

AGREEMENT ON COMMERCE BETWEEN JAPAN AND THE REPUBLIC OF EL SALVADOR.

SIGNED AT TOKYO, ON 19 JULY 1963 (1)

The Government of Japan and the Government of the Republic of El Salvador, animated by the desire to strengthen the ties of peace and friendship traditionally existing between the two countries and to strengthen and develop the commercial relations between the two countries and to encourage mutually beneficial investments and other types of economic co-operation in order to improve the standard of living of their peoples, have resolved to conclude an Agreement on Commerce which will regulate, on a just and equitable basis, the commercial relations between the two countries, and for that purpose have appointed as their Plenipotentiaries,

The Government of Japan:

Mr. Masayoshi Ohira, Minister for Foreign Affairs

The Government of the Republic of El Salvador:

Mr. Salvador Jauregui, Minister of Economic Affairs

Who, having exchanged their respective full powers found to be in good and due form, have agreed upon the following Articles:

(1) Came into force on 1 July 1964, one month after the date of the exchange of the instruments of ratification, which took place at San Salvador on 1 June 1964, in accordance with article X (1).

Article I.

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 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 II.

1. Nationals and companies of either Party shall be accorded treatment no less favourable than that accorded to nationals and companies of any third country 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 such Party may at that time apply under the provisions of paragraph 2 of this Article.

(1) United Nations, Treaty Series, Vol. 2, p. 39.

Article III.

1. Nationals of either Party shall be permitted to enter, to stay, travel and reside in and to depart from the territory of the other Party, in conformity with the laws and administrative regulations in force of such other Party, and shall receive, in all these respects, treatment no less favourable than that accorded to nationals of any third country.

2. Nationals and companies of either Party shall be accorded, within the territory of the other Party, treatment no less favourable than that accorded to nationals and companies of any third country with respect to all matters concerning the levying of taxes, access to the courts, rights to property, participation in juridical entities, and, generally, the conduct of all kinds of commercial, industrial, financial and other business activities.

3. Nationals and companies of either Party shall be accorded, within the territory of the other Party, treatment no less favourable than that accorded to the nationals and companies of such other Party with respect to obtaining and maintaining patents for invention, and with respect to the rights in trade marks, trade names, trade labels and industrial property of every kind.

4. Notwithstanding the provisions of paragraph 2 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 the prevention of fiscal evasion.

Article IV.

Property of nationals and companies of either Party shall not be taken, within the territory of the other Party, except for public purpose and with just compensation in conformity with the provisions of the Constitution and laws of such other Party. In all the matters dealt with in this Article, nationals and companies of either Party shall receive, within the territory of the other Party, treatment no less favourable than that accorded to nationals and companies of the said Party or any third country.

Article V.

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 the nationality of one or more of the arbitrators is not that of such Party.

Article VI.

1. 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 treatment no less favourable than that accorded to like vessels of such other Party and of any third country within the ports, places and waters of such other Party.

2. Merchant vessels of either Party shall be accorded treatment no less favourable than that accorded to like vessels of the other Party and of any third country 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.

3. The provisions of the preceding paragraphs shall not apply to coasting trade. 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.

(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.

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

Article VII.

The provisions of Article I and paragraphs 3 and 4 of Article II of the present Agreement shall not apply to special advantages which are accorded or may hereafter be accorded by either Party:

(a) to products of its national fisheries;

(6) by virtue of a customs union or a free-trade area of which it is or may become a member.

Article VIII.

1. Nothing in the present Agreement shall affect the rights and obligations that either Party has or may have as a contracting party to 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. It is further understood that, 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 present Agreement relating to trade or exchange. 2

2. The present Agreement 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 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; and

(f) Relating to the protection of public health and the protection of animals and plants against diseases, harmful insects and parasites.

Article IX.

The Government of each Party shall accord sympathetic consideration to representations made by the Government of the other Party in respect of the implementation of the present Agreement and shall afford to the Government of the other Party adequate opportunity for consultation.

Article X.

1. The present Agreement shall be ratified in conformity with the constitutional procedures of each Party and shall enter into force one month after the date of the exchange of instruments of ratification which shall take place as soon as possible at San Salvador.

2. The present Agreement shall remain in force for a period of three years and shall be prolonged automatically for the same period thereafter, unless the Government of either Party has previously given written notice to the Government of the other at least three months before the expiry of each period of its intention to terminate the present Agreement.

In witness whereof the respective Plenipotentiaries have signed the present Agreement.

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

For Japan: Masayoshi Ohira

For the Republic of El Salvador: Salvador Jauregui

PROTOCOL

At the time of signing the Agreement on Commerce between Japan and the Republic of El Salvador (hereinafter referred to as "the Agreement"), (1) the undersigned Plenipotentiaries, duly authorized by their respective Governments, have further agreed on the following provisions, which shall be considered integral parts of the Agreement:

1. As used in the Agreement, the term "companies" means corporations, partnerships, companies and other associations, engaging in commercial, industrial, financial and other business activities for gain.
2. With reference to paragraph 1 of Article III, neither Party shall be entitled to claim the benefit of those advantages relating to matters concerning passports and visas which the other Party has accorded or may hereafter accord to nationals of any third country by virtue of special agreements on a basis of reciprocity.
3. The provisions of Article I, Article II and paragraph 1 of Article III shall not apply to the advantages which are accorded or may hereafter be accorded by El Salvador to the countries of the Isthmus of Central America, namely Costa Rica, Guatemala, Honduras, Nicaragua and Panama.
4. With reference to paragraph 2 of Article III, 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 Agreement shall be construed so as to grant any right or impose any obligation in respect of copyright.
6. The provisions of Article IV shall apply to the property taken in the territory of either Party in which nationals and companies of the other Party have interests.
7. Nothing in the Agreement shall affect the rights and obligations which either Party has or may have as a contracting party to the General Agreement on Tariffs and Trade. (2)
8. Nothing in the Agreement shall be construed so as to entitle the Republic of El Salvador 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; (3) 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.

(1) See p. 157 of this volume.

(2) See footnote 2, p. 125 of this volume.

(3) United Nations, Treaty Series, Vol. 136, p. 45.

In witness whereof the respective Plenipotentiaries have signed the present Protocol.

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

For Japan: Masayoshi Ohira

For the Republic of El Salvador: Salvador Jauregui

I. Tokyo, July 19, 1963

Excellency,

With reference to the Agreement on Commerce between the Republic of El Salvador and Japan signed today, (1) I have the honour to inform Your Excellency that any Japanese national whose professional title has been revalidated by the competent authorities of my country may exercise his profession in the Republic of El Salvador, with the exception of the cases where the Salvadorian nationality is required for the exercise of the said profession.

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

Salvador JAuregui

His Excellency Mr. Masayoshi Ohira Minister for Foreign Affairs of Japan

II. Tokyo, July 19, 1963

Excellency,

I have the honour to acknowledge receipt of Your Excellency's Note dated today concerning the exercise of professions by Japanese nationals in El Salvador.

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

Masayoshi Ohira

His Excellency Mr. Salvador Jauregui Minister of Economic Affairs of the Republic of El Salvador

(1) See p. 157 of this volume.