

No. 4698

**JAPAN
and
NEW ZEALAND**

**Agreement on commerce (with exchange of notes). Signed
at Wellington, on 9 September 1958**

Official texts of the Agreement: English and Japanese.

Official text of the notes: English.

Registered by Japan on 2 March 1959.

**JAPON
et
NOUVELLE-ZÉLANDE**

**Accord commercial (avec échange de notes). Signé à
Wellington, le 9 septembre 1958**

Textes officiels de l'Accord: anglais et japonais.

Texte officiel des notes: anglais.

Enregistré par le Japon le 2 mars 1959.

No. 4698. AGREEMENT¹ ON COMMERCE BETWEEN JAPAN
AND NEW ZEALAND. SIGNED AT WELLINGTON, ON
9 SEPTEMBER 1958

The Government of Japan and the Government of New Zealand,
Desiring to increase and facilitate trade and commerce between the two coun-
tries to their mutual advantage,
Have agreed as follows :

Article I

1. The Government of each country shall accord to the other country unconditional 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 or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, with respect to the rules and formalities connected with importation or exportation, and with respect to all internal taxes or other internal charges of any kind, and with respect to all laws, regulations and requirements affecting internal sale, offering for sale, purchase, distribution or use of imported goods within that country.
2. Accordingly, products of either country imported into the other country shall not be subject, in regard to the matters referred to in paragraph 1 of this Article, to any duties, taxes or charges higher, or to any rules or formalities more burdensome, than those to which the like products of any third country are or may hereafter be subject.
3. Similarly, products exported from either country and consigned to the other country shall not be subject, in regard to the matters referred to in paragraph 1 of this Article, to any duties, taxes or charges higher, or to any rules or formalities more burdensome, than those to which the like products when consigned to any third country are or may hereafter be subject.
4. Any advantage, favour, privilege or immunity which has been or may hereafter be granted by the Government of either country in regard to the matters referred to in paragraph 1 of this Article to any product originating in or consigned to any third country shall be accorded immediately and unconditionally to the like product originating in or consigned to the other country.

¹ Came into force on 26 November 1958, the date of the exchange of the instruments of ratification at Tokyo, in accordance with article VII.

5. The provisions of this Article relating to most-favoured-nation treatment 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 New Zealand 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 consigned to the other country unless the importation of the like product of all third countries or the exportation or sale for export of the like product to all third countries is similarly prohibited or restricted.

2. In all matters relating to the allocation of foreign exchange, and to the administration of foreign exchange restrictions, affecting transactions involving the importation and exportation of goods, the Government of each country undertakes to accord to the other country unconditional most-favoured-nation treatment.

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

Article III

1. The Government of each country undertakes that, if it establishes or maintains a state enterprise wherever located, or grants to any enterprise, formally or in effect, exclusive or special privileges, that enterprise shall, in its purchases or sales involving either importation or exportation, act in a manner consistent with the principles of non-discriminatory treatment prescribed in this Agreement. To this end, that enterprise shall, subject to the provisions of this Agreement, make any 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 to the enterprises of the other country adequate opportunity in accordance with customary business practice to compete for participation in such purchases or sales.

2. Neither Government shall prevent any enterprise under its jurisdiction (whether or not it is an enterprise of the kind described in paragraph 1 of this Article) from acting in accordance with the principles of paragraph 1 of this Article.

3. The provisions of paragraphs 1 and 2 of this Article shall not apply to the importation 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 the importation of those products, 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 the trade of those countries in respect of which it applies the General Agreement on Tariffs and Trade.¹ The two 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. Neither the provisions of this Agreement nor any action taken under those provisions shall affect the rights of either Government under Article XXXV of the General Agreement on Tariffs and Trade or 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 New Zealand or Japan. 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 its obligations under this Agreement to the extent and for such time as may be necessary to prevent or remedy that injury.

¹ United Nations, *Treaty Series*, Vol. 55, p. 187; Vols. 56 to 64; Vol. 65, p. 335; Vol. 66, pp. 358 and 359; Vol. 68, p. 286; Vol. 70, p. 306; Vol. 71, p. 328; Vol. 76, p. 282; Vol. 77, p. 367; Vol. 81, pp. 344 to 377; Vol. 90, p. 324; Vol. 92, p. 405; Vol. 104, p. 351; Vol. 107, p. 83; Vol. 117, p. 387; Vol. 123, p. 303; Vol. 131, p. 316; Vol. 135, p. 336; Vol. 138, p. 334; Vol. 141, p. 382; Vols. 142 to 146; Vol. 147, p. 159; Vol. 161, p. 365; Vol. 163, p. 375; Vol. 167, p. 265; Vol. 172, p. 340; Vol. 173, p. 395; Vol. 176; Vol. 180, p. 299; Vol. 183, p. 351; Vol. 186, p. 314; Vol. 188, p. 366; Vol. 189, p. 360; Vol. 191, p. 364; Vol. 220, p. 154; Vol. 225, p. 2.58; Vol. 226, p. 342; Vol. 228, p. 366; Vol. 230, p. 430; Vol. 234, p. 310; Vol. 243, p. 314; Vols. 244 to 246; Vol. 247, p. 386; Vol. 248, p. 359; Vol. 250, p. 290; Vol. 253, p. 316; Vol. 256, p. 338; Vol. 257, p. 362; Vol. 258, p. 384; Vol. 261, p. 390; Vol. 265, p. 328; Vol. 271, p. 386; Vol. 274, p. 322; Vol. 277, p. 346; Vol. 278, p. 168; Vol. 280, p. 350; Vol. 281, p. 394; Vol. 283, p. 308; Vol. 285, p. 372; Vol. 287, p. 343; Vol. 300, p. 371; Vol. 306, p. 332; Vol. 309, p. 362; Vol. 317, p. 317; Vol. 320, p. 326; Vol. 321 and Vol. 324.

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 in respect of the proposed action as fully as circumstances permit.

3. In the event that either Government finds it necessary to take under this Article action 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, at the expiration of two months from the date on which the action was taken, if no mutually satisfactory solution has then been reached, or at an earlier date if it is agreed that no such solution is likely to be found, may make a written request for the renegotiation of the terms of the Agreement. The renegotiation shall be commenced as soon as practicable after the date on which the written request for the renegotiation is made. In the event that a mutually satisfactory solution is not reached within two months from the date on which the written request for the renegotiation is made, the Government which requested the renegotiation may give to the other Government written notice of its intention to terminate the Agreement.

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 consultations.

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

Article VII

1. This Agreement shall be subject to ratification by each Government and shall enter into force on the date of the exchange of the instruments of ratification which shall take place in Tokyo as soon as possible.

2. At any time after the eighth day of September 1961 either Government may give to the other Government written notice of its intention to terminate the Agreement.

3. This Agreement shall terminate upon the expiration of three months from the date on which either Government receives from the other written notice of that Government's intention to terminate the Agreement given in accordance with paragraph 2 of this Article or paragraph 3 of Article V.

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

DONE at Wellington, in duplicate, in the Japanese and English languages, both equally authentic, this ninth day of September, 1958.

For the Government of Japan :

Hisanaga SHIMADZU

For the Government of New Zealand :

W. NASH

EXCHANGE OF NOTES

I

9 September 1958

Your Excellency,

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

I have the further 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.

Hisanaga SHIMADZU

Ambassador Plenipotentiary and Extraordinary of Japan

The Rt. Hon. W. Nash,
Minister of External Affairs
of New Zealand

II

9 September 1958

Your Excellency,

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

[See note I]

On behalf of the Government of New Zealand, I have the honour to confirm the understanding stated in Your Excellency's Note with respect to the application of

¹ See p. 128 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.

the Agreement on Commerce between New Zealand 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.

I have the honour to be, Excellency,
Your obedient servant,

W. NASH
Minister of External Affairs

His Excellency Mr. Hisanaga Shimadzu
Ambassador of Japan
Wellington

III

9 September 1958

Your Excellency,

With reference to the Agreement on Commerce between New Zealand and Japan signed today, I have the honour to inform Your Excellency that the provisions of the Agreement shall not apply to the Cook Islands (including Niue), the Tokelau Islands or the Trust Territory of Western Samoa, nor to any advantages which New Zealand accords or may hereafter accord to those territories or to any of them.

I have the further honour to request Your Excellency to confirm the foregoing understanding on behalf of your Government.

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

I have the honour to be, Excellency,
Your obedient servant,

W. NASH
Minister of External Affairs

His Excellency Mr. Hisanaga Shimadzu
Ambassador of Japan
Wellington

IV

9 September 1958

Your Excellency,

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

[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 of the

Agreement on Commerce between Japan and New Zealand signed today to the Cook Islands (including Niue), the Tokelau Islands and the Trust Territory of Western Samoa, and to advantages which New Zealand accords or may hereafter accord to those territories or to any of them.

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

Hisanaga SHIMADZU
Ambassador Plenipotentiary and Extraordinary of Japan

The Rt. Hon. W. Nash
Minister of External Affairs
of New Zealand