

No. 16925

**JAPAN
and
HUNGARY**

**Treaty of commerce and navigation (with protocol and
exchange of notes). Signed at Tokyo on 20 October
1975**

Authentic text: English.

Registered by Japan on 7 September 1978.

**JAPON
et
HONGRIE**

**Traité de commerce et de navigation (avec protocole et
échange de notes). Signé à Tokyo le 20 octobre 1975**

Texte authentique : anglais.

Enregistré par le Japon le 7 septembre 1978.

TREATY¹ OF COMMERCE AND NAVIGATION BETWEEN JAPAN AND THE HUNGARIAN PEOPLE'S REPUBLIC

The Government of Japan and the Government of the Hungarian People's Republic, 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. Kiichi Miyazawa, Minister for Foreign Affairs of Japan,

The Government of the Hungarian People's Republic: Dr. József Bíró, Minister of Foreign Trade of the Hungarian People's Republic,

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, national treatment and most-favoured-nation treatment with respect to the protection and security for their persons and property.

3. If, within the territory of either Contracting Party, a national of the other Contracting Party has been placed under detention, whether pending trial or otherwise, the competent authorities of the former Contracting Party shall notify immediately the nearest competent consular officer of such other Contracting Party. A consular officer of such other Contracting Party shall be permitted, without delay, to visit and communicate with such national.

4. 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.

5. With respect to the exemption provided for in paragraph 4 of this article and all obligatory war-loans and any military exaction, requisition or compulsory billeting, nationals of either Contracting Party shall be accorded treatment no less favourable than that accorded to nationals of any third country.

6. 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.

¹ Came into force on 9 September 1976, i.e., the thirtieth day after the date of the exchange of the instruments of ratification, which took place at Budapest on 10 August 1976, in accordance with article 12 (2).

Article 2. 1. Legal persons engaging in business activities, including commercial, industrial and financial activities, organized in accordance with the laws and regulations of either Contracting Party and having their seats within its territory, shall be recognized as such within the territory of the other Contracting Party.

2. Nationals and legal persons of either Contracting Party shall be accorded, within the territory of the other Contracting Party, most-favoured-nation treatment in all matters relating to their business activities, including commercial, industrial and financial activities.

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, national treatment and most-favoured-nation treatment with respect to access to the courts of justice and to administrative tribunals and agencies, 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. 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, and with respect to all rules and formalities in connection with importation and exportation, and with respect to all matters referred to in paragraph 4 of this article, any advantage, favour, privilege or immunity which has been or may hereafter be granted by either Contracting Party 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 territory of the other Contracting Party.

2. The products of either Contracting Party after they have 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 customs 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. (1) The products originating in the territory of either Contracting Party and imported into the territory of the other Contracting Party shall not be subject, within the territory of such other Contracting Party, directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like domestic products.

(2) The products originating in the territory of either Contracting Party and imported into the territory of the other Contracting Party shall be accorded within the territory of such other Contracting Party treatment no less favourable than that accorded to like products of national origin in respect of all laws,

regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use.

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

- (a) To natural produce of the sea taken by the vessels of such Contracting Party; and
- (b) 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. Without prejudice to the provisions of paragraph 1 of article 3, each Contracting Party shall, in accordance with its laws and regulations, accord most-favoured-nation treatment with respect to exemption from customs 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, contests and fairs;
- (d) Tools 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 the other Contracting Party and 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 national treatment and 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 national treatment and 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 national treatment and 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. In case of shipwreck, damage at sea or forced putting in, either Contracting Party shall 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 Hungarian People's Republic, the only persons authorized to conclude commercial contracts with nationals and legal persons of any foreign country are the Foreign Trade Enterprises as independent

legal persons and other independent legal persons authorized by the Hungarian laws and regulations to conduct foreign trade.

2. Each Contracting Party shall recognize as binding and enforce, in accordance with the rules of procedure of the territory where the award is relied upon, arbitral 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 Hungarian People's 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.

3. (1) Recognition and enforcement of the award may be refused, at the request of the Party against whom it is invoked, only if that Party furnishes to the competent authority in the Contracting Party where the recognition and enforcement is sought, proof that:

- (a) The Parties to the contract or agreement referred to in paragraph 2 of this article were, under the laws applicable to them, under some incapacity, or the said contract or agreement is not valid under the laws to which the Parties have subjected it or, failing any indication thereon, under the laws of the country where the award was made; or
- (b) The Party against whom the award is invoked was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present his case; or
- (c) The award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced; or
- (d) The composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the Parties or, failing such agreement, was not in accordance with the laws of the country where the arbitration took place; or
- (e) The award has not yet become binding on the Parties, or has been set aside or suspended by a competent authority in the country in which, or under the laws of which, that award was made.

(2) Recognition and enforcement of an arbitral award may also be refused if the competent authority in the Contracting Party where the recognition and enforcement is sought finds that:

- (a) The subject matter of the difference is not capable of settlement by arbitration under the laws of that Contracting Party; or
- (b) The recognition and enforcement of the award would be contrary to the public policy of that Contracting Party.

Article 10. The Contracting Parties will, in accordance with their respective laws and regulations, endeavour to co-operate for mutual benefit with a view to expanding trade and to strengthening economic relations between the two countries, and to encourage and facilitate the interchange and use of scientific

and technical knowledge, particularly, in the interests of economic development and of the improvement of standards of living within their respective territories.

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 Budapest 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 Tokyo, on October 20, 1975, in duplicate, in the English language.

For the Government
of Japan:
KIICHI MIYAZAWA

For the Government
of the Hungarian People's Republic:
J. BÍRÓ

PROTOCOL

At the time of signing the Treaty of commerce and navigation between Japan and the Hungarian People's Republic, 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 multilateral agreement amendatory or supplementary thereto.

2. No provision of the Treaty shall be construed so as to grant any right or impose any obligation in respect of copyright and industrial property right.

¹ United Nations, *Treaty Series*, vol. 55, p. 187.

² *Ibid.*, vol. 2, p. 39.

3. 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.

4. With reference to paragraph 3 of article 1 of the Treaty, it is understood that:

- (a) Notification referred to in the said paragraph shall be made in any event within three days from the moment when a national concerned of the other Contracting Party has been placed under detention; and that
- (b) A consular officer of such other Contracting Party shall be permitted to visit and communicate with such national in any event within four days from the moment when such national has been placed under detention.

5. No provision of article 9 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 Convention on the recognition and enforcement of foreign arbitral awards of 10th of June 1958¹ or any multilateral agreement amendatory or supplementary thereto.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed this Protocol and have affixed therunto their seals.

DONE at Tokyo, on October 20, 1975, in duplicate, in the English language.

For the Government
of Japan:
KIICHI MIYAZAWA

For the Government
of the Hungarian People's Republic:
J. BÍRÓ

EXCHANGE OF NOTES

I

Tokyo, October 20, 1975

Excellency,

On the occasion of signing the Treaty of commerce and navigation between Japan and the Hungarian People's Republic, I have the honour to confirm, on behalf of the Government of Japan, the following understanding reached between the two Governments during the course of negotiations for the conclusion of the Treaty:

¹ United Nations, *Treaty Series*, vol. 330, p. 3.

For the purpose of reviewing matters concerning the operation of the Treaty, the two Governments agree to establish a mixed commission composed of their representatives which will meet alternately in Budapest and in Tokyo.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.

KIICHI MIYAZAWA
Minister for Foreign Affairs
of Japan

His Excellency Dr. József Bíró
Minister of Foreign Trade
of the Hungarian People's Republic

II

Tokyo, October 20, 1975

Excellency,

On the occasion of signing the Treaty of commerce and navigation between the Hungarian People's Republic and Japan, I have the honour to confirm, on behalf of the Government of the Hungarian People's Republic, the following understanding reached between the two Governments during the course of negotiations for the conclusion of the Treaty:

[See note I]

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.

J. BÍRÓ
Minister of Foreign Trade
of the Hungarian People's Republic

His Excellency Mr. Kiichi Miyazawa
Minister for Foreign Affairs
of Japan