

No. 11391

**JAPAN
and
BULGARIA**

**Treaty of commerce and navigation (with protocol). Signed
at Sofia on 28 February 1970**

Authentic text: English.

Registered by Japan on 4 November 1971.

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et
BULGARIE**

**Traité de commerce et de navigation (avec protocole). Signé
à Sofia le 28 février 1970**

Texte authentique : anglais.

Enregistré par le Japon le 4 novembre 1971.

TREATY OF COMMERCE AND NAVIGATION¹ BETWEEN JAPAN AND THE PEOPLE'S REPUBLIC OF BULGARIA

The Government of Japan and the Government of the People's Republic of Bulgaria, 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 equality and mutual benefit, and for that purpose have appointed as their Plenipotentiaries,

The Government of Japan :

Mr. Shigeaki Yamashita, Ambassador Extraordinary and Plenipotentiary of Japan to the People's Republic of Bulgaria;

The Government of the People's Republic of Bulgaria :

Mr. Lachezar Avramov, Deputy Prime Minister and Minister of Foreign Trade of the People's Republic of Bulgaria,

who, having communicated to each other their full powers found to be in good and due form, have agreed as follows:

Article 1

1. Nationals of either Contracting Party shall enjoy most-favoured-nation treatment with respect to the right of entry into the territory of the other Contracting Party, travel, residence and sojourn therein, and departure therefrom.

2. Nationals of either Contracting Party shall be accorded, within the territory of the other Contracting Party, most-favoured-nation treatment with respect to the protection and security for their persons and property.

3. Nationals of either Contracting Party shall be exempted, within the territory of the other Contracting Party, from any compulsory military service and from all taxes and military charges in replacement of such personal service.

4. With respect to the exemption provided for in paragraph 3 of this Article and all obligatory war-loans and any military exaction, requisition or

¹ Came into force on 5 August 1970, the thirtieth day after the date of the exchange of the instruments of ratification, which took place at Tokyo on 6 July 1970, in accordance with article 12.

compulsory billeting, nationals of either Contracting Party shall be accorded treatment no less favourable than that accorded to nationals of any third country.

5. Nationals of either Contracting Party shall not, within the territory of the other Contracting Party, be subject to taxes, fees or charges of any kind other or more burdensome than those imposed upon nationals of any third country. However, each 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.

Article 2

1. Legal persons engaging in economic activities, organized in accordance with the laws and regulations of either Contracting Party and having their seats within the territory of such Contracting Party, shall be recognized as such within the territory of the other Contracting Party.

2. Nationals and legal persons of either Contracting Party shall be permitted to engage in economic activities within the territory of the other Contracting Party, under the conditions set forth by the laws and regulations of such other Contracting Party. In carrying out their economic activities within the territory of the other Contracting Party, such nationals and legal persons shall enjoy treatment no less favourable than that accorded to nationals and similar legal persons of any third country.

3. Legal persons referred to in paragraph 1 of this Article shall have the right to be represented through agents within the territory of the other Contracting Party in accordance with the laws and regulations of such other Contracting Party.

4. Nationals and legal persons of either Contracting Party shall be accorded, within the territory of the other Contracting Party, most-favoured-nation treatment with respect to access to the courts of justice and administrative authorities, in all degrees of jurisdiction, both in pursuit and in defence of their rights.

5. The provisions of Article 1 of the present Treaty shall be equally applied to the said legal persons as far as they are applicable to legal persons.

Article 3

1. Each Contracting Party shall accord to the products originating in or destined for the territory of 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 rules, formalities and charges connected with the clearance of goods through customs.

2. The products of either Contracting Party after they had been in transit through the territories of one or more third countries shall not, upon their importation into the territory 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 territory of such Contracting Party.

3. The provisions of paragraph 2 of this Article are also applicable to goods which during their transportation through the territory of a third country underwent transshipment, repacking and storing in warehouses.

4. Either Contracting Party shall accord to the products of the other 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, transportation, distribution or use of imported goods within the territory of such Contracting Party.

5. The provisions of paragraph 1 of this Article shall not apply to special advantages accorded by either Contracting Party:

- (a) to adjacent countries in order to facilitate frontier traffic; or
- (b) (i) to natural produce of the sea taken by the vessels of such Contracting Party, and
- (ii) to products processed or manufactured at sea in the vessels of such Contracting Party from natural produce of the sea.

Article 4

1. Neither Contracting Party shall establish or maintain any prohibitions or restrictions on the importation of any product of the other Contracting Party or on the exportation of any product to the territory of such other Contracting Party, unless the importation of the like product of or the exportation of the like product to any third country is similarly prohibited or restricted.

2. The provisions of paragraph 1 of this Article shall not be interpreted as precluding each Contracting Party from adopting or executing measures relating to:

- (a) the protection of essential security interests; and
- (b) the protection of public health and the protection of animals and plants against diseases, harmful insects and parasites.

Article 5

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 territory:

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

Article 6

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 paragraph 1 of this Article shall be understood to require that such enterprises shall, having due regard to the other provisions of the present 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 7

1. Vessels under the flag of either Contracting Party and carrying the papers required by its laws and regulations in proof of nationality shall be deemed to be vessels of such Contracting Party both on the high seas and within the ports, places and waters of the other Contracting Party.

2. Merchant vessels of either Contracting Party shall have the right to the same extent and under the same conditions as the merchant vessels of any third country, to enter, leave and anchor with their passengers and cargoes in all ports, places and waters of such other Contracting Party open to foreign trade and navigation.

Merchant vessels of either Contracting Party and cargoes thereof, shall in all respects be accorded most-favoured-nation treatment by the other Contracting Party in the ports, places and waters of such other Contracting Party.

3. Merchant vessels of either Contracting Party shall be accorded by the other Contracting Party most-favoured-nation treatment with respect to the right to carry all goods and persons that may be carried by vessels to or from the territory of such other Contracting Party; goods and persons carried in such merchant vessels shall be accorded most-favoured-nation treatment with respect to all customs and other formalities.

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

5. The provisions of the preceding paragraphs of this Article 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 such 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.

6. The term "merchant vessel" as used in the present Treaty does not include fishing boats.

Article 8

1. Either Contracting Party shall, in case of shipwreck or damage on its coasts, or forced putting in, grant to vessels of the other Contracting Party, and the crew, passengers and cargoes thereof, the same assistance, protection and immunities as are in like cases accorded by such Contracting Party to its own vessels and the crew, passengers and cargoes thereof. Goods salvaged from such vessels shall be exempt from all customs duties, unless the goods are entered for domestic consumption.

2. If a vessel of either Contracting Party has stranded or has been wrecked on the coasts of the other Contracting Party, the appropriate authorities of such other Contracting Party shall notify the occurrence to the nearest competent consular officer of the country to which the vessel belongs or, in his absence, to the diplomatic mission of that country.

Article 9

1. On the part of the People's Republic of Bulgaria, the only persons authorized to conclude commercial contracts with nationals and legal persons of any foreign country are the Foreign Trade Organizations as independent legal persons authorized by the Bulgarian laws and regulations to conduct foreign trade.

2. Both Contracting Parties assume the responsibility for enforcing arbitration awards on disputes which may arise from or in relation to commercial contracts concluded between nationals or legal persons, referred to in Article 2 of the present Treaty, of Japan on the one hand and legal persons referred to in paragraph 1 of this Article of the People's Republic of Bulgaria 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.

3. 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.

4. 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

The Contracting Parties will, in accordance with their respective laws and regulations, endeavour to facilitate the exchange of experience in economic

matters which may contribute to the development of economic relations between the two countries.

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 accord to the Government of the other Contracting Party adequate opportunity for consultation.

Article 12

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

2. The present Treaty shall enter into force on the thirtieth day after 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 the present Treaty at the end of the initial five year period or at any time thereafter.

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

DONE at Sofia, on February 28, 1970, in duplicate, in the English language.

For the Government
of Japan:

SHIGEAKI YAMASHITA

For the Government
of the People's Republic
of Bulgaria:

L. AVRAMOV

PROTOCOL

At the time of signing the Treaty of Commerce and Navigation between Japan and the People's Republic of Bulgaria, 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. No provision of the Treaty shall be construed so as to derogate from the rights and obligations which either Contracting Party has or may have

as a contracting party to the General Agreement on Tariffs and Trade¹ or the Articles of Agreement of the International Monetary Fund² or any multi-lateral agreement amending or supplementing them.

2. It is understood that the provisions of most-favoured-nation treatment of paragraph 1 of Article 1 of the Treaty do not preclude the Contracting Parties from continuing to decide matters related to passports and visas under their internal laws and regulations.

It is also understood that the said provisions do not apply to advantages regarding matters related to passports and visas accorded by either Contracting Party to the nationals of any third country by virtue of a special agreement.

3. 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 thereunto their seals.

DONE at Sofia, on February 28, 1970, in duplicate, in the English language.

For the Government
of Japan:

SHIGEAKI YAMASHITA

For the Government
of the People's Republic
of Bulgaria:

L. AVRAMOV

¹ United Nations, *Treaty Series*, vol. 55, p. 187; for subsequent actions, see references in Cumulative Indexes Nos. 1 to 8, as well as annex A in volumes 609, 620 to 629, 640, 651, 661 to 665, 668, 690, 699, 735, 737, 741, 753, 761 to 763, 771, 779, 788, 797 and 798.

² *Ibid.*, vol. 2, p. 39, and vol. 726, p. 266.