

No. 4694

JAPAN
and
UNION OF SOVIET SOCIALIST REPUBLICS

Treaty of Commerce (with annex and exchange of notes).
Signed at Tokyo, on 6 December 1957

Official texts : Japanese and Russian.

Registered by Japan on 2 March 1959.

JAPON

et

UNION DES RÉPUBLIQUES SOCIALISTES SOVIÉTIQUES

Traité de commerce (avec annexe et échange de notes).
Signé à Tokyo, le 6 décembre 1957

Textes officiels japonais et russe.

Enregistré par le Japon le 2 mars 1959.

[TRANSLATION — TRADUCTION]

No. 4694. TREATY OF COMMERCE¹ BETWEEN JAPAN
AND THE UNION OF SOVIET SOCIALIST REPUBLICS.
SIGNED AT TOKYO, ON 6 DECEMBER 1957

Japan and the Union of Soviet Socialist Republics, desiring to promote the development of trade relations between the two countries and acting in accordance with the provisions of the Joint Declaration by the Union of Soviet Socialist Republics and Japan, signed on 19 October 1956,² have resolved to conclude a Treaty of Commerce, provided for in paragraph 7 of the said Declaration, and have for this purpose appointed as their plenipotentiaries :

Japan :

Sadao Hirose, Envoy Extraordinary and Minister Plenipotentiary ;

The Union of Soviet Socialist Republics :

Ivan Fedorovich Semichastnov, Deputy Minister of Foreign Trade of the Union of Soviet Socialist Republics,

who, having exchanged their full powers, found in good and due form, have agreed as follows :

Article 1

The two Contracting Parties shall, within the limits of their respective laws, make every effort to put their trade, navigation and other commercial relations on a firm and friendly basis.

Article 2

Each Contracting Party shall grant to the other Contracting Party most-favoured-nation treatment in respect of customs duties, charges and customs formalities of any kind and other regulations connected with the importation of goods of the other Contracting Party and with the exportation of its own goods to the other Contracting Party.

¹ Came into force on 9 May 1958, the date of the exchange of the instruments of ratification at Moscow, in accordance with article 15.

² United Nations, *Treaty Series*, Vol. 263, p. 99.

Article 3

The goods of one Contracting Party which have been conveyed in transit through the territory of one or more third States shall not be liable, on importation into the territory of the other Contracting Party, to duties or charges higher than those to which they would have been liable if they had been imported directly from the territory of the other Contracting Party.

These provisions shall likewise apply to goods which, while in transit through the territory of a third State, have been subjected to trans-shipment, re-packing or warehousing.

Article 4

Each Contracting Party shall grant to the goods of the other Contracting Party unconditional most-favoured-nation treatment in all matters relating to all internal taxes or other internal charges of any kind and to all laws, regulations and requirements affecting internal sale, offering for sale, purchase, distribution or use of imported goods within the territory of such Contracting Party.

Article 5

Each Contracting Party shall, in accordance with the internal laws and regulations in force, grant most-favoured-nation treatment as regards exemption from duties and charges in respect of the temporary importation to its territory and exportation from its territory of the following articles of the other Contracting Party :

- (a) Samples of goods ;
- (b) Articles intended for experiments or tests ;
- (c) Articles intended for display at exhibitions, competitions and fairs ;
- (d) Fitters' equipment, intended for fitting work and for the installation of equipment ;
- (e) Articles intended for processing or repair, and articles which constitute processing or repair materials ;
- (f) Containers for exported or imported goods.

Article 6

Any advantages, facilities, privileges or immunities with respect to the matters referred to in articles 2 to 5 of this Treaty, which are granted or may hereafter be granted by one of the Contracting Parties in respect of goods originating in any

third country or intended for export to the territory of any third country, shall be granted in respect of similar goods originating in or intended for export to the territory of the other Contracting Party.

Article 7

No prohibitions or restrictions shall be applied by either Contracting Party on the importation or exportation of any goods from or to the Territory of the other Contracting Party which are not similarly applied to the importation or exportation of similar goods from or to the territories of all third countries, except for import or exchange restrictions applicable to all countries in like circumstances for the purpose of safeguarding the external financial position and balance of payments.

Article 8

The merchant vessels of each Contracting Party shall have the right to enter, clear and stay in all the ports and territorial waters of the other Contracting Party to the same extent and on the same terms as the merchant vessels of any third State.

The merchant vessels of each Contracting Party, their crews, passengers and cargoes shall be accorded by the other Contracting Party in its ports and territorial waters treatment no less favourable than that which is accorded to the merchant vessels, crews, passengers and cargoes of any third State in respect of loading and discharging ; charges and dues of every kind levied on behalf of or for the benefit of the State, municipalities or other organizations ; the mooring of vessels and the assignment of places for loading and discharging in ports and roadsteads ; supplies of fuel, lubricating oils, water and food ; the use of pilotage services, signals and lights used to mark navigable waters ; the use of cranes, anchorages, warehouses, shipyards, dry-docks and repair yards ; the application of regulations and formalities, including health and quarantine formalities ; and all other questions relating to commercial navigation.

Each Contracting Party shall also accord in customs and administrative matters and other formalities in its ports and territorial waters to the merchant vessels and cargoes of the other Contracting Party treatment no less favourable than that which is accorded to the merchant vessels and cargoes of any third country.

Any vessel flying the flag of either Contracting Party, supplied with the documents required by the laws and regulations of that Party for proof of nationality

of the vessel, shall be recognized by the other Contracting Party as a vessel of the country whose flag it flies.

Tonnage certificates of the vessels of the Contracting Parties and other technical ship's papers, referring to the measurement of the capacity of vessels, issued or recognized by one of the Contracting Parties, shall be recognized by the other Party. In accordance with this provision, any vessel of either Contracting Party carrying a valid tonnage certificate shall be exempt from re-measurement in the ports of the other Party, and the net capacity of the vessel entered in the certificate shall be taken as the basis for calculating harbour dues and charges.

Article 9

The provisions of the preceding article shall not extend to coastal shipping. Nevertheless, the merchant vessels of either Contracting Party proceeding from one port of the other Party to another, in observance of the laws and regulations of this Party, for the purpose of landing all or part of a cargo brought from abroad, or of taking on board all or part of a cargo for a foreign destination, shall not be regarded as engaged in coastal shipping.

Article 10

If a vessel of one Contracting Party is in distress or is wrecked on the coast of the other Contracting Party, such vessel and its cargo shall enjoy the same advantages and immunities as are granted by the other Contracting Party to its national vessel and cargo. In particular, the necessary aid and assistance shall be afforded at all times, and in the same measure as in the case of national vessels in the same situation, to the master, crew and passengers, and to the vessel and its cargo.

It is agreed that articles saved from a vessel in distress or wrecked shall not be liable to any customs duties, provided that these articles are not intended for use inside the country.

Article 11

In view of the fact that, under the laws of the Union of Soviet Socialist Republics, foreign trade is a State monopoly, Japan agrees that the Union of Soviet Socialist Republics shall establish in Japan a Trade Delegation, the legal status of which shall be governed by the provisions of the Annex¹ to this Treaty, which shall constitute an integral part thereof.

¹ See p. 82 of this volume.

Article 12

Japanese nationals and corporate bodies constituted in accordance with the laws in force in Japan shall, when engaged in business activity in the territory of the Union of Soviet Socialist Republics personally or through their appointed representatives under conditions prescribed by the laws in force in the USSR, enjoy in respect of the protection of their persons and their property the same treatment under the law as that accorded to the nationals and corporate bodies of any other State.

Soviet nationals and Soviet business organizations and other corporate bodies constituted in accordance with the laws in force in the USSR shall, when engaged in business activity in the territory of Japan personally or through their appointed representatives under conditions prescribed by the laws in force in Japan, enjoy in respect of the protection of their persons and their property the same treatment under the law as that accorded to the nationals and corporate bodies of any other State.

The nationals and corporate bodies of either Contracting Party, specified in this article, shall enjoy access to the courts of the other Contracting Party on the same basis as the nationals and corporate bodies of any other State.

Article 13

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

Article 14

The two Contracting Parties undertake to enforce arbitral awards made with regard to disputes which may arise out of commercial contracts concluded by nationals and corporate bodies of Japan, on the one hand, and by Soviet foreign trade organizations on the other hand, or relating to such contracts, if provision for deciding the dispute by such arbitration has been embodied in the contract itself or in a separate agreement drawn up in proper form.

The enforcement of the arbitral award may be refused in the following circumstances :

(a) When the arbitral award has not become final and operative under the law of the country in which it was made ;

(b) When the arbitral award compels one party to the dispute to take some action which is contrary to the laws of the country in which enforcement of the award is sought ;

(c) When the arbitral award is contrary to public policy in the country in which enforcement of the award is sought.

Arbitral awards shall be enforced in accordance with the conditions provided by the laws of the country in which enforcement is sought.

An arrangement for submitting to arbitration disputes arising out of or relating to commercial contracts shall exclude the national courts of the Contracting Parties from jurisdiction.

Article 15

This Treaty shall be subject to ratification and the exchange of instruments of ratification shall take place at Moscow as soon as possible. The 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.

If neither of the Contracting Parties gives notice in writing, six months before the expiration of the said period, of its desire to terminate the Treaty, the Treaty shall remain in force until the expiration of six months from the date on which either of the Contracting Parties notifies the other Contracting Party of its intention to terminate the Treaty.

IN WITNESS WHEREOF the plenipotentiaries of the two Contracting Parties have signed this Treaty and have affixed thereto their seals.

DONE at Tokyo, on 6 December 1957, in duplicate, in the Japanese and Russian languages, both texts being equally authentic.

Sadao HIROSE

I. SEMICHASTNOV

A N N E X

THE LEGAL STATUS OF THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN JAPAN

Article 1

The functions of the Trade Delegation of the Union of Soviet Socialist Republics in Japan shall be :

(a) To facilitate and develop trade between Japan and the Union of Soviet Socialist Republics ;

(b) To represent the interests of the Union of Soviet Socialist Republics in Japan in regard to trade between Japan and the Union of Soviet Socialist Republics ;

(c) To take necessary action for the Government of the Union of Soviet Socialist Republics in connexion with commercial transactions between Japan and the Union of Soviet Socialist Republics ;

(d) To carry on trade on behalf of the Government of the Union of Soviet Socialist Republics between Japan and the Union of Soviet Socialist Republics.

Article 2

The Trade Delegation shall form an integral part of the Embassy of the Union of Soviet Socialist Republics in Japan.

The official premises of the Trade Delegation at No. 12 Shinruyudo-cho, Azabu, Minato-ku, Tokyo shall be invested with the privileges and immunities enjoyed by the official premises of diplomatic missions. The Trade Delegation may be transferred to other premises by agreement between the Government of Japan and the Government of the Union of Soviet Socialist Republics,

The Trade Delegation may establish branches in other Japanese cities with the prior agreement of the Government of Japan.

The Trade Delegation shall be entitled to use a cipher.

The Trade Delegation shall not be subject to any regulations governing commercial registration.

The Trade Delegate and his two deputies shall enjoy all the privileges and immunities accorded to members of diplomatic missions.

The number of employees of the Trade Delegation shall be limited by agreement between the two Governments.

The employees of the Trade Delegation who are citizens of the Union of Soviet Socialist Republics assigned to Japan shall be exempt from Japanese taxation on the emoluments they receive from the Government of the Union of Soviet Socialist Republics for the performance of the functions mentioned in the preceding article.

Article 3

The Trade Delegation shall act on behalf of the Government of the Union of Soviet Socialist Republics.

The Government of the Union of Soviet Socialist Republics shall be responsible for all commercial contracts concluded or guaranteed in Japan on behalf of the Trade Delegation and signed by two authorized persons.

The Trade Delegation shall communicate to the Government of Japan the names of the aforesaid authorized persons and the extent to which each such person is empowered to sign commercial contracts on its behalf. The Government of Japan shall publish the names and powers of these persons in the Government publication of Japan.

It is understood that any commercial contracts concluded without the guarantee of the Trade Delegation by any Soviet organizations whatsoever, which under the laws of the Union of Soviet Socialist Republics have the status of independent corporate bodies,

shall be binding only on the organizations in question, and execution in respect of such contracts may be levied only on their property. No responsibility for such contracts shall be incurred by the Government of the Union of Soviet Socialist Republics or by the Trade Delegation or by any other Soviet organization whatsoever, except such as are parties to the contract.

Article 4

The Trade Delegation shall enjoy the privileges and immunities arising out of the provisions of article 2, with the following exceptions :

Disputes regarding commercial contracts concluded or guaranteed in the territory of Japan by the Trade Delegation under the provisions of article 3, second paragraph, shall, in the absence of an arbitration agreement or an agreement providing for any other jurisdiction, be subject to the jurisdiction of the Japanese courts and shall be settled in accordance with Japanese law, save as otherwise provided by the terms of individual contracts or by Japanese legislation. No interim orders may, however, be made against the Trade Delegation.

In respect of legal proceedings before the courts in connexion with actions which may be brought concerning the disputes mentioned in the preceding paragraph, the Government of the Union of Soviet Socialist Republics shall waive the privileges and immunities referred to in article 2 on behalf of the Trade Delegate and his two deputies and undertakes to authorize the Trade Delegate and, in the event of his absence, a deputy Trade Delegate to represent its country so that the Japanese courts may conduct legal proceedings in the actions which may be brought before them in accordance with the provisions of the preceding paragraph.

Execution of judgements relating to contracts to which the Trade Delegation is a party may be taken against all State property of the Union of Soviet Socialist Republics in Japan, in particular property, rights and interests arising out of contracts concluded or guaranteed by the Trade Delegation, with exception of property belonging to the organizations referred to in article 3, fourth paragraph, which are not a party to the contract guaranteed by the Trade Delegation.

Property and premises intended solely for the exercise in Japan of the diplomatic and consular rights of the Government of the Union of Soviet Socialist Republics, in accordance with international practice, and also the premises occupied by the Trade Delegation and the movable property situated therein, shall not be liable to execution.

Article 5

The establishment of the Trade Delegation shall in no way affect the rights of individuals and corporate bodies of Japan to maintain direct relations with the Soviet foreign trade organizations for the purpose of concluding and carrying out commercial contracts.

S. H.

I. S.

EXCHANGE OF NOTES

I

Tokyo, 6 December 1957

Sir,

I have the honour to confirm that in the course of negotiations on the conclusion of the Treaty of Commerce between Japan and the Union of Soviet Socialist Republics signed on this date,¹ we have agreed as follows :

1. The Government of Japan and the Government of the Union of Soviet Socialist Republics, with a view to developing trade between their two countries, consider it desirable to establish regular steamship lines between Japan and the USSR, utilizing the merchant vessels of both countries.

2. For the successful execution of this agreement it is desirable that the maritime shipping firms and associations of the two countries should negotiate the conclusion of an agreement on the commercial arrangements necessary to the opening of such lines, in particular as regards tariffs, schedules and the appointment of agents. It is also desirable that the competent officials of the two Governments should confer if any questions arise requiring the consideration of the Governments.

3. Each Government shall inform the other which maritime shipping firms and associations will take part in the aforementioned negotiations, which are to begin at Tokyo as soon as possible.

I have the honour to be, etc.

Sadao HIROSE

His Excellency Mr. I. F. Semichastnov
Plenipotentiary of the Union of Soviet Socialist Republics
Tokyo

II

Tokyo, 6 December 1957

Sir,

I have the honour to acknowledge receipt of your letter of this date which reads as follows :

[See note I]

I have the honour to be, etc.

I. SEMICHASTNOV

His Excellency Mr. Sadao Hirose
Plenipotentiary of Japan
Tokyo

¹ See p. 72 of this volume.