-favoured-nation treatment with respect to all customs and other formalities.

The crews of merchant vessels of either High Contracting Party shall be accorded within the territories of the other High Contracting Party treatment no less favourable than that accorded to the crews of merchant vessels of any third country.

Merchant vessels of either High Contracting Party shall, within the territories of the other High Contracting Party, have the right to proceed from one open port to another, either for the purpose of unloading the whole or part of their cargoes and passengers brought from abroad or of loading the whole or part of their cargoes and passengers destined for foreign countries.

The provisions of the present Article shall not apply to coasting trade.

The term “merchant vessel” as used in this Treaty does not include fishing boats, pleasure yachts and sporting boats.

Article 14

In case of shipwreck, damage at sea or forced putting in, either High Contracting Party shall extend to vessels of the other High Contracting 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.

Article 15

The most-favoured-nation treatment provisions of the present Treaty shall not apply to advantages accorded by either High Contracting Party :

- (a) to neighbouring states, with a view to facilitating frontier traffic;
- (b) by virtue of a customs union, of which such High Contracting Party has become or may become a member; or
- (c) to products of its national fisheries.

Article 16

Arbitration awards duly rendered in conformity with the applicable laws of the High Contracting Parties concerning disputes arising in connection with the implementation of commercial contracts concluded between nationals and legal persons referred to in Article 4 of either High Contracting Party and those of the other High Contracting Party, shall be put in force, if arbitration of such disputes has been foreseen in the commercial contract, or if submission of such disputes to arbitration is agreed to in writing either before or after the dispute has arisen.

The enforcement of an arbitration award can be refused only in the following cases :

- (a) if the arbitration award has not acquired the force of final judgement, in accordance with the laws of the country where it has been brought;
- (b) if the arbitration award constrains one of the parties to commit an act contrary to the laws in force in the country where the enforcement of the award is sought;
- (c) if the arbitration award is contrary to the public order of the country where its enforcement is sought; and
- (d) if the party against whom it is sought to use the arbitration award was not given notice of the arbitration proceedings in sufficient time to enable such

party to present its case, or if, being under a legal incapacity, such party was not properly represented.

Arbitration awards shall be enforced in accordance with the laws of the country where their enforcement is sought.

Article 17

Each High Contracting Party shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such representations as the other High Contracting Party may make with respect to any matter affecting the operation of the present Treaty.

Any dispute between the High Contracting Parties as to the interpretation or application of the present Treaty, not satisfactorily adjusted through diplomatic channels or by other agreed means of settlement, shall be referred for decision to a tribunal of three arbitrators, one to be appointed by each High Contracting Party and the third to be agreed upon by the two arbitrators so chosen, provided that such third arbitrator shall not be a national of either High Contracting Party. Each of the High Contracting Parties shall appoint an arbitrator within a period of two months from the date of delivery by either High Contracting Party to the other High Contracting Party of a note requesting arbitration of the dispute and the third arbitrator shall be agreed upon within a further period of one month.

If either of the High Contracting Parties fails to appoint its own arbitrator within the period of two months or if the third arbitrator is not agreed upon within the period indicated, the President of the International Court of Justice may be requested by either High Contracting Party to appoint an arbitrator or arbitrators.

The High Contracting Parties undertake to comply with any decision given by the said tribunal.

Article 18

The present Treaty shall be registered with the Secretariat of the United Nations.

Article 19

The present Treaty shall supersede and be substituted for the Treaty of Commerce and Navigation between the Empire of Japan and the Kingdom of the Serbs, Croats and Slovenes, signed at Vienna on November 16, 1923.¹

The present Treaty shall be ratified, and the instruments of ratification shall be exchanged at Tokyo as soon as possible.

¹ League of Nations, *Treaty Series*, Vol. XLII, p. 99.

The present Treaty shall come into force one month after the day of the exchange of the instruments of ratification. It shall remain in force until the expiration of six months from the day on which either High Contracting Party shall have notified the other High Contracting Party of its intention to terminate the present Treaty.

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

DONE in duplicate, in the English language, at Belgrade, this twenty-eighth day of February, one thousand nine hundred and fifty-nine.

For Japan :

KASÉ

For the Federal People's
Republic of Yugoslavia :

Bogdan CRNOBRNJA

PROTOCOL

At the time of signing the Treaty of Commerce and Navigation between Japan and the Federal People's Republic of Yugoslavia,¹ the undersigned Plenipotentiaries, duly authorized by their respective Governments, have further agreed on the following provisions, which shall be considered integral parts of the said Treaty :

1. 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;² 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.

2. With regard to the provisions of Article 7, of Article 8 and of Article 15 (b) of the present Treaty, it is understood that in case either High Contracting Party accords to any country outside a customs union any specific advantage that is similar to that accorded to the members of the union, it shall also extend the same advantage to the other High Contracting Party.

¹ See p. 180 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.

3. It is confirmed that the provisions of most-favoured-nation treatment of paragraph 1 of Article 2 does not apply to matters relating to passports and visas and that the High Contracting Parties shall continue to decide these matters under their internal laws and regulations.

4. It is understood that nothing in the Treaty shall be construed so as to grant any right or impose any obligation in respect of copyright and industrial property right.

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

DONE in duplicate, in the English language, at Belgrade, this twenty-eighth day of February, one thousand nine hundred and fifty-nine.

For Japan :

KASÉ

For the Federal People's
Republic of Yugoslavia :
Bogdan CRNOBRNJA

EXCHANGE OF NOTES

I

Belgrade, February 28, 1959

Excellency,

With reference to the Treaty of Commerce and Navigation between Japan and the Federal People's Republic of Yugoslavia signed today,¹ I have the honour to communicate to Your Excellency the understanding of the Government of Japan that, with respect to all matters relating to exchange restrictions, each High Contracting Party will continue to adhere to the principles and spirit of the Articles of Agreement of the International Monetary Fund² to which the two countries are contracting parties.

I have further the honour to request Your Excellency to be good enough to confirm on behalf of your Government that this is also the understanding of the Government of the Federal People's Republic of Yugoslavia.

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

Toshikazu KASÉ
Ambassador of Japan

His Excellency Monsieur Bogdan Crnobrnja
Ambassador, Assistant Secretary of State
for Foreign Affairs
Belgrade

¹ See p. 180 of this volume.

² United Nations, *Treaty Series*, Vol. 2, p. 40; Vol. 19, p. 280; Vol. 141, p. 355; Vol. 199, p. 308; Vol. 260, p. 432; Vol. 287, p. 260; Vol. 303, p. 284, and Vol. 316, p. 269.

II

Belgrade, February 28, 1959

Monsieur l'Ambassadeur,

I have the honour to acknowledge receipt of Your Excellency's Note of today's date which reads as follows :

[*See note I*]

I have further the honour to confirm on behalf of my Government that this is also the understanding of the Government of the Federal People's Republic of Yugoslavia.

I avail myself of this opportunity to renew to Your Excellency, Monsieur l'Ambassadeur, the assurances of my highest consideration.

Bogdan CRNOBRNJA
Assistant Secretary of State
for Foreign Affairs

His Excellency Monsieur Toshikazu Kasé
Ambassador of Japan
Belgrade