TREATY OF FRIENDSHIP AND COMMERCE (1) BETWEEN PAKISTAN AND JAPAN. SIGNED AT TOKYO, ON 18 DECEMBER 1960

Pakistan and Japan, desirous of strengthening the bonds of peace and friendship traditionally existing between them and of facilitating the trade and commercial relations between their peoples and of encouraging mutually beneficial investments and other types of economic co-operation, have resolved to conclude a Treaty of Friendship and Commerce, based in general upon the principle of most-favoured-nation treatment unconditionally accorded, and Field Marshal Mohammad Ayub Khan, President of Pakistan, for Pakistan, and Haya-to Ikeda, Prime Minister of Japan and Zentaro Kosaka, Minister for Foreign Affairs of Japan, for Japan, having full powers for that purpose, have agreed upon the following Articles:

(1) Came into force on 20 August 1961, one month after the exchange of the instruments of ratification which took place at Rawalpindi on 20 July 1961, in accordance with article XIV (2).

Article I.

Nationals of either Party shall be permitted to enter the territory of the other Party in accordance with the provisions of the laws and regulations of such other Party and shall be accorded most-favoured-nation treatment with respect to all matters relating to their entry into, and their sojourn, travel and residence within, the territory of such other Party.

Article II.

1. Nationals of either Party, within the territory of the other Party, shall be permitted: (a) to enjoy liberty of conscience; (b) to hold both private and public religious services; (c) to gather and to transmit material for dissemination to the public abroad; and (d) to communicate with other persons inside and outside such territory by mail, telegraph and other means open to general public use.

2. The provisions of this Article shall be subject to the right of either Party to apply measures that are necessary to maintain public order and to protect public morals and safety.

Article III.

1. Nationals of either Party within the territory of the other Party shall be free from unlawful molestations of every kind, and shall receive the most constant protection and security, in no case less than that required by international law.

2. If, within the territory of either Party, a national of the other Party is taken into custody, the nearest consular representative of his country shall on the demand of such national be immediately notified and shall be permitted to visit and communicate with such national. Such national shall: (a) receive reasonable and humane treatment; (b) be formally and immediately informed of the accusations against him; (c) be brought to trial as promptly as is consistent with the proper preparation of his defense; and (d) enjoy all means reasonably necessary to his defense, including the services of competent counsel of his choice.

3. (a) Nationals of either Party, within the territory of the other Party, shall be exempt from any compulsory military service and from any levy imposed in place of such service.

(b) Nationals and companies of either Party shall be accorded, within the territory of the other Party, most-favoured-nation treatment with respect to all compulsory loans, military exactions, requisitions or compulsory billeting.

Article IV.

1. Property of nationals and companies of either Party shall receive the most constant protection and security within the

territory of the other Party.

2. The dwellings, offices, warehouses, factories and other premises of nationals and companies of either Party located within the territory of the other Party shall not be subject to unlawful entry or molestation. Official searches and examinations of such premises and their contents when necessary, shall be made only according to law and with careful regard for the convenience of the occupants and the conduct of business.

3. Neither Party shall take unreasonable or discriminatory measures that would impair the legally acquired rights or interests within its territory of nationals and companies of the other Party in the enterprises which they have established, in their capital, or in the skills, arts or technology which they have supplied.

4. Property of nationals and companies of either Party shall not be taken within the territory of the other Party except for a public purpose, nor shall it be taken without the prompt payment of just compensation. Such compensation shall be in an effectively realizable form and shall represent the full equivalent of the property taken.

5. Nationals and companies of either Party shall in no case be accorded, within the territory of the other Party, less than most-favoured-nation treatment with respect to the matters set forth in paragraphs 2 and 4 of this Article.

Article V.

1. Nationals and companies of either Party shall be accorded, within the territory of the other Party, most-favoured-nation treatment with respect to all matters relating to the levying of taxes, access to the courts of justice and administrative tribunals and agencies, rights to property, participation in juridical entities, and generally the conduct of all kinds of business and professional activities.

2. Nationals and companies of either Party shall be accorded, within the territory of the other Party, national treatment with respect to obtaining and maintaining patents for invention, and with respect to rights in trade marks, trade names, trade labels and industrial property of every kind.

3. Notwithstanding the provisions of paragraph 1 above, each Party reserves the right to accord special tax advantages on a basis of reciprocity or by virtue of agreements for the avoidance of double taxation or for the prevention of fiscal evasion.

Article VI.

Contracts entered into between nationals and companies of either Party and nationals and companies of the other Party, that provide for the settlement by arbitration of controversies, shall not be deemed unenforceable within the territory of such other Party merely on the grounds that the place designated for the arbitration proceedings is outside such territory or that the nationality of one or more of the arbitrators is not that of such other Party. Awards duly rendered pursuant to any such contracts, which are final and enforceable under the laws of the place where rendered shall, not be deemed invalid or denied effective means of enforcement within the territory of either Party merely on the grounds that the place where such awards were rendered is outside such territory or that nationality of one more of the arbitrators is not that of such Party.

Article VII. With Respect to Customs Duties and Charges of Any Kind Imposed on or In Connection with Importation or Exportation or Imposed on the International

With respect to customs duties and charges of any kind imposed on or in connection with importation or expropriation 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 the rules and formalities in connection with importation and exportation, and with respect to the application of internal taxes to exported goods, and 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, distribution or use of imported goods, any advantage, favour, privilege or immunity which has been or may hereafter be granted by either 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 Party.

Article VIII.

1. Nationals and companies of either Party shall be accorded most-favourednation treatment with respect to payments, remittances and transfers of funds or financial instruments between the territories of the two Parties as well as between the territories of the other Party and of any third country.

2. The provisions of paragraph 1 of this Article do not preclude either Party from imposing such exchange, restrictions as are consistent with the rights and obligations that it has or may have as a contracting party to the Articles of Agreement of the International Monetary Fund. (1)

3. Neither Party shall impose restrictions or prohibitions on the importation of any product of the other Party, or on the exportation of any product to the territory of the other Party, unless the importation of the like product of, or the exportation of the like product to, all third countries is similarly restricted or prohibited.

4. Notwithstanding the provisions of paragraph 3 of this Article, either Party may apply restrictions or controls on the importation and exportation of goods that have effect equivalent to exchange restrictions which the said Party may at that time apply under the provisions of paragraph 2 of this Article.

(1) United Nations, Treaty Series, Vol. 2, p. 40; Vol. 19, p. 280; Vol. 141, p. 355; Vol. 199, p. 308; Vol. 260, p. 432; Vol. 287, p. 260; Vol. 303, p. 284; Vol. 316, p. 269, and Vol. 406, p. 282.

Article IX.

The Two Parties Undertake to Co-operate for Mutual Benefits with a View to Expanding Trade and to Strengthening Economic Relations between the Two Parties, and to Furthering 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 X.

1. Each Party undertakes (a) that enterprises owned or controlled by its Government, and that monopolies or agencies granted exclusive or special privileges within its territory, shall make their purchases and sales involving either imports or exports affecting the commerce of the other Party solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale; and (b) that the nationals, companies and commerce of such other Party shall be afforded adequate opportunity, in accordance with customary business practice, to compete for participation in such purchases and sales.

2. Each Party shall accord to the nationals, companies and commerce of the other Party fair and equitable treatment, as compared with that accorded to the nationals, companies and commerce of any third country, with respect to:

(a) the governmental purchase of supplies, (b) the awarding of concessions and other government contracts, and (c) the sale of any service sold by the Government or by any monopoly or agency granted exclusive or special privileges.

Article XI.

1. Nothing in the present Treaty shall affect the rights and obligations that either Party has or may have as a contracting party to the General Agreement on Tariffs and Trade (1) or the Articles of Agreement of the International Monetary Fund or any multilateral agreement amendatory or supplementary thereto, so long as both Parties are contracting parties to the relevant agreement or agreements.

(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; Vol. 382, p. 330; Vol. 386, p. 376; Vol. 387, p. 330; Vol. 388, p. 334; Vol. 390, p. 348; Vol. 398, p. 316; Vol. 402, p. 308; Vol. 405, p. 298; Vol. 411, p. 296; Vol. 419 and Vol. 421, p. 286.

2. The present Treaty shall not preclude the application of measures:

(a) regulating the importation or exportation of gold or silver;

(b) relating to fissionable materials, to radioactive by-products of the utilisation or processing thereof, or to materials that are the source of fissionable materials;

(c) regulating the production of or traffic in arms, ammunition and implements of war, or traffic in other materials carried on directly or indirectly for the purpose of supplying a military establishment;

(d) necessary to fulfil the obligations of a Party for the maintenance or restoration of international peace and security, or necessary to protect its essential security interests;

(e) imposed for the protection of national treasures of artistic, historic or archaeological value;

(/) relating to the protection of public health and the protection of animals and vegetables against diseases, harmful insects and parasites; and

(g) denying to any company in the ownership or direction of which nationals of any third country or countries have directly or indirectly the controlling interest, the advantages of the present Treaty, except with respect to recognition of juridical status and with respect to access to courts.

3. The provisions of Article VII and Article VIII of the present Treaty

Shall not apply to advantages accorded by either Party:

(a) to products of its national fisheries;

(b) to adjacent countries in order to facilitate frontier traffic; or

(c) by virtue of a customs union or free-trade area of which it may become a member, so long as it informs the other Party of its plans and affords such other Party adequate opportunity for consultation.

Article XII.

1. The term " national treatment " means treatment accorded within the territory of a Party upon terms no less favourable than the treatment accorded therein, in like situations, to nationals, companies, products, or other objects, as the case may be, of such Party.

2. The term " most-favoured-nation treatment " means treatment accorded within the territory of a Party upon terms no less favourable than the treatment accorded therein, in like situations, to nationals, companies, products, or other objects, as the case may be, of any third country.

3. The term " exchange restrictions " as used in the present Treaty includes all restrictions, regulations, charges, taxes, or other requirements imposed by either Party which burden or interfere with payments, remittances or transfers of funds or of financial instruments between the territories of the two Parties.

4. The term " companies " as used in the presentTreaty means corporations, partnerships, companies and other associations, as constituted under the applicable laws and regulations, engaging in commercial industrial, financial and other business activities for gain.

Article XIII

1. Each Party shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such representations as the other Party may make with respect to any matter affecting the operation of the present Treaty.

2. Any dispute between the Parties as to interpretation or application of the present Treaty, not satisfactorily adjusted by diplomacy, shall be submitted to the International Court of Justice, unless the Parties agree to settlement by some other pacific means.

Article XIV

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

2. The present Treaty shall enter into force one month after the day of the exchange of the instruments of ratification. It

shall remain in force for five years and shall continue in force thereafter until terminated as provided herein.

3. Either Party may, by giving one year's written notice to the other Party, terminate the present Treaty at the end of the initial five-year period or at any time thereafter.

In witness whereof the undersigned have affixed their signatures to the present Treaty.

Done in duplicate, in the English language, at Tokyo, this eighteenth day of December, one thousand nine hundred sixty.

For Pakistan:

(Signed) Mohammad Ayub Khan

For Japan:

(Signed) Hayato Ikeda (Signed) Zentaro Kosaka

Protocol

At the time of signing the Treaty of Friendship and Commerce (1) between Pakistan and Japan, the undersigned have further agreed on the following provisions, which shall be considered integral parts of the aforesaid Treaty:

1. Nothing in Article I shall be construed so as to entitle Japan to claim the benefit of those rights or privileges which are or may hereafter be accorded by Pakistan to citizens of Commonwealth countries.

2. With references to Article I, nationals of either Party admitted into the territory of the other Party for limited purposes will not enjoy rights to engage in gainful occupations in contravention of limitations expressly imposed, according to law, as a condition of their admittance.

3. Each Party reserves the right to limit the extent to which aliens may establish or acquire interests in enterprises engaged within its territory in activities for gain (business activities) provided that in any event not less than most-favoured-nation treatment shall be accorded. However, new limitations imposed by either Party upon the extent to which alien nationals or companies are permitted to carry on such activities within its territory shall not be applied as against enterprises which are engaged in such activities therein at the time such limitations are adopted and which are owned or controlled by nationals and companies of the other Party.

4. With reference to Article V, paragraph 1, either Party may require that the treatment with respect to the enjoyment of rights on immovable property shall be dependent on reciprocity.

5. Nothing in the present Treaty shall be construed so as to grant any right or impose any obligation in respect of copyright.

6. The provisions of Article IV, paragraph 4, shall apply to the property taken in the territory of either Party in which nationals and companies of the other Party have direct or indirect interests.

7. The object of Article VIII is to preclude discrimination in the matter of import and export but it is not intended to preclude special arrangements providing more favourable treatment for transactions in certain currencies than for transactions in other currencies for balance-of-payments reasons.

8. The provisions of Article VII and Article VIII of the present Treaty shall not apply to preferences or advantages accorded by Pakistan to Commonwealth countries or adjacent countries, existing on the date of signature of the present Treaty.

9. Nothing in the present Treaty shall be construed so as to entitle Pakistan to claim the benefit of those rights and privileges which are or may hereafter be accorded by Japan to: (a) persons who originate in the territories to which all right, title and claim were renounced by Japan in accordance with the provisions of Article 2 of the Treaty of Peace with Japan signed at the city of San Francisco on September 8, 1951, (1) or (b) the native inhabitants and vessels of, and trade with, any area set forth in Article 3 of the said Treaty of Peace, so long as the situation set forth in the second sentence of the said Article continues with respect to the administration, legislation and jurisdiction over such area.

(1) See p. 198 of this volume.

(1) 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.

In witness whereof the undersigned have affixed their signatures to this Protocol.

Done in duplicate, in the English language, at Tokyo, this eighteenth day of December, one thousand nine hundred sixty.

For Pakistan:

(Signed) Mohammad Ayub Khan

For Japan:

(Signed) Hayato Ikeda (Signed) Zentaro Kosaka