

No. 5505

**JAPAN
and
CZECHOSLOVAKIA**

**Treaty on Commerce (with agreed minutes). Signed at
Tokyo, on 15 December 1959**

Official text: English.

Registered by Japan on 3 January 1961.

**JAPON
et
TCHÉCOSLOVAQUIE**

**Traité de commerce (avec procès-verbal approuvé). Signé
à Tokyo, le 15 décembre 1959**

Texte officiel anglais.

Enregistré par le Japon le 3 janvier 1961.

No. 5505. TREATY ON COMMERCE¹ BETWEEN JAPAN AND THE CZECHOSLOVAK REPUBLIC. SIGNED AT TOKYO, ON 15 DECEMBER 1959

Japan and the Czechoslovak Republic,

Desiring to promote the development of commercial relations between the two countries,

Having resolved to conclude the treaty on commerce envisaged in Article 5 of the Protocol relating to the Restoration of Normal Relations between Japan and the Czechoslovak Republic, signed on February 13, 1957,² and for that purpose have appointed as their Plenipotentiaries,

Japan :

Mr. Hisanari Yamada, Administrative Vice-Minister for Foreign Affairs of Japan, and

The Czechoslovak Republic :

Dr. Ladislav Šimovič, Ambassador Extraordinary and Plenipotentiary of the Czechoslovak Republic to Japan,

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

Article 1

Both Contracting Parties will make every endeavour to promote and strengthen the mutually advantageous trade relations between the two Contracting Parties within the framework of their respective laws and regulations and on the basis of the general principle of most-favoured-nation treatment.

Article 2

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 all rules and formalities connected with importation or exportation.

¹ Came into force on 26 September 1960, the date of the exchange of the instruments of ratification at Prague, in accordance with article 14.

² United Nations, *Treaty Series*, Vol. 300, p. 119.

2. The provisions of the preceding paragraph shall not apply to advantages accorded by either Contracting Party :

- (a) to adjacent countries in order to facilitate frontier traffic ; or
- (b) to products of its national fisheries.

Article 3

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 the importation into the territories of the other Contracting Party, be subject to 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 4

There shall be freedom of transit through the territories of each Contracting Party by the routes most convenient for international transit for products of any origin en route to or from the territories of the other Contracting Party.

Article 5

Each Contracting Party shall accord to the products of the other Contracting Party national treatment and 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, transportation, distribution or use of imported goods within the territories of such Contracting Party.

Article 6

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 safe-

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

Article 7

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 8

1. Each Contracting Party shall, with respect to exemption from duties and charges on samples of goods and advertising material of the other Contracting Party which are imported into its territories or brought into temporarily and taken out of its territories, conform to the principles set forth in the relevant provisions of the International Convention to Facilitate the Importation of Commercial Samples and Advertising Material concluded at Geneva on November 7, 1952,¹ or any convention amendatory thereto, so long as both Contracting Parties are contracting parties to such conventions.

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

¹ United Nations, *Treaty Series*, Vol. 221, p. 255 ; Vol. 223, p. 385 ; Vol. 226, p. 385 ; Vol. 236, p. 397 ; Vol. 243, p. 354 ; Vol. 250, p. 315 ; Vol. 256, p. 367 ; Vol. 260, p. 456 ; Vol. 265, p. 392 ; Vol. 268, p. 373 ; Vol. 276, p. 369 ; Vol. 277, p. 356 ; Vol. 286, p. 382 ; Vol. 287, p. 350 ; Vol. 292, p. 370 ; Vol. 309, p. 372 ; Vol. 327, p. 374 ; Vol. 335, p. 309 ; Vol. 349, p. 334, and Vol. 351, p. 426.

Article 9

1. On the part of the Czechoslovak Republic, the only persons authorized to conclude commercial contracts with natural and juridical persons of any foreign country are the Foreign Trade Corporations as independent juridical persons and other independent juridical persons authorized by the Czechoslovak laws to conduct foreign trade (hereinafter referred to as "juridical persons of the Czechoslovak Republic").

2. Natural and juridical persons of Japan and juridical persons of the Czechoslovak Republic engaging in trade between the territories of the two Contracting Parties shall be accorded national treatment with respect to access to courts and to administrative tribunals and agencies within the territories of the Czechoslovak Republic and Japan respectively for the settlement of disputes arising out of transactions connected with such trade.

3. (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 Japan on the one hand and juridical persons of the Czechoslovak Republic 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 10

1. 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 and leave all ports, places and waters of such other Contracting Party open to foreign commerce and navigation. Such vessels shall, within the ports, places and waters of such other Contracting Party, be accorded national treatment and most-favoured-nation treatment with respect to all matters relating to shipping and navigation.

2. The provisions of the preceding paragraph 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 Regulations 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 11

The Government of each Contracting Party shall accord sympathetic consideration to such representations as the Government of the other Contracting Party may make with respect to any matter affecting the operation of this Treaty and shall afford to the Government of the other Contracting Party adequate opportunity for consultation.

Article 12

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

Article 13

No provision of this Treaty shall affect the rights and obligations that either Contracting Party has or may have as a contracting party to the General Agreement on Tariffs and Trade¹ or any multilateral agreement amendatory or supplementary

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, p. 3; 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. 258; 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, p. 244; Vol. 324, p. 300; Vol. 328, p. 290; Vol. 330, p. 352; Vol. 338, p. 334; Vol. 344, p. 304; Vol. 346, p. 312; Vol. 347, p. 362; Vol. 349, p. 314; Vol. 350, p. 3; Vol. 351, p. 380; Vol. 355, p. 406; Vol. 358, p. 256; Vol. 362, p. 324; Vol. 363, p. 402; Vol. 367, p. 314; Vol. 373, p. 350; Vol. 376, p. 406; Vol. 377, p. 396; Vol. 381, p. 380, and Vol. 382, p. 330.

thereto, so long as both Contracting Parties are contracting parties to the relevant agreement or agreements.

Article 14

1. This Treaty shall be ratified, and the instruments of ratification shall be exchanged at Prague 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 thereunto their seals.

DONE in duplicate in the English language, at Tokyo, this fifteenth day of December, 1959.

For Japan :
H. YAMADA

For the Czechoslovak Republic :
Dr. ŠIMOVÍČ

AGREED MINUTES

With reference to the Treaty on Commerce between Japan and the Czechoslovak Republic signed today¹, the Plenipotentiary of Japan and the Plenipotentiary of the Czechoslovak Republic hereby record the following :

1. The Plenipotentiary of Japan and the Plenipotentiary of the Czechoslovak Republic confirmed that under the relevant internal laws and regulations in force, the Government of either country did not require any consular invoice for the import of goods originating in the territories of the other country and further under the existing circumstances had no intention to apply newly such requirement.

2. The Plenipotentiary of Japan and the Plenipotentiary of the Czechoslovak Republic confirmed that each Government would conform to internationally accepted fair practices in matters relating to marks of origin, and patents for inventions,

¹ See p. 278 of this volume.

trade marks, designs and industrial property of any other kind, and cooperate with the other Government with a view to preventing any practices which might prejudicially affect the commerce between the two countries.

3. The Plenipotentiary of Japan and the Plenipotentiary of the Czechoslovak Republic confirmed that the time of shipment in relation to goods to be imported from the Czechoslovak Republic to Japan would mean the date when such goods left the hands of the Czechoslovak forwarding agency for export to Japan.

For Japan :
H. YAMADA

For the Czechoslovak Republic :
Dr. ŠIMONIČ

Tokyo, December 15, 1959