

TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION BETWEEN JAPAN AND THE ARGENTINE REPUBLIC.

SIGNED AT TOKYO, ON 20 DECEMBER 1961

The Government of Japan and the Government of the Argentine Republic,

Animated by the desire to strengthen further the traditional ties of friendship which unite the peoples of both countries as well as to strengthen their cultural relations,

Desirous of facilitating commercial intercourse between the two countries and encouraging mutually beneficial investments and other types of economic cooperation,

Have resolved to conclude a Treaty of Friendship, Commerce and Navigation and for that purpose have appointed as their Plenipotentiaries,

The Government of Japan:

Mr. Zentaro Kosaka, Minister for Foreign Affairs;

The Government of the Argentine Republic:

Dr. Miguel Angel Carcano, Minister for Foreign Affairs and Worship,

Who, having communicated to each other their full powers found to be in due form, have agreed upon the following Articles:

Article I.

There shall be firm and perpetual peace and amity between Japan and the Argentine Republic and their respective peoples.

Article II.

1. 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 in all matters relating to their entry.

2. Nationals of either Party shall be accorded national treatment and most-favourednation treatment in all matters relating to their sojourn, travel and residence within, and their departure from the territory of the other Party. In the enjoyment of such treatment, however, they shall conform themselves to the provisions of the laws and regulations of such other Party.

Article III.

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 IV.

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

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 in accordance with the provisions of the laws and regulations of the former Party. Such national shall: (a) receive treatment allowing full enjoyment of human rights; (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 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, national treatment and most-favoured-nation treatment with respect to all compulsory loans, military exactions, requisitions or compulsory billeting.

Article V.

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.

5. Nationals and companies of either Party shall be accorded, within the territory of the other Party, national treatment and most-favoured-nation treatment with respect to the matters set forth in paragraphs 2 and 4 of this Article.

6. Enterprises in which nationals and companies of either Party have a substantial interest shall be accorded, within the territory of the other Party, national treatment and most-favoured-nation treatment in all matters relating to the taking of privately owned enterprises into public ownership and to the placing of such enterprises under public control.

Article VI.

1. Nationals and companies of either Party shall be accorded, within the territory of the other Party, national treatment and most-favoured-nation treatment with respect to the levying of taxes, fees or charges of any kind, and access to the courts of justice and administrative tribunals and agencies, in all degrees of jurisdiction.

2. (a) 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 study and research, rights to property, participation in juridical entities and generally the conduct of all types of commercial, industrial, financial and other business activities as well as professional activities.

(b) 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 of this Article, 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 VII.

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 be deemed conclusive in enforcement proceedings brought before the courts of competent jurisdiction of either Party, and shall be entitled to be declared enforceable by such courts, except where found contrary to public policy. When so declared, such awards shall be entitled to privileges and measures of enforcement appertaining to awards rendered within the territory of such Party.

Article VIII.

1. Each Party shall accord immediately and unconditionally to the other Party most-favoured-nation treatment in all matters with respect to:

(a) customs duties and charges of any kind imposed on or in connection, with importation or exportation or imposed on the international transfer of payments for imports or exports,

(b) the method of levying such duties and charges,

(c) the rules and formalities in connection with importation or exportation,

(d) all internal taxes or other internal charges of any kind imposed on or in connection with imported goods,

(e) the application of internal taxes to exported goods, and

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

2. Accordingly, products of either Party imported into the territory of the other Party shall not be subject, in regard to the matters referred to in paragraph 1 of this Article, to any duties, taxes or charges higher, or to any rules or formalities more burdensome, than those to which the like products of any third country are or may hereafter be subject.

3. Similarly, products exported from the territory of either Party and consigned to the territory of the other Party shall not be subject, in regard to the matters referred to in paragraph 1 of this Article, to any duties, taxes, or charges higher, or to any rules or formalities more burdensome, than those to which the like products

When consigned to the territory of any third country are or may hereafter be subject.

Article IX.

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. Neither Party shall establish or maintain restrictions or prohibitions, whether made effective through quotas, import or export licenses, allocation of foreign exchange or other measures, 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.

3. 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.

4. Notwithstanding the provisions of paragraph 2 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 such Party may at that time apply under the provisions of paragraph 3 of this Article.

Article X.

The two Parties undertake to cooperate 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 XI.

Each 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 prescribed in the present Treaty for governmental measures affecting imports or exports by private traders. To this end, having due regard to the other provisions of the present Treaty, such enterprise shall make any purchases or sales solely in accordance with commercial considerations including price, quality, availability,

Marketability, transportation and other conditions of purchase or sale, and shall afford to the enterprises of the other Party adequate opportunity, in accordance with customary business practice, to compete for participation in such purchases or sales.

Article XII.

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

2. Merchant vessels of either Party shall have liberty, on equal terms with merchant vessels of the other Party and of any third country, to come with their passengers and cargoes to all ports, places and waters of such other Party open to foreign commerce and navigation. Such vessels shall in all respects be accorded most-favoured nation treatment within the ports, places and waters of such other Party.

3. Merchant vessels of either Party shall be accorded 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 Party; and such goods and persons shall be accorded treatment no less favourable than that accorded to like goods and persons carried in merchant vessels of such other Party with respect to (a) duties and charges of all kinds, (b) the administration of the customs, and (c) bounties, drawbacks and other privileges of this nature.

4. The provisions of the preceding paragraphs shall not apply to coasting trade, which shall be regulated according to the laws of each Party. Merchant vessels of either Party may, nevertheless, proceed from one port to another within the territory of the other Party, either for the purpose of landing the whole or part of their passengers or cargoes brought from abroad, or of taking on board the whole or part of their passengers or cargoes for a foreign destination.

5. (a) In case of shipwreck, damage at sea or forced putting in, either Party shall extend to vessels of the other Party the same assistance and protection and the same exemptions as are in like cases accorded to its own vessels. Goods salvaged from such vessels shall be exempt from all customs duties, unless the goods are entered for domestic consumption.

(b) If a vessel of either Party has stranded or has been wrecked on the coasts of the other Party, the appropriate authorities of such other Party shall notify the occurrence to the nearest competent consular officer of the country to which the vessel belongs.

6. The certificates concerning tonnage measurement of vessels issued by the competent authorities of either Party shall be recognized by the competent authorities of the other Party as equivalent to the certificates issued by the latter, provided that the two Parties use similar rules or systems for its measurement.

7. The term "merchant vessels", as used in this Article, does not include fishing and whaling vessels.

Article XIII.

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 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. In case either of the two Parties has ceased to be contracting party to any of such agreements, both Parties shall immediately consult with each other with a view to determining whether, in the light of circumstances then prevailing, any adjustment may be necessary with respect to the provisions of the Treaty relating to trade, exchange or customs.

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 utilization or processing thereof, or to materials that are the source of fissionable materials;

(c) regulating the 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; and

(f) Relating to the protection of human life, health and morals, and of animal or plant life or health.

3. The provisions of Article VIII and Article IX of the present Treaty shall not apply to special advantages accorded by either Party:

(a) to frontier traffic; or

(b) to members of a customs union or a free-trade area of which it may become a member, provided that such advantages are accorded in conformity with the provisions of the General Agreement on Tariffs and Trade.

4. The provisions of Article VIII and Article IX of the present Treaty shall not apply to preferences or advantages accorded by the Argentine Republic to adjacent countries or the Republic of Peru within the framework of the General Agreement on Tariffs and Trade.

Article XIV.

Each Party shall accord sympathetic consideration to representations made by the other Party in respect of any matter arising from or in connection with the implementation of the present Treaty and shall afford to the other Party adequate opportunity for consultation.

Article XV.

1. The present Treaty shall supersede and be substituted for the Treaty of Amity, Commerce and Navigation between Japan and the Argentine Republic, signed at Washington on February 3, 1898.

2. The present Treaty shall be ratified, and the instruments of ratification shall be exchanged at Buenos Aires as soon as possible.

3. 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 for in paragraph 4 of this Article.

4. 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 respective Plenipotentiaries have signed the present Treaty and have affixed hereunto their seals.

Done in duplicate, in the Japanese, Spanish and English languages, at Tokyo, this twentieth day of December, one thousand nine hundred sixty one. In case of any divergence of interpretation, the English text shall prevail.

For Japan:

Zentaro Kosaka

For the Argentine Republic:

M. A. Carcano

At the time of signing the Treaty of Friendship, Commerce and Navigation between Japan and the Argentine Republic

(hereinafter referred to as "the Treaty"), the undersigned Plenipotentiaries, duly authorized by their respective Governments, have further agreed on the following provisions, which shall be considered integral parts of the Treaty:

1. With reference to Article II, paragraph 1, neither Party shall be entitled to claim the benefit of those advantages relating to matters concerning passports and visas which are or may hereafter be accorded by the other Party to nationals of any third country by virtue of special agreements on a basis of reciprocity.
2. As used in the Treaty, the term "companies" means corporations, partnerships, companies and other associations, engaging in commercial, industrial, financial and other business activities for gain.
3. The provisions of Article V, 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.
4. With reference to Article VI, paragraph 2 (a), either Party may require that the treatment with respect to the enjoyment of rights on immovable property shall be dependent on reciprocity.
5. The provisions of Article VIII and Article IX shall not apply to special advantages accorded by either Party to products of its national fisheries.
6. With reference to Article XII, paragraph 6, it is understood that the rules or systems used by the two Parties for the tonnage measurement of vessels are similar to each other.
7. Nothing in the Treaty shall be construed so as to entitle the Argentine Republic to claim the benefit of those rights and privileges which are or may hereafter be accorded by Japan to: (a) 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 September 8, 1951; or (b) the inhabitants and vessels of, and trade with, any area set forth in Article 3 of the said Treaty of Peace, as 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.

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

Done in duplicate, in the Japanese, Spanish and English languages, at Tokyo, this twentieth day of December, one thousand nine hundred sixty one. In case of any divergence of interpretation, the English text shall prevail.

For Japan:

Zentaro Kosaka

For the Argentine Republic:

M. A. Carcano

I Excellency:

(Japanese Note)

Tokyo, December 20, 1961

On the occasion of signing the Treaty of Friendship, Commerce and Navigation between Japan and the Argentine Republic, I have the honour to confirm, on behalf of the Government of Japan, the following understanding:

Each Party endeavours to confirm in its trade and commerce to internationally accepted fair practices, particularly in matters relating to marks of origin, and to cooperate with the other Party with a view to preventing any practices which might prejudicially affect the commerce between the two countries.

I have further the honour to request Your Excellency to be good enough to confirm the above-mentioned understanding on behalf of your Government.

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

Zentaro Kosaka

His Excellency Dr. Miguel Angel Carcano Minister for Foreign Affairs and Worship of the Argentine Republic

II Excellency:

(Argentine Note)

Tokyo, December 20, 1961

I have the honour to acknowledge receipt of Your Excellency's Note of today's date, which reads as follows:

[See note J]

I have further the honour to confirm the understanding stated in Your Excellency's Note, on behalf of the Government of the Argentine Republic.

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

M. A. Carcano

His Excellency Mr. Zentaro Kosaka Minister for Foreign Affairs of Japan