

AGREEMENT ON COMMERCE BETWEEN INDIA AND JAPAN

The Government of India and the Government of Japan,

Being desirous of facilitating and developing commerce between their respective countries,

Have agreed as follows:

Article I.

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 the rules and formalities in connection with importation and exportation, and with respect to the application of 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.

2. The provisions of paragraph 1 of this Article shall not entitle Japan to claim the benefit of preferences or advantages accorded by India to Commonwealth countries or of advantages accorded by India to adjacent countries in order to facilitate frontier traffic.

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 directly or indirectly between the territories of the two Parties in accordance with the laws and regulations of the other Party in force from time to time.

2. No prohibitions or restrictions shall be applied by either Party on the importation of any product of the other Party, or on the exportation of any product destined for the territory of such other Party, unless the importation of the like product of all third countries or the exportation of the like product to all third countries is similarly prohibited or restricted.

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 III.

1. Nationals of either Party shall be permitted to enter, sojourn, travel or reside in the territory of the other Party, provided that the enjoyment of the above rights shall be subject to the laws and regulations of such other Party which are generally applicable to all foreigners alike.

2. Nationals and companies of either Party, within the territory of the other Party, shall be accorded most-favoured-nation treatment with respect to all matters pertaining to the levying of taxes, access to the courts, the making and performance of contracts, rights to property (tangible and intangible), participation in juridical entities, and generally the conduct of all kinds of business and professional activities.

Notwithstanding the above provisions, each Party reserves the right to accord special tax advantage on a basis of reciprocity or by virtue of agreements for the avoidance of double taxation or the mutual protection of revenue.

Article IV.

The two Parties undertake to cooperate for mutual benefit with a view to expanding trade and to strengthening economic relations between the two countries, and to furthering the interchange and use of scientific and technical knowledge, particularly in the interest of economic development and of the improvement of standards of living within their respective territories.

Article V.

1. Each Party undertakes that if it establishes or maintains a state enterprise, wherever located, or grants to any enterprise or agency, formally or in effect, exclusive or special privileges, such enterprise or agency shall not, in its purchases or sales involving either imports or exports, act in a manner as will nullify or impairs any benefits accruing to the other under the Agreement. To this end, subject to the provisions of Article II such enterprise or agency shall make any purchases or sales solely in accordance with commercial considerations including price, quality, availability, marketability 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.

2. The provisions of paragraph 1 of this Article shall not apply to imports of products for immediate or ultimate consumption in governmental use and not otherwise for re-sale or use in the production of goods for sale. With respect to such imports each Party shall accord to the trade of the other Party fair and equitable treatment.

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 most-favoured-nation treatment within the ports, places and waters of such other Party.

2. Merchant vessels of either Party shall be accorded most-favoured-nation treatment by the other Party 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 duties and all other fees and charges to bounties, drawbacks and other privileges of this nature, as well as to the administration of the customs.

3. Each Party may reserve to its own vessels the right to engage in the coasting trade, provided that such restriction shall be applied to vessels of any third country.

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.

(1) 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 cleared, within a reasonable period, from customs custody for domestic consumption.

(2) 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.

Article VII.

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 Agreement and shall afford to the Government of the other Party adequate opportunity for consultation.

Article VIII.

1. The Agreement shall be ratified and shall enter into force on the date of the exchange of instruments of ratification which shall take place as soon as possible at New Delhi.

2. The Agreement shall remain in force for a period of two years from its entry into force and shall continue in force thereafter provided that it shall be terminated on the date of expiry of the above-mentioned two year period or thereafter if

the Government or either Party has previously given to the other at least three months written notice of its intention to terminate the Agreement.

In witness WHEREOF the representatives of the two Governments, duly authorized for the purpose, have signed the Agreement.

Done at Tokyo, this fourth day of February, 1958, in duplicate in the English language.

For the Government of India:

Sd./- Chandra Shekhar Jha.

For the Government of Japan:

Sd./- Aiichiro Fujiyama.

Protocol

At the time of signing the Agreement on Commerce between India and Japan, the undersigned representatives duly authorised by their respective Governments, have agreed on the following provisos, which shall be considered integral parts of the aforesaid Agreement:

1. The most-favoured-nation treatment provisions of the said Agreement shall not apply with respect to 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 to (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.
2. With reference to Article III, the most-favoured-nation treatment with respect to the enjoyment of rights on immovable property shall be accorded on a basis of reciprocity.
3. With reference to the first sentence of paragraph 3 of Article VI, vessels of Pakistan, in respect of which special arrangements subsist between India and Pakistan, shall be deemed to be excluded from the scope of the restriction mentioned therein.

Done in duplicate in the English language, at Tokyo, on February 4, 1958.

For the Government of India:

Sd./- Chandra Shekhar Jha.

For the Government of Japan:

Sd./- Aiichiro Fujiyama.

AGREED MINUTES OF THE AGREEMENT ON COMMERCE BETWEEN INDIA AND JAPAN PERTAINING TO PARAGRAPH 2, ARTICLE I.

With reference to the advantages accorded by India to adjacent countries mentioned in paragraph 2, Article I, it is explained by the Indian Delegation, and the explanation is accepted by the Japanese Delegation, that these advantages are somewhat larger than would be covered by a strict interpretation of the phrase "frontier traffic".

Sd./- K.B. Lall, Sd./- N. Ushiba.

Joint Secy, to the Govt of India, Director Economic Affairs Bureau Leader, Indian Delegation, Ministry of Foreign Affairs,
Tokyo Tokyo.

Tokyo, February 4, 1958

Dear Mr. Lall,

With reference to the Agreement on Commerce between Japan and India signed today, I wish to state that, in conformity with the provisions of Article IV thereof, the two Delegations reaffirmed their desire to expand the trade between the two countries to the maximum extent practicable in respect of various commodities some of which are mentioned in Schedules A and B appended hereto,

I shall be grateful if you are good enough to confirm that this letter correctly sets out the understanding reached between us.

Yours sincerely, Sd./-N. Ushiba,

Director, Economic Affairs Bureau, Ministry of Foreign Affairs, Tokyo.

Mr. K.B. Lall,

Joint Secy, to the Government of India, Leader, Indian Delegation, Tokyo.

Japan

Trade 4 Feb. 1958

Schedule 'A'

EXPORTS FROM JAPAN

Textile and fibre products

(for example, artificial fibre yarn, artificial fibre fabrics, raw silk, etc.).

Iron and steel and other metals.

(for example, galvanized steel plate and sheets, other iron and steel mill products, aluminium rolled products, copper alloy rolled products, insulated electric wire, etc.).

Capital goods and machinery.

(for example, electrical machinery, ships, railway cars and parts, industrial machinery, etc.). Chemicals and dyes.

(for example, drugs and medicines, ammonium sulphate and urea, dyestuffs, caustic soda, cement, vegetable wax, camphor, menthol crystal, peppermint oil, etc.).

Wood and paper products.

(for example, veneer and plywood, newsprint, etc.).

Schedule 'B'

EXPORTS FROM INDIA

Agricultural products.

(for example, spices, palmyrah fibre, tea, tobacco, coffee beans, gums and resins, molasses, sugar, etc.).

Agricultural raw materials.

(for example, raw cotton, cotton waste, etc.).

Animal products.

(for example, hides and skins, animal casings, bones, etc.).

Industrial raw materials

(for example tanning materials, iron and steel scrap, etc.).

Minerals.

(for example, iron ore, manganese ore, salt, mica, coal, etc.).

Miscellaneous commodities.

(for example, coir yarn, sandalwood oil, lac and shellac, mangesite, opium, curry powder, etc.).

10 INDIA Bilateral Treaties and Agreements, Volume 3

Joint Secretary to the Government of India, C/o. Embassy of India in Japan,
Tokyo.

Tokyo, February 4, 1958

Dear Mr. Ushiba,

I wish to acknowledge receipt of your letter of today's date which reads as follows:

(Not reproduced)

The Schedules A and B appended to the letter reproduced above are hereto attached.

I wish to confirm that the above correctly sets out the understanding reached between us.

Yours sincerely,

Sd./- K.B. Lall,

Joint Secretary to the Government of India, Leader, Indian Delegation,
Tokyo.

Mr. N. Ushiba,

Director,

Economic Affairs Bureau,

Ministry of Foreign Affairs,

Tokyo.