

TREATY OF AMITY AND COMMERCE BETWEEN JAPAN AND THE REPUBLIC OF INDONESIA

SIGNED AT TOKYO, ON 1 JULY 1961 (1)

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

Mindful of the existing amicable relationship and cooperation between both countries,

Desirous of consolidating and developing further cooperative efforts to establish the closest amity between both nations,
and

Desirous of facilitating and developing trade and commerce between the two countries on a mutually advantageous basis,

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

The Government of Japan:

Mr. Zentaro Kosaka, Minister for Foreign Affairs

The Government of the Republic of Indonesia:

Dr. Subandrio, Minister for Foreign Affairs

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

(1) Came into force on 8 March 1963, one month after the date of the exchange of the instruments of ratification which took place at Djakarta on 8 February 1963, in accordance with article XI (2).

Article I.

Nationals of either Party shall be permitted to enter the territory of the other Party in accordance with the provisions of the laws and regulations of such other Party and shall be accorded treatment no less favourable than that accorded to nationals of any third country with respect to all matters relating to their entry into, their sojourn, travel and residence within, and their departure from, the territory of such other Party.

Article II.

1. 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 pertaining to the levying of taxes, access to the courts, rights to property, participation in juridical entities, and generally the conduct of all kinds of business and professional activities.

2. 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 the mutual protection of revenue.

Article III.

1. Nationals of either Party, within the territory of the other Party, shall be accorded treatment no less favourable than that accorded to nationals of such other Party and of any third country with respect to the protection and security for their

persons.

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

(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 such other Party and of any third country with respect to all compulsory loans, military exactions, requisitions or compulsory billeting.

Article IV.

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 just compensation in accordance with the laws and regulations 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 any third country.

Article V.

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. 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.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, either Party may take such measures as are necessary to safeguard its external financial position and balance of payments.

Article VI.

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 VII.

The two Parties undertake to co-operate with a view to expanding trade for mutual benefits 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, taking into account the specific economic features and the programmes of economic development of each Party.

Article VIII.

Nothing in the present Treaty shall affect the rights and obligations that either Party has or may have as a contracting party to the General Agreement on Tariffs and Trade (1) or the Articles of Agreement of the International Monetary Fund (2) or any multilateral agreement amendatory or supplementary thereto, so long as both Parties are contracting parties to the relevant agreement or agreements.

(1) United Nations, Treaty Series, Vol. 55, p. 187; for subsequent actions relating to this Agreement, see references in Cumulative Indexes Nos. 1 to 4, as well as annex A in Volumes 402, 405, 411, 419, 421, 424, 425, 429, 431, 435, 438, 440, 441, 442, 444, 445, 449, 451, 452, 456, 460, 462, 463, 468, 471, 474, 475, 476, 478, 483, 489, 496 and 501.

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

Article IX.

The provisions of the present Treaty shall not be interpreted as precluding each Party from adopting or executing measures relating to:

- (a) the internal public security or national defense or the maintenance of international peace and security;
- (b) fissionable materials or the materials from which they are derived;
- (c) traffic in arms, ammunition and implements of war and such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;
- (d) the protection of public morals;
- (e) the protection of public health and the protection of animals and plants against diseases, harmful insects and parasites;
- (f) trade in gold or silver;
- (g) the protection of national treasures of artistic, historic or archaeological value; and
- (h) the fulfillment of obligations under any multilateral commodity agreement.

Article X.

The Government of each Party shall accord sympathetic consideration to representations made by the Government of 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 Government of the other Party adequate opportunity for consultation.

Article XI.

1. The present Treaty shall be ratified, and the instruments of ratification shall be exchanged at Djakarta as soon as possible.
2. The present Treaty shall enter into force one month after the day of the exchange of the instruments of ratification. It shall remain in force for three years and shall continue in force thereafter until terminated as provided for in paragraph 3 of this Article.
3. Either Party may, by giving six months' written notice to the other Party, terminate the present Treaty at the end of the initial three-year period or at any time thereafter.

Article XII.

The present Treaty shall be in the Japanese, Indonesian and English languages. In case of any divergence of interpretation, the English text shall prevail.

In witness whereof the respective Plenipotentiaries have signed the present Treaty and have affixed thereunto their seals.

Done in duplicate at Tokyo, this first day of July, one thousand nine hundred and sixty-one.

For Japan:

Zentaro Kosaka For the Republic of Indonesia: SOEBANDRIO

PROTOCOL

At the time of signing the Treaty (1) of Amity and Commerce between Japan and the Republic of Indonesia (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 I, it is understood that 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.

2. Nothing in Article I shall be construed so as to entitle Japan to claim the benefit of those advantages traditionally accorded by the Republic of Indonesia to the citizens of the State of Singapore.

3. 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.

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

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

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. The provisions of paragraph 1 of Article V are not concerned with rules regarding currencies as such and therefore do not preclude differential treatment of different currencies. They are only concerned with the rights of nationals and companies under whatever foreign exchange regulations may be in force and are only designed to preclude discriminations against nationals and companies on a nationality basis in the application of the foreign exchange regulations.

8. The provisions of the Treaty according treatment no less favourable than that accorded to any third country shall not apply to:

(a) advantages accorded by either Party to adjacent countries in order to facilitate frontier traffic;

(b) advantages similar to those referred to in paragraph (a) accorded by the Republic of Indonesia to the Federation of Malaya, the Republic of the Philippines and the State of Singapore; and

(c) advantages accorded by either Party by virtue of a customs union or free trade-area of which it may become a member. 9

9. Nothing in the Treaty shall be construed so as to entitle the Republic of Indonesia 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, (1) or (b) the native inhabitants and vessels of, and trade with, any area set forth in Article 3 of the said Treaty of Peace, so long as the situation set forth in the second sentence of the said Article continues with respect to the administration, legislation and jurisdiction over such area.

(1) See p. 125 of this volume.

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

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

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

For Japan:

Zentaro Kosaka

For the Republic of Indonesia: Soebandrio

1 United Nations, Treaty Series, Vol. 136, p. 45.

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EXCHANGE OF NOTES

I

Your Excellency:

On the occasion of signing the Treaty of Amity and Commerce between the Republic of Indonesia and Japan, I have the honour to inform Your Excellency, on behalf of the Government of the Republic of Indonesia, the following understandings which have been reached between the two Governments during the course of the negotiation of the Treaty:

1. The Japanese Government takes note of the strong desire of the Government of the Republic of Indonesia to increase exports to Japan, both in volume and variety, to more expanded and flourishing levels. It is the mutual desire and expectation of both Governments that trade between the two countries will be maintained and expanded at the highest possible level on a mutually beneficial basis.
2. Both Governments are of the view that closer cooperation is necessary to promote and expand trade between the two countries in line with the general increase in their trade.
3. Recognizing the importance attached by the Government of the Republic of Indonesia to the exports of her primary products, especially smallholders rubber and bauxite to Japan, both Governments agree to consult each other immediately in order to explore all possible ways and means to increase the export of these products to Japan.
4. Both Governments agree to exchange economic missions for the purpose of exploring the possibility of increasing exports of Indonesian products to Japan, and of finding effective ways for implementing those possibilities.
5. In considering the obstacles and uncertainties in international commodity trade which confront primary exporting countries and the effects of these difficulties upon their economic stability, both Governments agree that there is an urgent need to find means of producing a greater degree of stability and predictability in international trade in primary products. Both Governments will, therefore, give sympathetic consideration to international action designed to improve the conditions of international trade in primary products of direct interest to either country.

I have further the honour to request Your Excellency to be good enough to confirm the foregoing understandings on behalf of the Government of Japan.

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

SOEBANDRIO

His Excellency Zentaro Kosaka

Minister for Foreign Affairs of Japan.

II

Excellency,

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

[See note]

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

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration,

Zentaro Kosaka

His Excellency Subandrio Minister for Foreign Affairs

Of the Republic of Indonesia

III

Your Excellency:

On the occasion of signing the Treaty of Amity and Commerce between the Republic of Indonesia and Japan, I have the honour to inform Your Excellency, on behalf of the Government of the Republic of Indonesia, the following understandings which have been reached between the two Governments during the course of the negotiation of the Treaty:

1. Both Governments recognize the importance of shipping for the expansion of mutual trade and the improvement of standards of living of the peoples of the two countries. Therefore they will cooperate for mutual benefits for the promotion and expansion of the shipping traffic between the two countries.
2. The Japanese Government will endeavour to accord opportunities to the Indonesian Government to send trainees to Japan to obtain training and education for maritime technology and administration.
3. Both Governments will enter into consultation, at the request of either Government, on any problems relating to shipping between the two countries.

I have further the honour to request Your Excellency to be good enough to confirm the foregoing understandings on behalf of the Government of Japan.

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

SOEBANDRIO

His Excellency Zentaro Kosaka

Minister for Foreign Affairs of Japan

IV

Excellency,

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

[See note III]

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

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

Zentaro Kosaka

His Excellency Subandrio Minister for Foreign Affairs

Of the Republic of Indonesia

V

Your Excellency:

With reference to the Treaty of Amity and Commerce between the Republic of Indonesia and Japan signed today, I have the honour to inform Your Excellency, on behalf of the Government of the Republic of Indonesia, the following understandings which have been reached between the two Governments regarding the implementation of the Treaty:

1. The Government of each Party undertakes to make all efforts within its power to ensure that both private and government owned enterprises within its territory shall in their business activities be guided by the principles of fairness and non-discrimination, and by generally accepted commercial considerations.
2. With reference to Article V, paragraph 2, it is confirmed that import restrictions or prohibitions that may be applied thereunder include those applied, for the purpose of protecting domestic producers, to any manufactured goods as such, without reference to source.
3. With reference to paragraph 3 of the Protocol, it is confirmed that state trading enterprises of either Party will be regarded as companies as defined in the said paragraph.

I have further the honour to request Your Excellency to be good enough to confirm the foregoing understandings on behalf of the Government of Japan.

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

SOEBANDRIO

His Excellency Zentaro Kosaka

Minister for Foreign Affairs of Japan

VI

Your Excellency:

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

[See note V]

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

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

Zentaro Kosaka

His Excellency Subandrio Minister for Foreign Affairs

Of the Republic of Indonesia

VII

Your Excellency:

On the occasion of signing the Treaty of Amity and Commerce between the Republic of Indonesia and Japan, I have the honour to inform Your Excellency, on behalf of the Government of the Republic of Indonesia, the following understandings which have been reached between the two Governments during the course of the negotiation of the Treaty:

Both Governments agree to establish a Joint Commission which will meet at least once a year or at any time at the request of either Government, either in Djakarta or Tokyo as may be agreed upon, for the purpose of reviewing problems which may arise in the implementation of the Treaty and accompanying Exchanges of Notes, and proposing to both Governments measures for their approval concerning the expansion of trade and the intensification and broadening of the scope of economic cooperation between the two countries.

I have further the honour to request Your Excellency to be good enough to confirm the foregoing understandings on behalf of the Government of Japan.

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

SOEBANDRIO

His Excellency Zentaro Kosaka

Minister for Foreign Affairs of Japan

VIII

Excellency,

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

[See note VII]

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

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

Zentaro Kosaka

His Excellency Subandrio Minister for Foreign Affairs

Of the Republic of Indonesia