

No. 7858

**PHILIPPINES
and
AUSTRALIA**

**Trade Agreement (with agreed minutes). Signed at Manila,
on 16 June 1965**

Official text: English.

Registered by the Philippines on 21 July 1965.

**PHILIPPINES
et
AUSTRALIE**

**Accord commercial (avec procès-verbal d'accord). Signé à
Manille, le 16 juin 1965**

Texte officiel anglais.

Enregistré par les Philippines le 21 juillet 1965.

No. 7858. TRADE AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF THE COMMONWEALTH OF AUSTRALIA. SIGNED AT MANILA, ON 16 JUNE 1965

The Government of the Republic of the Philippines and
The Government of the Commonwealth of Australia
Desiring to facilitate and extend the commercial relations between their
two countries,
Have agreed as follows :

Article I

The two Governments shall take all appropriate measures to facilitate trade between the two countries in respect of both traditional and potential export goods and commodities of either country.

Article II

The exchange of goods and commodities between the two countries shall be subject to and effected within the scope of the import and export regulations in force from time to time in each country during the currency of this Agreement. In particular nothing in this Agreement shall be construed so as to prevent the adoption or enforcement of measures necessary to protect human, animal or plant life or health.

Article III

With respect to

- (a) customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payment for imports or exports;
- (b) the method of levying such duties and charges;
- (c) all rules and formalities in connection with importation and exportation;
- (d) the application of internal taxes to exported goods;
- (e) all internal taxes and other internal charges of any kind imposed on or in connection with imported goods;

¹ Came into force on 16 June 1965, upon signature, in accordance with article IX (1).

- (f) all laws, regulations and requirements affecting internal sale, offering for sale, purchase, distribution or use of imported goods;

any advantage, favour, privilege or immunity which has been or may hereafter be granted by the Government of either country to any product originating in or destined for any third country shall be accorded immediately and unconditionally to the like product originating in or destined for the other country.

Article IV

1. No prohibition 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 destined for the other country unless such prohibitions or restrictions are applied to all third countries.

2. In the allocation of foreign exchange for transactions involving the importation and exportation of goods and in the administration of foreign exchange restrictions in relation to such transactions the Government of each country shall accord to the other country treatment no less favourable than it accords to any third country.

Article V

The provisions of Articles III and IV of this Agreement shall not apply to :

- (a) tariff preferences or other advantages accorded at present by the Republic of the Philippines to the United States of America;
- (b) tariff preferences or other advantages accorded by the Commonwealth of Australia to its external territories or to any country at present a member of the Commonwealth of Nations, including its external territories or to Ireland;
- (c) tariff preferences or other advantages accorded by either Government to any third country which are not inconsistent with the General Agreement on Tariffs and Trade or which conform to any international agreement concluded under the auspices of the United Nations, including preferences and advantages resulting from the association of one of the parties in a customs union or free trade area;
- (d) Such measures as either Government may consider necessary to safeguard its external financial position and balance of payments;
- (e) such measures either Government may take to carry out its obligations under any multilateral commodity agreement which is open to participation by the parties to this Agreement.

Article VI

If either Government imposes consular charges in respect of mutual trade any such charge shall be limited to the approximate cost of services rendered and shall be a flat charge and not a percentage of the value of the goods.

Article VII

In order to facilitate the implementation of this Agreement the two Governments shall consult together upon the request of either to discuss any matters arising from the Agreement or otherwise relating to trade between the two countries.

Article VIII

Recognising the urgent need to produce a greater degree of stability and predictability in international trade in primary products and with a view to removing the obstacles and uncertainties that at present exist, to the prejudice of the external payments position of their two countries, the two Governments undertake to support the principle of international action designed to improve the conditions of international trade in primary products of direct interest to either country and agree to consult on such matters at the request of either Government.

Article IX

1. This Agreement shall come into force on the date of signature and shall remain in force for a period of one year. Thereafter it shall remain in force until the expiration of 90 days from the date on which one of the Governments receives from the other Government a written notice of its intention to terminate this Agreement.

2. The two Governments may at any time agree to revise or amend this Agreement and amendments so agreed shall be recorded in Notes exchanged between the two Governments.

IN WITNESS WHEREOF, the respective representatives, duly authorized for the purpose, have signed the present Agreement.

DONE at Manila on this 16th day of June, 1965, in two originals, both in the English language.

For the Government
of the Republic of the Philippines :
(Signed) Mauro MENDEZ
Secretary of Foreign Affairs
of the Republic of the Philippines

For the Government
of the Commonwealth of Australia :
(Signed) T. WAKEHAM CUTTS
Ambassador Extraordinary and Plenipotentiary of the Commonwealth of Australia

AGREED MINUTES

1. The preamble of the Agreement states that the Agreement is between the Government of the Commonwealth of Australia and the Government of the Republic of the Philippines. The Australian Delegation asked that it be recorded that it was its Government's intention that this Agreement applies in the case of the Commonwealth of Australia to the metropolitan territory of Australia but not to any of the external territories administered by the Government of the Commonwealth of Australia.

2. The Australian Delegation explained the Australian Government's constitutional position in relation to State Governments and noted that for this reason it was not possible for the Australian Government to guarantee most favoured nation treatment to imported goods where State legislation governed circumstances of internal sale or distribution. The Australian Delegation emphasised, however, that no problem had ever arisen in this context on account of the constitutional position but wished to be sure that the Philippine Delegation understood this limitation to the Australian Government's powers.

3. It was agreed that nothing in this Agreement is to be taken as imposing on the Australian Government any undertaking concerning matters that are appropriate under the Australian constitutional system for action by the constituent States. However, in any such matters arising under this Agreement, the Government of Australia shall take all reasonable measures to reconcile any conflict between the provisions of the Agreement and the practice of the States.

4. In relation to Article IV, both Delegations accepted the principle that, in general, quantitative import restrictions should only be used to the extent necessary to safeguard a country's external financial position and balance of payments. The Australian Delegation explained that its own position in relation to quantitative restrictions was governed by its acceptance of the General Agreement on Tariffs and Trade.

5. During discussion on Article V (*d*) covering the circumstances under which the two countries may depart from most favoured nation principles for foreign exchange reasons, both Delegations considered that such departures should be regulated by some recognised international codes of behaviour. It was agreed that Article V (*d*) is intended to cover those cases where a party imposes measures, consistent with its other international obligations, designed to safeguard its external financial position and balance of payments, for example, in those limited cases permitted under the Articles of Agreement of the International Monetary Fund.

6. The Philippine Delegation emphasised the importance of income from handicraft and cottage industry products to many people in the Philippines. Therefore, the Philippine Delegation felt that international action to improve the conditions of international trade in such products would be of considerable benefit to the well-being of people in developing countries. The Australian Delegation agreed that the reference to primary products in Article VIII should be interpreted to include handicraft and cottage industry products for the purpose of this Agreement.

7. The Australian Delegation mentioned that the Australian Government did not engage in State trading but observed that this was the practice in many countries and where State trading was important, the non-application of normal commercial considerations by State trading organizations in purchases or sales of imported goods could lead to discrimination against either country. For this reason the Australian Government considered it important that an understanding on State trading should be reached wherever possible, not so much to cover existing situations but possible developments in the future. The Australian Delegation observed that it was aware that the Philippines undertook limited State trading through NAMARCO but wished it to be understood that in seeking the agreement of the Philippine Delegation to the application of the principles of this Agreement to State trading organizations it was in no way to be interpreted as a criticism of NAMARCO. In fact, the Australian Delegation asked that it be recorded that in so far as it was aware NAMARCO tenders were in all cases awarded according to strict commercial considerations.

8. The Philippine Delegation confirmed that this was so and the Philippine Government did not intend to depart from the present position. The Philippine Delegation, therefore, had no hesitation in agreeing to an undertaking that in purchases or sales involving imports and exports the general principles of non-discriminatory treatment prescribed in this Agreement should apply to State trading organisations in either country in the same way as imports or exports by private traders.

9. It was agreed that, if either Government establishes or maintains a State trading enterprise, wherever located, or grants to any enterprise, formally or in effect, exclusive or special privileges, such enterprise shall, in its purchases or sales involving imports or exports, act in a manner consistent with the general principles of non-discriminatory treatment prescribed in this Agreement for governmental measures affecting imports or exports by private traders.

DONE at Manila on this 16th day of June, 1965, in two originals, both in the English language.

For the Government
of the Republic of the Philippines :
(Signed) Mauro MENDEZ
Secretary of Foreign Affairs
of the Republic of the Philippines

For the Government
of the Commonwealth of Australia :
(Signed) T. WAKEHAM CUTTS
Ambassador Extraordinary and Pleni-
potentiary of the Commonwealth of
Australia