

TREATY OF COMMERCE, ESTABLISHMENT AND NAVIGATION BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND JAPAN

The United Kingdom of Great Britain and Northern Ireland and Japan;

Animated by the desire to maintain and strengthen the amicable relations existing between their respective countries;

Desiring to facilitate and extend still further their mutual relations of trade and commerce; and

Desiring to provide for the continued enjoyment of fair and equitable treatment by their respective nationals and companies;

Have resolved to conclude a Treaty of Commerce, Establishment and Navigation and have appointed as their Plenipotentiaries for this purpose:

The United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as "the United Kingdom"):

The Right Honourable the Earl of Home, K.T., Her Majesty's Principal Secretary of State for Foreign Affairs;

The Right Honourable Frederick James Erroll, M.P., President of the Board of Trade;

Japan: His Excellency Mr. Katsumi Ohno, Ambassador Extraordinary and Plenipotentiary of Japan in London;

Who, having communicated their respective full powers, found in good and due form, have agreed as follows:

Article 1.

The territories of the Contracting Parties to which the present Treaty applies are:

(a) on the part of the United Kingdom, the United Kingdom of Great Britain and Northern Ireland, and any territory to which the present Treaty has been extended in accordance with the provisions of Article 32; and ,

(b) on the part of Japan, the territory of Japan.

Article 2.

In the Present Treaty -

(1) the term "territory" means, in relation to a Contracting Party, any territory of that Contracting Party to which the present Treaty applies;

(2) the term "nationals": -

(a) means physical persons;

(b) in relation to the United Kingdom means -

all citizens of the United Kingdom and Colonies, all citizens of any territory for the international relations of which the United Kingdom is responsible and all British protected persons; except in each case those who belong to any territory to which the present Treaty may be extended under the provisions of Article 32 but has not been so extended: and

(c) in relation to Japan means -

all nationals of Japan;

(3) the term "vessels": -

(a) in relation to the United Kingdom means all ships registered at a port in any territory of that Contracting Party to which the present Treaty applies; and

(b) in relation to Japan means all ships carrying the papers required by the law of Japan in proof of Japanese nationality;

(4) the term "companies": -

(a) means all legal persons except physical persons;

(b) in relation to a Contracting Party means all companies which derive their status as such from the law in force in any territory of that Contracting Party to which the present Treaty applies; and

(c) in relation to a country means all companies which derive their status as such from the law in force in that country.

Article 3.

(1) Nationals of one Contracting Party shall be accorded, with respect to entry into, residence in and departure from any territory of the other treatment not less favourable than that accorded to the nationals of any other foreign country.

(2) The nationals of one Contracting Party who are lawfully present within any territory of the other shall be free to travel anywhere within that territory and shall not be required, for this purpose, to obtain travel documents or permits. Nothing in this paragraph shall, however, be construed so as to prevent a Contracting Party from restricting entry into any place or area within the territory of that Contracting Party to authorised persons for reasons of national security, provided that in such cases the nationals of the other Contracting Party shall be accorded treatment not less favourable than that accorded to the nationals of the former Contracting Party or of any other foreign country.

(3) Any conditions as to the duration of his residence or as to his employment, profession, business or occupation which a national of one Contracting Party who is permitted to reside in any territory of the other is required to observe during the period of his residence in that territory shall be imposed at the time of the grant to him of permission to enter or to reside, shall be made known to him at the time when they are imposed and shall not thereafter be varied so as to make them more restrictive.

(4) Subject to any conditions imposed consistently with the provisions of paragraphs (1) and (3) of this Article, the nationals of one Contracting Party in any territory of the other shall be permitted to engage there in every lawful employment, profession, business or occupation on terms not less favourable than the nationals of any other foreign country.

Article 4.

The nationals of one Contracting Party in any territory of the other shall be exempted from all compulsory service whatsoever in the armed forces, civil defence services or police forces; from all forms of compulsory labour; and from the compulsory performances of all judicial, administrative and municipal functions whatever, other than those imposed by the laws relating to juries. They shall also be exempted from all contributions, whether in money or in kind, imposed as an equivalent for such service or for the performance of such functions.

Article 5.

(1) The nationals of one Contracting Party shall in any territory of the other be accorded liberty of conscience and freedom of worship. In the exercise of these rights they may conduct religious services provided that these services are not contrary to public morals or public order. They shall be at liberty to erect and to maintain buildings for religious purposes provided that such buildings conform to the law applicable generally to buildings of like nature. Such buildings shall be respected and shall not be entered or searched except by due process of law.

(2) The nationals of one Contracting Party shall in any territory of the other also be permitted to bury or cremate their dead according to their religious customs in suitable and convenient places established or maintained for the purpose, subject to the general law relating to the registration of deaths, to burials and cremations, and subject to any non-discriminatory sanitary or medical requirements laid down by the authorities of that territory.

Article 6.

(1) The companies of one Contracting Party shall in any territory of the other be accorded treatment not less favourable

than that accorded to the companies of any other foreign country in all matters relative to the carrying on of all kinds of business, including finance, commerce, industry, banking, insurance, shipping and transport, as well as in all matters relative to the establishment and maintenance for such purpose of branches, agencies, offices, factories and other establishments appropriate to the conduct of their business.

(2) Neither Contracting Party shall in any territory enforce, as a condition for the operation of any company of the other, any requirements as to the nationality of the directors, administrative personnel, technicians, professional consultants, auditors or shareholders of that company more restrictive than requirements applied to the companies of any other foreign country.

Article 7.

(1) The nationals and companies of one Contracting Party shall enjoy in, any territory of the other constant and complete protection and security for their persons and property.

(2) Nationals of one, Contracting Party taken into the custody of the authorities in any territory of the other, whether in connection with criminal proceedings or otherwise, shall be informed without undue delay of the grounds on which they are so taken. While they are detained in such custody they shall receive reasonable and humane treatment and their property shall not be disposed of except by due process of law.

(3) Nationals and companies of one Contracting Party accused in any territory of the other of crime shall enjoy, on the same conditions and -to the same extent as nationals and companies of the latter Contracting Party or of any other foreign country, all rights and privileges in connection with their trials permissible under the law of that territory. They shall be entitled to a public trial without undue delay. This paragraph shall not, however, prohibit the exclusion of the public from all or any part of any trial in the interests of national security or of public safety, order or morals or for the protection of children and young persons.

(4) The nationals and companies of one Contracting Party shall have access to the courts of justice, tribunals and administrative authorities in any territory of the other for the declaration, prosecution or defence of their rights, on terms not less favourable than those enjoyed by the nationals and companies of the latter Contracting Party or of any other foreign country. In any event proceedings -to which nationals or companies of one Contracting Party are parties in any territory of the other shall be heard and determined without undue delay.

(5) The nationals and companies of one Contracting Party shall in any proceedings in any territory of the other be at liberty to employ the services of legal advisers and representatives of their choice from among those competent to act in such proceedings. Without prejudice to the foregoing such nationals and companies shall enjoy treatment not less favourable than that accorded to the nationals and companies of the other Contracting Party or of any other foreign country.

(6) Nationals of one Contracting Party shall in all proceedings, other than criminal proceedings, before the courts of justice or tribunals in any territory of the other be at liberty to employ interpreters, who are acceptable to the courts of justice or tribunals, to translate the proceedings of the said courts or tribunals into a language which such nationals can understand, and to translate into the language in which the proceedings are conducted statements, evidence or arguments put orally by them or on their behalf in any other language.

(7) Nationals of one Contracting Party against whom criminal proceedings are taken before the courts of justice in any territory of the other shall be entitled, if their acquaintance with the language in which the proceedings are conducted is insufficient for them to understand the proceedings and subject to the payment of any appropriate costs, to have the proceedings translated by interpreters into a language which such nationals can understand, unless the said courts consider that the interpretation of any part of the proceedings can without injustice be dispensed with and such nationals, or their representatives, do not object. In any event, any statements, evidence or arguments put orally in a language other than that in which the proceedings are conducted shall be translated into the latter language by interpreters, subject to the payment of any appropriate costs.

(8) In all matters dealt with in this Article, nationals and companies of one Contracting Party in any territory of the other shall not be required to make any payments which are other or more onerous than those imposed on nationals and companies of the latter Contracting Party or of any other foreign country. Moreover nationals of one Contracting Party shall in any territory of the other be admitted to the benefit of free legal assistance and exemption from court fees on the same conditions and to the same extent as the nationals of the latter Contracting Party or of any other foreign country.

Article 8.

(1) The nationals and companies of one Contracting Party shall not be subjected in any territory of the other to any taxation

or any requirement connected therewith except under the conditions and with the formalities prescribed by the law in force in that territory.

(2) The nationals and companies of one Contracting Party shall not be subjected in any territory of the other to any taxation or any requirement connected therewith which is other or more onerous than the taxation and connected requirements to which the nationals and companies of the latter Contracting Party in the same circumstances are or may be subjected.

(3) The nationals and companies of one Contracting Party not resident for tax purposes in any territory of the other shall not be subjected in respect of income attributable to their establishments in that territory in which their business activities are carried on to any taxation or any requirement connected therewith which is other or more onerous than the taxation and connected requirements to which the nationals and companies of the latter Contracting Party resident for tax purposes in that territory are subjected in respect of the like income.

(4) The provisions of paragraph (3) of this Article shall not be construed, in relation to any territory of a Contracting Party, as obliging that Contracting Party to grant to nationals of the other who are not resident for tax purposes in that territory the same personal allowances, reliefs and reductions for tax purposes as are granted to the nationals of the former Contracting Party resident for tax purposes in that territory.

(5) Subject to the provisions of paragraph (4) of this Article, the nationals and companies of one Contracting Party shall enjoy, at the hands of the fiscal authorities and tribunals of the other, treatment and protection not less favourable than that accorded to the nationals and companies of the latter Contracting Party.

(6) In all matters referred to in this Article, the treatment accorded by one Contracting Party to nationals and companies of the other shall not be less favourable than that accorded to the nationals and companies of any other foreign country.

(7) The provisions of paragraph (6) of this Article shall not apply to special tax advantages accorded in any territory of either Contracting Party solely by virtue of an agreement for the avoidance of double taxation and the prevention of fiscal evasion with any other foreign country.

(8) The term "taxation" as used in this Article means taxes of every kind.

Article 9.

The dwellings, offices, warehouses, factories, shops and all other premises owned, leased or occupied by nationals and companies of one Contracting Party in any territory of the other shall be respected. Except under the conditions and with the formalities prescribed by law and applicable to nationals and companies of the latter Contracting Party, such premises shall not be entered or searched, nor shall the contents thereof be seized, examined or inspected.

Article 10.

(1) The nationals and companies of one Contracting Party shall be permitted in any territory of the other to acquire property, movable or immovable, or any interest therein on the same conditions as are applicable to the nationals and companies of any other foreign country.

(2) The nationals and companies of one Contracting Party shall be permitted in any territory of the other to own and to dispose of property, movable or immovable, or any interest therein on the same conditions as are applicable to the nationals and companies of the latter Contracting Party or of any other foreign country.

(3) The nationals and companies of one Contracting Party shall be permitted -

(a) to remove their movable property, and

(b) to transfer the proceeds of the sale of any property, movable or immovable, or of any interest therein, belonging to them from any territory of the other subject to conditions or restrictions not other or more onerous than those applicable to the nationals and companies of the latter Contracting Party or of any other foreign country.

(4) The provisions of paragraph (2) of this Article relative to the grant of national treatment shall not be construed as extending to the conditions of registration of aircraft in the national register of any territory of either Contracting Party.

(5) Nothing in this Article shall be construed so as to prevent a Contracting Party from restricting in any territory the acquisition, ownership, or disposal of ships or of any interest in ships.

Article 11.

In any case where nationals and companies of one Contracting Party are entitled, under the present Treaty, to carry on business in any territory of the other, they shall be entitled to exercise this right either in person or through agents of their own choice or in both such ways to no less an extent than nationals and companies of any other foreign country.

Article 12.

(1) The nationals and companies of one Contracting Party shall enjoy in any territory of the other treatment not less favourable than that enjoyed by the nationals and companies of any other foreign country with regard to the formation under the law of that territory of new companies.

(2) The nationals and companies of one Contracting Party shall enjoy in any territory of the other treatment not less favourable than that enjoyed by the nationals and companies of the latter Contracting Party or of any other foreign country with regard to the formation and membership under the law of that territory of chambers of commerce or similar bodies.

(3) Neither Contracting Party shall in any territory enforce, in relation to the nationals and companies of the other, any requirements as to the nationality of directors, administrative personnel, technicians, professional consultants, auditors or shareholders of any company of the former Contracting Party more restrictive than requirements applied in relation to the nationals and companies of any other foreign country.

(4) The companies of one Contracting Party more than one half of the interests in which are owned or which are controlled, directly or indirectly, by the nationals or companies of the other shall in all the matters dealt with in the present Treaty be accorded treatment not less favourable than that accorded to the companies of the former Contracting Party more than one half of the interests in which are owned or which are controlled, directly or indirectly, by the nationals and companies of any other foreign country.

Article 13.

The nationals and companies of one Contracting Party shall be accorded in any territory of the other treatment not less favourable than that accorded to the nationals and companies of any other foreign country with respect to the introduction of foreign capital or technology.

Article 14.

The nationals and companies of one Contracting Party shall be accorded equitable treatment in any territory of the other in respect of any measure of requisition, civil or military, of disposal, limitation, restriction or expropriation, affecting their property, rights and interests, or affecting the property, rights and interests of any company of the other Contracting Party in which they own interests, and shall be accorded prompt, adequate and effective compensation for any such measures. Without prejudice to the foregoing, in all matters dealt with in this Article they shall be accorded in any territory of the other treatment not less favourable than that accorded to the nationals and companies of the latter Contracting Party or of any other foreign country.

Article 15.

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, the nationals and companies of one Contracting Party shall be accorded in any territory of the other treatment not less favourable than that accorded to the nationals and companies of the latter Contracting Party or of any other foreign country. :

Article 16.

(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 the foregoing, any advantage, favour, privilege or immunity accorded in any territory by one Contracting Party to any product originating in or destined for any other foreign country shall be accorded to the like product originating in any territory of the other Contracting Party (from

whatever place arriving) or destined for any such territory.

(2) For the purposes of this Article and of Articles 17 and 18:

(a) fish, whales and other natural produce of the sea taken by vessels of either Contracting Party, and

(b) products produced or manufactured at sea in vessels of either Contracting Party from fish, whales and other natural produce of the sea shall be deemed to be products originating in the territories of that Contracting Party,

Article 17.

(1) No prohibition, restriction, rule or formality shall be imposed or maintained on the importation into any territory of one Contracting Party of any product originating in any territory of the other (from whatever place arriving) which shall not equally extend to the importation of the like product originating in any other foreign country.

(2) No prohibition, restriction, rule or formality shall be imposed or maintained on the exportation of any product from any territory of one Contracting Party to any territory of the other which shall not equally extend to the exportation of the like product to any other foreign country.

(3) In so far as prohibitions or restrictions may be enforced in any of their territories on the importation or exportation of any products, the Contracting Parties undertake as regards import and export licences to do everything in their power to ensure -

(a) that the conditions to be fulfilled and formalities to be observed in order to obtain such licences should be published promptly in such a manner as to enable the public to become acquainted with such conditions and formalities;

(b) that the method of issue of the licences should be as simple and stable as possible;

(c) that the examination of applications and the issue of licences to the applicants should be carried out with the least possible delay;

(d) that the system of issuing licences should be such as to prevent traffic in licences. With this object, a licence issued to any person should state the name of the holder and should not be capable of being used by any other person.

(4) The conditions to be fulfilled or formalities to be observed before quotas are allotted or licences are given in any territory of one Contracting Party in respect of -

(a) the importation of products originating in any territory of the other, or

(b) the exportation of products to any territory of the latter Contracting Party :

shall not be more onerous than the conditions to be fulfilled or formalities to be observed before quotas are allotted or licences are given in the case of any other foreign country.

(5) Subject to the requirement that such measures shall not be applied in any arbitrary manner, the general rules laid down in the preceding paragraphs of this Article shall not be construed so as to prevent the adoption by either Contracting Party of measures -

(a) necessary to protect human, animal or plant life or health;

(b) taken for the regulation of the trade in any narcotic substance which is within the scope of any international agreement which relates to the international control of narcotic substances and to which that Contracting Party is a party;

(c) taken in pursuance of obligations under any inter-governmental commodity agreement which conforms to criteria submitted to the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade (1) and not disapproved by them or which is itself so submitted and not so disapproved.

(6) The provisions of paragraphs (1), (2) and (4) of this Article shall not prevent a Contracting Party, if a member of the International Monetary Fund, from taking measures in any territory to restrict imports from, or to direct exports elsewhere than to, the territories of the other Contracting Party in a manner having equivalent effect to restrictions on payments and transfers for current international transactions which that Contracting Party may at that time apply under the Articles of Agreement of the International Monetary Fund, (2) provided that measures taken under the provisions of this paragraph shall not be applied in a manner which would cause unnecessary damage to the commercial or economic interests of the other Contracting Party or would constitute a means of arbitrary or unjustifiable discrimination against the other Contracting Party as compared with other foreign countries.

(7) Neither Contracting Party shall impose any measure of a discriminatory nature that hinders or prevents importers or exporters of products of either Contracting Party from obtaining marine insurance on such products from insurers of either Contracting Party.

(1) Cmd. 9413.

(2) "Treaty Series No. 21 (1946)", Cmd. 6885.

Article 18.

(1) The Contracting Parties recognise that internal taxes and other internal charges, and laws, regulations and requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of products, and internal quantitative regulations requiring the mixture, processing or use of products in specified amounts or proportions, should not be applied to imported or national products so as to afford protection to national production.

(2) Products originating in any territory of one Contracting Party and imported into any territory of the other shall not be subject, directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like products originating in any territory of the latter Contracting Party or in any other foreign country.

(3) Products originating in any territory of one Contracting Party and imported into any territory of the other shall in that territory be accorded treatment not less favourable than that accorded to like products originating in any territory of the latter Contracting Party or in any other foreign country in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use. The provisions of this paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.

(4) Neither Contracting Party shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation shall originate in any territory of that Contracting Party or in any foreign country.

(5) The provisions of paragraphs (1), (2), (3) and (4) of this Article shall not apply to laws, regulations or requirements governing the procurement by governmental agencies of products purchased for governmental purposes and not with a view to commercial resale or with a view to use in the production of goods for commercial sale.

(6) The provisions of paragraphs (1), (2), (3) and (4) of this Article shall not prevent the payment by either Contracting Party of subsidies exclusively to producers in any territory of that Contracting Party, including payments to producers derived from the proceeds of internal taxes or charges applied consistently with the provisions of paragraphs (1), (2), (3) and (4) of this Article and subsidies effected through governmental purchases of national products.

(7) The provisions of paragraphs (1), (3) and (4) of this Article shall not apply to laws, regulations, or requirements relating to the exhibition of cinematograph films, provided that in this matter cinematograph films originating in any territory of one Contracting Party shall be accorded in any territory of the other treatment not less favourable than that accorded to like films originating in any other foreign country.

(8) Products destined for exportation from any territory of one Contracting Party to any territory of the other shall not be subject, directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like products destined for exportation to any other foreign country.

Article 19.

(1) Nothing in the present Treaty shall be construed so as to derogate from the obligations undertaken by either Contracting Party towards the other by virtue of the provisions of the Union Convention of Paris of 20th March, 1883, for the Protection of Industrial Property,⁽³⁾ as revised at London on 2nd June, 1934, (4) or of any subsequent revision thereof, so long as such provisions are in force between the Contracting Parties.

(2) Without prejudice to the provisions of the foregoing paragraph, the nationals and companies of one Contracting Party shall be accorded in any territory of the other treatment not less favourable than that accorded to nationals and companies of the latter Contracting Party with regard to the protection of industrial property.

(3) "Commercial No. 8 (1884)". C. 4043.

Article 20.

(1) The vessels of one Contracting Party shall be entitled, inter alia -

(a) to have liberty of access to all ports, waters and places open to international commerce and navigation in any territory of the other;

(b) to compete for and carry passengers and cargoes, alike in any of the territories of the Contracting Parties and elsewhere.

(2) In all matters referred to in the foregoing paragraph of this Article and, in addition, in all other matters relative to commerce, navigation or the treatment of shipping, the vessels of one Contracting Party, their passengers and cargoes shall be accorded in any territory of the other treatment not less favourable than that accorded to the vessels, passengers and cargoes of the latter Contracting Party or of any other foreign country; the vessels of one Contracting Party, their passengers and cargoes shall be accorded all the rights, liberties, favours, privileges, immunities and exemptions accorded to the vessels, passengers and cargoes of the other Contracting Party or of any other foreign country and shall not be subjected to any other or more onerous duties, charges, taxes or other impositions of whatsoever kind or denomination than would be levied in similar circumstances in relation to such vessels, passengers and cargoes.

(3) Neither Contracting Party shall apply exchange restrictions in such a manner as to hamper the participation of vessels of the other Contracting Party in the transportation of passengers or cargoes to or from any territory of either Contracting Party or elsewhere.

(4) The Contracting Parties shall ensure that all dues and charges levied for the use of maritime ports within any of their territories and all byelaws and regulations of such ports shall be duly published before coming into force and that in each maritime port the port authority shall keep open for inspection by all persons concerned a table of the said dues and charges and a copy of the said byelaws and regulations.

(5) The provisions of this Article shall not apply to inland navigation or coasting trade. However,

(a) the vessels of one Contracting Party, if engaged in trade to or from places not within the limits of the coasting trade or inland navigation in any territory of the other, may engage in the carriage between ports within those limits of passengers holding through tickets or cargoes consigned on through bills of lading to or from such places not within those limits, provided that such vessels obtain permits authorising such carriage in accordance with the law of that territory; and

(b) the vessels of one Contracting Party may proceed from one port to another in any territory of the other for the purpose of landing the whole or part of their passengers or cargoes brought from places not within those limits or taking on board the whole or part of their passengers or cargoes destined for such places not within those limits.

Article 21.

(1) A vessel of one Contracting Party which is forced by stress of weather or any other cause to take refuge in any territory of the other shall be entitled to refit therein, to procure all necessary stores, and to put to sea again without paying any duty, charge, tax or other imposition of whatsoever kind or denomination exceeding that which would be levied in similar circumstances in relation to a vessel of the latter Contracting Party or of any other foreign country.

(2) If in the territory of one Contracting Party a vessel of the other Contracting Party is wrecked, runs aground, is under any distress, or requires services, it shall be entitled -

(a) to receive all such assistance and protection as would be given by the former Contracting Party to one of its own vessels or to a vessel of any other foreign country;

(b) to call upon any salvage or other vessels of whatever nationality to render such services as it may consider necessary; and

(c) to discharge or tranship its cargo, equipment or other contents in case of need; no payment of any duty, charge, tax or other imposition of whatsoever kind or denomination shall be levied in respect thereof unless such cargo, equipment or other contents is delivered for use or consumption in that territory; the authorities of the territory may, however, if they think fit, require security for the protection of the revenue in relation to such goods.

(3) Nothing in the foregoing provisions of this Article shall exempt any vessel of one Contracting Party from the operation of

any law of the other Contracting Party which permits the removal or sale of any such vessel which is, or is likely to become, an obstruction or danger to navigation, or of any part thereof or property recovered therefrom, provided that the vessels of one Contracting Party shall be accorded in the territory of the Other under any such law treatment not less favourable than that accorded to the vessels of the latter Contracting Party or of any other foreign country.

(4) Where a vessel of one Contracting Party, or any part thereof or its cargo, equipment or any other contents, is salvaged, such vessel or part thereof or such cargo, equipment or other contents, or the proceeds thereof, if sold, shall be delivered up to the owner or his agent when claimed, provided that the claim is made within the period fixed by the law of the other Contracting Party. The owner or his agent shall be liable for the payment of any expenses incurred in the preservation of the vessel and its contents and of the salvage fees and other expenses incurred, but such fees and expenses shall not exceed those which would have been payable in similar circumstances in respect of a vessel of the latter Contracting Party or of any other foreign country.

Article 22.

(1) Nothing in the present Treaty shall be construed so as to derogate from the obligations undertaken by either Contracting Party towards the other by virtue of the provisions of the International Convention relating to the Simplification of Customs Formalities signed at Geneva on 3rd November, 1923, (5) or of the International Convention to facilitate the Importation of Commercial Samples and Advertising Material signed at Geneva on 7th November, 1952, (6) or of any subsequent revision thereof, so long as such provisions are in force between the Contracting Parties.

(2) Without prejudice to the provisions of the foregoing paragraph, all facilities or privileges in respect of commercial travellers, commercial samples and advertising material accorded in any territory by one Contracting Party to any other foreign country shall be accorded to the other Contracting Party.

(5) "Treaty Serin No.16 (1925)" Cmd. 2347.

(6) "Treaty Serin No.81 (1955)": Cmd. 9644.

Article 23.

(1) Persons, baggage and goods and also vessels and other means of transport shall be deemed to be in transit across any territory of one Contracting Party when the passage across that territory, with or without trans-shipment, warehousing, breaking bulk, or change in the mode of transport, is only a portion of a complete journey beginning and terminating beyond the frontier of the Contracting Party across whose territory the traffic passes. Traffic of this nature is termed in this Article "traffic in transit".

(2) There shall be freedom of transit through any territory of one Contracting Party, via the routes most convenient for international transit, for traffic in transit to or from any territory of the other. No distinction shall be made which is based on the nationality of persons, the flag of vessels, the place of origin, departure, entry, exit or destination, or on any circumstances relating to the ownership of goods, of vessels or of other means of transport.

(3) The Contracting Parties may require baggage and goods and also vessels and other means of transport in transit through any of their territories to be entered at the proper custom house.

(4) Traffic in transit through any territory of one Contracting Party to or from any territory of the other shall not, except in case of failure to comply with applicable customs laws and regulations, be subject to any delays or restrictions other than to the minimum extent that may be necessary to ensure compliance with the applicable customs laws and regulations, and shall be exempt from customs duties and from all transit duties or other charges imposed in respect of transit, except charges for transportation or those commensurate with administrative expenses entailed by transit or with the cost of services rendered.

(5) All charges and regulations imposed by one Contracting Party on traffic in transit to or from any territory of the other shall be reasonable, having regard to the conditions of the traffic.

(6) With respect to all charges, regulations and formalities in connection with transit, one Contracting Party shall accord to traffic in transit to or from any territory of the other treatment not less favourable than that accorded to traffic in transit to or from any other foreign country.

(7) One Contracting Party shall accord to baggage and goods which have been in transit through any territory of the other treatment not less favourable than that which would have been accorded to such baggage and goods had they been

transported from their place of origin to their destination without going through that territory. Either Contracting Party shall, however, in relation to any territory, be free to maintain any requirements of direct consignment existing on the date of signature of the present Treaty, if such direct consignment is a condition of eligibility for preferential rates of duty.

(8) The provisions of this Article shall not oblige either Contracting Party to afford transit across any territory for persons whose admission into that territory is forbidden and, in relation to goods, shall not prevent either Contracting Party from taking non-discriminatory measures necessary to prevent abuse of transit facilities or to protect public morals or human, animal or plant life or health.

Article 24.

Nothing in the present Treaty shall be construed so as to derogate from the obligations undertaken by either Contracting Party towards the other by virtue of the provisions of the Protocol on Arbitration Clauses signed at Geneva on 24th September, 1923, (7) or of the Convention on the Execution of Foreign Arbitral Awards signed at Geneva on 26th September, 1927, (8) or of any multilateral agreement amendatory or supplementary thereto, so long as such provisions are in force between the Contracting Parties.

Article 25.

(1) Nothing in the present Treaty shall be construed so as to derogate from the obligations undertaken by either Contracting Party towards the other by virtue of the provisions of the Agreement of Madrid of 14th April, 1891, for the Prevention of False Indications of Origin on Goods, (9) as revised at London on 2nd June, 1934, (10) or of any subsequent revision thereof, so long as such provisions are in force between the Contracting Parties.

(2) Without prejudice to the provisions of the foregoing paragraph, either Contracting Party shall provide in any territory suitable civil remedies and, in cases of fraud, suitable penal sanctions in respect of the use of any indication that the goods in connection with which it is used have been produced or manufactured in any territory of the other if such indication be false or misleading.

(7) "Treaty Series No.4 (1925)", Cmd. 2312

(8) "Treaty Series No. 28 (1930)", Cmd. 3655

(9) "Treaty Series No. 13 (1892)", C.6818

(10) "Treaty Series No. 54 (1938)", Cmd. 5832

Article 26.

Nothing in the present Treaty shall be construed so as to derogate from the rights and obligations that either Contracting Party has or may have as a contracting party to the General Agreement on Tariffs and Trade or any multilateral agreement amendatory or supplementary thereto.

Article 27.

Nothing in the present Treaty shall affect the obligations of either Contracting Party under the Articles of Agreement of the International Monetary Fund nor preclude the imposition of particular exchange restrictions whenever the Fund specifically authorises or requests a Contracting Party to impose such particular restrictions.

Article 28.

All the provisions of the present Treaty relative to the grant of treatment not less favourable than that accorded to any other foreign country shall be interpreted as meaning that such treatment shall be accorded immediately and unconditionally, without request or compensation.

Article 29.

(1) Nothing in the present Treaty shall entitle the United Kingdom to claim the benefit of any treatment, preference or privilege which may at any time be accorded by Japan exclusively

(a) to persons who originated 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 8th September, 1951 (11) (hereinafter referred to as "the Peace Treaty"); or

(b) to any area set forth in Article 3 of the Peace Treaty in so far as the situation provided for in the second sentence of the said Article continues with respect to the administration, legislation and jurisdiction over such area.

(2) Nothing in the present Treaty shall entitle Japan to claim the benefit of any treatment, preference or privilege which may at any time be accorded by any territory of the United Kingdom exclusively to any one or more of the other territories enumerated in the following list:

The United Kingdom of Great Britain and Northern Ireland,

Canada,

The Commonwealth of Australia,

New Zealand,

The Republic of South Africa,

India,

Pakistan,

Ceylon,

Ghana,

The Federation of Malaya,

The Federation of Nigeria,

The Republic of Cyprus,

Sierra Leone,

Tanganyika,

Jamaica,

Trinidad and Tobago,

Uganda,

Territories for the international relations of which the Governments of the United Kingdom, Australia, New Zealand and the Republic of South Africa are responsible at the date of signature of the present Treaty,

The Irish Republic, and

In relation to paragraph (1) of Article 16 only, Burma.

(3) The provisions of the present Treaty relative to the grant of treatment not less favourable than that accorded to any other foreign country shall not be construed so as to oblige one Contracting Party to extend to the other the benefit of any treatment, preference or privilege which may be extended by the former Contracting Party by virtue of -

(a) the formation of a customs union or a free trade area, or

(b) the adoption of an agreement designed to lead to the formation of such a union or area within a reasonable length of time.

(4) Without prejudice to the provisions of Article 4, nothing in the present Treaty shall be construed so as

(a) to prevent a Contracting Party from taking, either singly or with other countries, any action considered necessary by that Contracting Party for the protection of national security, where such action relates to

(i) special nuclear materials or to materials or equipment from which they are produced; or

(ii) the production of or traffic in arms, ammunition or implements of war, or to such production of or traffic in other goods

or materials as is carried on directly or indirectly for the purpose of supplying a military establishment of the Contracting Party or of any other foreign country; or

(b) to prevent a Contracting Party from taking any action

(i) considered necessary by that Contracting Party to protect its essential security interests in time of war or other emergency in international relations or in time of public emergency, threatening the life of the nation; or

(ii) in pursuance of its obligations under the United Nations Charter (12) for the maintenance or restoration of international peace and security;

provided that the Contracting Parties shall aim to restrict any such action to that involving the least possible deviation, both in extent and duration, from the provisions of the present Treaty.

(5) Nothing in the present Treaty shall be construed so as to grant any rights or impose any obligations in respect of -

(a) any matter concerning which provision is made in any treaty, convention or agreement relating to international civil aviation to which either or both of the Contracting Parties is a party; or

(b) copyright in literary or artistic works; or

(c) rights of performers, producers of phonograms and broadcasting organisations.

(11) "Treaty Series No. 33 (1952)", Cmd. 6601.

(12) "Treaty Series No. 67 (1946)", Cmd. 7015

Article 30.

Any representations which may be made by either Contracting Party with regard to any matter affecting the operation of the present Treaty shall be the subject of sympathetic consideration and, where appropriate, mutual consultation.

Article 31.

Any dispute that may arise between the Contracting Parties as to the interpretation or application of any of the provisions of the present Treaty shall, upon the application of either Contracting Party, be referred to the International Court of Justice, unless in any particular case the Contracting Parties agree to submit the dispute to some other tribunal or to dispose of it by some other procedure.

Article 32.

(1) The United Kingdom may, at the time of exchange of the instruments of ratification or at any time thereafter, give notice in writing through the diplomatic channel of its intention to extend the present Treaty to any territory for the international relations of which the United Kingdom is responsible.

(a) In a case where the intention of the United Kingdom is to extend the Treaty without modification or reservation, the Treaty shall be extended to the territory specified in such notice as from the thirtieth day after the date of such notice.

(b) In a case where the intention of the United Kingdom is to extend the Treaty with modification or reservation, both Contracting Parties shall consult as to the terms of modification or reservation to be made in connection with the extension of the Treaty to the territory specified in such notice. The Treaty shall be extended to such territory by an agreement setting out the terms of modification or reservation as well as necessary provision for the entry into force of such extension.

(2) After the expiry of a period of six years from the coming into force of the present Treaty either Contracting Party may, provided twelve months prior notice to that effect has been given, terminate the application of the present Treaty to any territory to which it has been extended under the provisions of the foregoing paragraph.

Article 33.

(1) The present Treaty shall be ratified and the instruments of ratification shall be exchanged at Tokyo as soon as possible. It shall come into force as from the thirtieth day after the exchange of the instruments of ratification, (13) and shall thereafter remain in force during a period of six years.

(2) In case neither Contracting Party shall have given notice to the other twelve months before the expiry of the said period of six years of intention to terminate the Treaty, it shall remain in force until the expiry of twelve months from the date on which notice of such intention is given.

(3) A notice given under paragraph (2) of this Article shall apply to any territory to which the present Treaty has been extended under Article 32.

(13) The Treaty entered into force on May 4, 1963.

In witness whereof the above named Plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

Done in duplicate at London this Fourteenth day of November, 1962, in the English and Japanese languages, both texts being equally authoritative.

For the United Kingdom of Great Britain and Northern Ireland:

HOME (L.S.)

F. J. ERROLL (L.S.)

For Japan:

KATSUMI OHNO (L.S.)

PROTOCOL OF SIGNATURE

At the time of signing the Treaty of Commerce, Establishment and Navigation between the United Kingdom of Great Britain and Northern Ireland and Japan (hereinafter referred to as "the Treaty"), the undersigned Plenipotentiaries, duly authorised thereto, have further agreed as follows:

(1) The term "territory of Japan" shall not be deemed to include, for the purposes of the Treaty, any area referred to in Article 3 of the Treaty of Peace with Japan signed at the city of San Francisco on 8th September, 1951, in so far as the situation provided for in the second sentence of the said Article continues with respect to the administration, legislation and jurisdiction over such area. The term "nationals" in relation to Japan includes inhabitants of such area who are nationals of Japan.

(2) The term "nationals", in relation to the United Kingdom, shall also apply to all British subjects who have made a claim to retain the status of a British subject under Section 2 of the British Nationality Act, 1948, or who are British subjects without citizenship under Section 13(1) of that Act, except in either case those who belong to any territory to which the Treaty may be extended under the provisions of Article 32 but has not been so extended. In this connection, any such person may be required by the Japanese authorities to produce a passport or other document in lieu thereof for the purpose of confirming that he falls under one-or other of the said categories.

(3) With reference to paragraph (3) of Article 2, the term "vessels" does not include warships.

(4) The provisions of paragraph (1) of Article 3 shall not apply to advantages relating to passports and visas accorded by a Contracting Party to the nationals, of any other foreign country by virtue of a special agreement: However, the foregoing shall not be interpreted so as to nullify the provisions of paragraph (1) of Article 3.

(5) With reference to Article 3, the United Kingdom reserves the right to apply the provisions of the said Article in the United Kingdom as if Great Britain and Northern Ireland were each a separate territory.

(6) With respect to the profession of patent agent, the provisions of paragraph (4) of Article 3 shall not oblige Japan to accord to nationals of any territory of the United Kingdom treatment more favourable than that accorded by that territory to nationals of Japan.

(7) Without prejudice to the provisions of an agreement for the avoidance of double taxation and the prevention of fiscal evasion between any territory of the United Kingdom and Japan, -

(a) the provisions of paragraph (2) of Article 8 shall not oblige the United Kingdom to grant, in respect of any territory of the United Kingdom, to nationals of Japan not resident for tax purposes in that territory the same personal allowances, reliefs and reductions for tax purposes as are granted to nationals of the United Kingdom not resident for tax purposes in that territory, and

(5) the provisions of paragraph (6) of Article 8 shall not oblige Japan to accord to nationals and companies of any territory of the United Kingdom treatment with respect to exemption from taxation in Japan more favourable than that accorded in that territory to nationals and companies of Japan.

(8) The provisions of Article 8 shall not be construed as affecting the provisions of the Japanese law under which distributed profits are, in the case of Japanese corporations, taxed at a lower rate than undistributed profits.

(9) With respect to the matter of enjoyment of rights pertaining to land in Japan, the provisions of Article 10 and of paragraph (4) of Article 12 shall not oblige Japan to accord to the nationals and companies of any territory of the United Kingdom, or to companies of Japan more than one half of the interests in which are owned or which are controlled, directly or indirectly, by such nationals and companies, treatment more favourable than that accorded in that territory to nationals and companies of Japan.

(10) The provisions of paragraph (1) of Article 16 shall not preclude either Contracting Party from imposing a countervailing or anti-dumping duty in the circumstances and subject to the conditions laid down in the provisions of the General Agreement on Tariffs and Trade which govern the imposition of such duty in relation to the trade of contracting parties to that Agreement.

(11) The provisions of paragraph (2) of Article 16 shall not preclude Japan from treating fish, whales and other natural produce of the sea taken by vessels of the United Kingdom within the territory of any other foreign country, and products produced or manufactured at sea therefrom, as products originating in the territory of that foreign country.

(12) The provisions of Articles 17 and 23 shall not prevent the United Kingdom from requiring, as a condition of permitting -

(a) the exportation of any product from any of its territories, or

(b) the transit through any of its territories of any product exported from the Sterling Area,

satisfactory evidence that payment for such product has been or will be made in accordance with any exchange control regulations in force in that territory.

(13) The permits referred to in paragraph (5) of Article 20 will be issued on a basis no more restrictive than that on which they were issued on the date of signature of the Treaty.

(14) With reference to paragraph (3) of Article 29, a Contracting Party shall, before entering into any customs union, free trade area or agreement designed to lead thereto, inform the other of its plans in so far as they are relevant to the Treaty and give adequate opportunity for consultation about the effect of the terms of entry on the benefits which the other Contracting Party might expect to gain from the Treaty. The former Contracting Party shall also, after its entry, keep the latter informed of developments relevant to the Treaty, in so far as this is compatible with the position of the former Contracting Party as a member of the customs union or free trade area or as a participant in the said agreement. ,

(15) Wherever the Treaty contains a provision according national treatment and also a provision according treatment not less favourable than that accorded in relation to any other foreign country in respect of any matter, the Contracting Party beneficiary in each particular case shall be entitled to claim the benefits of either provision.

(16) The present Protocol shall form an integral part of the Treaty.

In witness whereof the respective Plenipotentiaries have signed the present Protocol and have affixed thereto their seals.

Done in duplicate at London this Fourteenth day of November, 1962, in the English and Japanese languages, both texts being equally authoritative.

For the United Kingdom of Great Britain and Northern Ireland:

HOME (LS)

F. J. ERROLL (LS.)

For Japan: KATSUMI OHNO (L.S.)

FIRST PROTOCOL CONCERNING TRADE RELATIONS BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND JAPAN

At the time of signing the Treaty of Commerce, Establishment and Navigation between the United Kingdom of Great Britain and Northern Ireland and Japan (hereinafter referred to as "the Treaty"), the undersigned Plenipotentiaries, duly authorised thereto, have agreed as follows:

(1) If the Government of either Contracting Party find that any product of the territory of the other Contracting Party is being imported into the territory of the former Contracting Party in such increased quantities and under such conditions as to cause or threaten serious injury to producers in the territory of that former Contracting Party of like or directly competitive products, that Government, in case they wish to take action under the present Protocol to prevent or remedy such injury, shall give to the Government of the other Contracting Party notice to this effect with a full explanation of the circumstances, and the two Governments shall enter into consultation, not later than seven days after such notice is given, with a view to finding a mutually acceptable solution.

(2) If no mutually acceptable solution is found within thirty days after the consultation has begun, the Government of the importing Contracting Party may take action to prevent or remedy the injury referred to in paragraph (1) above, notwithstanding the provisions of Article 17 of the Treaty, provided that such action: (a) shall not be taken lightly;

(b) shall be limited, so far as administratively practicable, to the specific products in respect of which it is necessary and shall not be more severe than is needed to remedy the injury caused or threatened; and

(c) shall be discontinued immediately either when a mutually acceptable solution is found or when the situation which gave rise to the action is rectified.

(3) In critical circumstances where delay would cause damage which it would be difficult to repair, action under paragraph (2) above may be taken provisionally within thirty days after the consultation has begun, on the condition that such consultation shall be continued in an endeavour to find a mutually acceptable solution.

(4) If the Government of either Contracting Party take action under the provisions of paragraph (2) or paragraph (3) above, the Government of the other Contracting Party may take counteraction substantially equivalent in scope and duration, notwithstanding the provisions of Article 17 of the Treaty, provided that such counteraction shall not be taken or shall be discontinued, as the case may be, if and to the extent that the Government of the former Contracting Party take measures having the effect of compensating for their initial action. If the Government of the former Contracting Party so request, the two Governments shall immediately enter into consultation in respect of any such counteraction.

(5) The term "territory" in paragraph (1) above means, in relation to the United Kingdom, the United Kingdom of Great Britain and Northern Ireland, including The Channel Islands and the Isle of Man. The present Protocol may, however, be applied when it is necessary to protect the established interests in the United Kingdom market of any territory other than the United Kingdom for whose international relations the United Kingdom is responsible.

(6) The present Protocol shall be ratified and the instruments of ratification shall be exchanged at Tokyo as soon as possible. It shall thereafter come into force on the date of the coming into force of the Treaty.

It shall terminate when the Treaty is terminated in accordance with the provisions of Article 33 thereof or at any time earlier by mutual consent of the two Governments. The two Governments shall consult together at any time at the request of either Government for the purpose of reviewing the necessity of the present Protocol.

In witness whereof the respective Plenipotentiaries have signed the present Protocol and have affixed thereto their seals.

Done in duplicate at London, this Fourteenth day of November, 1962, in the English and Japanese languages, both texts being equally authoritative,

For the United Kingdom of Great Britain and Northern Ireland:

HOME (L.S)

F. J. ERROLL (L.S.)

For Japan:

KATSUMI OHNO. - (L.S.)

SECOND PROTOCOL CONCERNING TRADE RELATIONS BETWEEN THE UNITED KINGDOM

OF GREAT BRITAIN AND NORTHERN IRELAND AND JAPAN

At the time of signing the Treaty of Commerce, Establishment and Navigation between the United Kingdom of Great Britain and Northern Ireland and Japan (hereinafter referred to as "the Treaty"), the undersigned

Plenipotentiaries, duly authorised thereto, have agreed as follows:

(1) In case import restrictions have been continuously enforced by either Contracting Party with regard to any specific product and the sudden removal of import restrictions on such product of the other Contracting Party would result in serious injury to domestic producers of the former Contracting Party of like or directly competitive products, the importing Contracting Party may continue to apply import restrictions, notwithstanding the provisions of Article 17 of the Treaty, to any such products mentioned in agreements which are to be concluded in accordance with the present Protocol in such manner and under such conditions as may be specified in the said agreements.

(2) The Governments of the Contracting Parties shall review the operation of the agreements made in accordance with paragraph (1) above, with a view to ensuring orderly development of the trade between the Contracting Parties, at any time upon the request of the Government of either Contracting Party, and not less frequently than once a year unless otherwise mutually agreed.

(3) The present Protocol shall be ratified and the instruments of ratification shall be exchanged at Tokyo as soon as possible. It shall thereafter come into force on the date of the coming into force of the Treaty. It shall terminate when the Treaty is terminated in accordance with the provisions of Article 33 thereof or at any time earlier when there are no longer any import restrictions in force under the present Protocol.

In witness whereof the respective Plenipotentiaries have signed the present Protocol and have affixed thereto their seals.

Done in duplicate at London, this Fourteenth day of November, 1962, in the English and Japanese languages, both texts being equally authoritative.

For the United Kingdom of Great Britain and Northern Ireland:

HOME (LS.)

F, J. ERROLL (L.S.)

For Japan:

KATSUMI OHNO (L.S.)