

N° 1736.

ALLEMAGNE ET JAPON

Traité de commerce et de navigation,
avec protocole final, signés à
Tokio, le 20 juillet 1927, et
échange de notes de la même date.

GERMANY AND JAPAN

Treaty of Commerce and Navigation
with Final Protocol, signed at
Tokio, July 20, 1927, and Ex-
change of Notes of the same
Date.

¹ TRADUCTION. — TRANSLATION.

No. 1736. — TREATY OF COMMERCE AND NAVIGATION BETWEEN GERMANY AND JAPAN. SIGNED AT TOKIO, JULY 20, 1927.

HIS MAJESTY THE EMPEROR OF JAPAN and THE PRESIDENT OF THE GERMAN REICH, being equally desirous of strengthening the bonds of amity which happily exist between the two countries, and being convinced that the clear and definite formulation, on a basis of mutual interest, of the provisions which shall henceforth govern the commercial relations between their two countries will contribute to a realisation of this high purpose, have resolved to conclude to this end a Treaty of Commerce and Navigation and have appointed as their Plenipotentiaries :

HIS MAJESTY THE EMPEROR OF JAPAN :

His Excellency General Baron Giichi TANAKA, Junii, Grand Cordon of the Imperial Order of the Rising Sun, His Minister for Foreign Affairs ; and

THE PRESIDENT OF THE GERMAN REICH :

His Excellency Dr. Wilhelm SOLF, Ambassador Extraordinary and Plenipotentiary of Germany ;

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

Article I.

The nationals of each of the High Contracting Parties shall have full liberty to enter the territories of the other Party and to sojourn anywhere therein.

Subject to compliance with the laws of the country, they shall enjoy the rights specified below :

(1) They shall be placed in all respects on the same footing as nationals of the most favoured nation in regard to residence, educational studies and research, the exercise of their callings and professions and the pursuit of their business and manufacturing enterprises ;

(2) They shall, like the nationals of the country, be entitled to travel throughout the territories of the other Party and to trade in all kinds of merchandise of lawful commerce ;

(3) They may own or rent and occupy houses, factories, warehouses, shops and premises appertaining thereto. Similarly, they may take on lease land for residential, commercial, industrial, manufacturing or other lawful purposes ;

(4) They shall enjoy the same privileges, immunities and rights as nationals of the country or nationals of the most favoured nation in regard to the possession and the transfer, by bequest or otherwise, of movable property of all kinds which they may lawfully acquire *inter vivos*, and in regard to the disposal in any manner whatsoever of all kinds of property which they have lawfully acquired ;

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.

(5) They may acquire and possess all kinds of immovable property on the same footing as nationals of the most favoured nation. Nevertheless, they shall be subject to the condition of reciprocity if such is demanded by the laws of the country or by special arrangements ;

(6) They shall be exempt from all compulsory military service, whether in the army, navy or air forces or in the national guard or militia, and similarly from all taxes imposed in lieu of personal service and from all forced loans. They may not be subjected to military requisitions or contributions, of any description whatsoever, except under the same conditions and on the same footing as nationals of the country or nationals of the most favoured nation.

(7) They shall enjoy the same treatment and the same protection as nationals of the country or nationals of the most favoured nation both for their persons and for their property, rights and interests, in regard to taxes, imposts and similar charges.

(8) They shall receive full protection for their persons and their property ; they shall, like nationals of the country, have free access to the courts of justice and to other competent authorities both in pursuit and defence of their rights.

Article II.

The dwellings, warehouses, factories and shops of nationals of either of the High Contracting Parties in the territories of the other, and likewise all premises appertaining thereto, shall be respected. It shall not be permissible to make domiciliary visits or searches or to examine or inspect books, papers or accounts, except under the conditions and within the forms prescribed by the laws for nationals of the country.

Article III.

Either of the High Contracting Parties may appoint consuls-général, consuls, vice-consuls and consular agents in all ports, cities and places of the other except in places where the admission of such consular officials would be undesirable. This restriction, however, shall not be imposed upon either of the High Contracting Parties unless it is likewise imposed upon all other Powers.

Consuls-general, consuls, vice-consuls and consular agents may exercise their official functions in the country to which they are appointed so soon as they shall have obtained their exequatur or other necessary authorisation. Each of the High Contracting Parties reserves its right to withdraw the exequatur or other authorisation at its own discretion after stating its reasons for so doing.

Consular officials of each of the High Contracting Parties shall enjoy within the territories of the other Party, subject to reciprocity, the same rights, privileges and exemptions as are or may hereafter be accorded to consular officials of the most favoured nation.

Article IV.

There shall be reciprocal freedom of commerce and navigation between the territories of the two Contracting Parties.

The nationals of either High Contracting Party shall have full liberty to come with their vessels and cargoes to the ports, rivers, canals and all places in the territories of the other Party, which are or may hereafter be open to foreign trade; they shall enjoy the same rights, favours, privileges, immunities and exemptions in regard to commerce and navigation as are enjoyed or may hereafter be enjoyed by the nationals of the country or by nationals of the most favoured nation ; they shall, however, be bound at all times to satisfy and observe the laws of the country to which they have come.

Article V.

Products of the soil and industry of either of the High Contracting Parties, from whatever place arriving, shall, on import into the territories of the other Party, be subject to import duties at the lowest rate applicable to like products of any other foreign origin.

Article VI.

Neither of the High Contracting Parties shall impose on any article exported to the territories of the other Party duties or charges of any kind other or higher than those which are or may hereafter be imposed on the like articles when exported to any other foreign country.

Article VII.

With regard to certificates of origin the High Contracting Parties undertake to observe the provisions of Article XI of the International Convention relating to the Simplification of Customs Formalities signed at Geneva on November 3, 1923.

Article VIII.

No prohibition or restriction shall be maintained or imposed by either of the High Contracting Parties on the import, from whatever place arriving, of a product of the soil or industry of the other Party, which shall not equally extend to like products of any other country.

Similarly, no prohibition or restriction shall be maintained or imposed by either of the High Contracting Parties on any product to the territories of the other Party which shall not equally apply to like products when exported to any other country.

Exceptions may, however, be made in the following cases, provided that they apply to all countries in which the same conditions prevail :

- (1) For reasons of public safety ;
- (2) For reasons of public health, and to ensure the protection of useful animals and plants against diseases and parasites.

Article IX.

The High Contracting Parties undertake not to hamper their reciprocal commercial relations by any transit prohibition.

Exceptions may, however, be made in the following cases, provided that they apply to all other countries, or at least to all countries in which the same conditions prevail :

- (1) For reasons of public safety.
- (2) For reasons of public health, and to ensure the protection of useful animals and plants against diseases and parasites.
- (3) In respect of war material in exceptional circumstances.

Goods in transit shall not be subject to any special duties or taxes by reason of such transit, whether they pass direct or have to be trans-shipped, unloaded, warehoused, re-packed or re-loaded during transit.

Each of the High Contracting Parties shall be entitled to take any necessary precautions in order to satisfy itself that the goods are actually in transit.

Article X.

Internal duties levied on the production, manufacture or consumption of articles within the territories of one of the High Contracting Parties, no matter on whose behalf or on whose account, shall not for any reason be other or higher for products coming from the territories of the other Party than for like products of national origin.

Article XI.

Merchants and business men, who prove by producing an identity card for commercial travellers issued by the competent authorities of one of the High Contracting Parties, that they are authorised to carry on their trade or business in the territories of the said Party may make purchases or solicit orders, on sample or otherwise in the territories of the other Party, either in person or through commercial travellers. The aforesaid merchants, business men and their commercial travellers, when thus making purchases or soliciting orders shall enjoy most-favoured-nation treatment with respect to taxation and facilities for carrying on their trade.

The High Contracting Parties shall notify each other of the authorities responsible for issuing the identity cards.

Article XII.

In regard to samples and models the High Contracting Parties undertake to apply the provisions of Article X of the International Convention relating to the Simplification of Customs Formalities signed at Geneva on November 3, 1923.

It is, however, understood that the time-limit for re-export provided for in paragraph 5 of the said Article shall be fixed at twelve months.

Article XIII.

Limited liability and other companies and commercial, industrial or financial associations, including insurance companies, domiciled in the territories of one of the High Contracting Parties and legally constituted in accordance with the laws in force therein, shall be recognised as being legally constituted in the territories of the other Party, and shall be authorised to appear in its Courts, either as plaintiffs or defendants, subject to the laws of such other Party.

Their admission to the exercise of their trade or business, and to the acquisition of property in the territories of the other Party, shall be governed by the regulations in force therein. In all cases the said companies, associations and firms shall enjoy in such territories the same rights as those which are or may hereafter be granted to similar companies, associations and firms of the most favoured nation.

The provisions of Article I, No. 6, shall, in so far as they affect juridical persons, apply equally to companies, associations and firms.

The said companies, associations and firms shall be treated on the same footing, with regard to the taxes, imposts and charges referred to in Article I, No. 7, as the corresponding taxpayers of the other Party or of the most favoured nation.

Article XIV.

All articles which are, or may hereafter be lawfully imported into the ports of either High Contracting Party by national vessels may similarly be imported into the said ports by vessels of the other Contracting Party without being subject to any duties or charges of any kind other or higher than those to which the said articles would have been subject had they been imported

by national vessels. This reciprocal equality of treatment shall be applied no matter whether the said articles come direct from the place of origin or from any other foreign country.

There shall likewise be absolute equality of treatment with regard to exports, so that the same export duties shall be paid, and the same bounties and drawbacks granted in the territories of each of the High Contracting Parties on the export of any article whatsoever which may now or henceforth be lawfully exported therefrom, no matter whether such exportation be effected by Japanese or by German vessels, or whether the destination be a port of the other Party or a port of any third Power.

Article XV.

In all matters which concern the berthing, loading and unloading of vessels in the territorial waters of the High Contracting Parties, and the various formalities and regulations to which merchant vessels and their crews and cargoes may be subjected, neither of the High Contracting Parties shall grant to its national vessels any privilege or facility which shall not be likewise granted in similar cases to the vessels of the other Party, it being the desire of the High Contracting Parties that their respective vessels shall be treated on a footing of absolute equality in this matter.

Article XVI.

Vessels sailing under the flag of one of the High Contracting Parties and carrying on board the documents required by the laws of the country whose flag they fly, shall be legally recognised within the territorial waters of the other Party as having the nationality of the said country.

Article XVII.

No tonnage, transit, canal, port, pilotage, lighthouse, quarantine or other similar duties, or charges of any denomination whatsoever, levied in the name of and on account of the Government, public officials, private persons, and any corporations or establishments whatsoever, shall be imposed within the territorial waters of either country on vessels of the other country, unless such charges are likewise imposed under the same conditions on national vessels or vessels of the most favoured nation. This equality of treatment shall be applied reciprocally to the respective vessels from whatever place they come, and whatever may be their destination.

Article XVIII.

Vessels engaged in a regular mail service of either High Contracting Party shall enjoy within the territorial waters of the other the same facilities, privileges and immunities as are or may hereafter be accorded to similar vessels of the most favoured nation.

Article XIX.

The coasting traffic, which shall continue to be governed by the laws of each of the High Contracting Parties, shall constitute an exception to the provisions of the present Treaty. It is, however, understood that either Party may, in this connection, claim for its vessels the same rights and privileges as are or may hereafter be granted by the other Party to vessels of any other country, provided that it grants the same rights and privileges to vessels of the last-named Party.

The following shall not be regarded as coasting traffic :

- (1) Voyages of vessels proceeding from one port to another, either in order to disembark passengers therein or to unload all or part of their cargo transported from

abroad, or in order to embark passengers therein, or to take in all or part of their cargo consigned to a foreign country ;

(2) The conveyance from one port to the other of passengers furnished with through tickets, or of goods consigned on through bills of lading issued in or destined for a foreign country.

Article XX.

In the case of shipwreck, damage at sea, or the forced putting-in of a vessel, each of the High Contracting Parties shall accord to vessels of the other Party, whether belonging to the State or individuals, the same assistance and protection and the same immunities as are accorded under similar circumstances to national vessels. Articles salvaged from these wrecked or damaged vessels shall be exempt from all Customs duties unless they are placed upon the market of the country, in which case they shall be liable to the prescribed duties.

The local authorities shall as soon as possible notify such shipwreck or damage to the nearest consul of the State under whose flag the vessel was sailing. The consuls of the High Contracting Parties are authorised to give the necessary assistance to their nationals.

Article XXI.

Consuls-general, consuls, vice-consuls and consular agents shall alone be responsible for the maintenance of order on board merchant ships of their own country ; they shall alone be competent to deal with disputes which may arise between masters, ships' officers and crew, particularly in matters relating to pay and the execution of contracts.

The local authorities may intervene when disturbances occur on board which, in their opinion, are of a nature to endanger the public peace or order in the port or on land, or where a person not belonging to the crew is involved.

Consuls-general, consuls, vice-consuls and consular agents may, save in the cases mentioned in the preceding paragraph, ask the local authorities for help and assistance in arresting and conducting on board members of the crews of merchant vessels of their own country, provided that these persons are not nationals of the country.

Consuls-general, consuls, vice-consuls and consular agents may request the local authorities to detain in custody arrested members of the crews of merchant vessels of their country.

The costs of arrest and detention in custody shall be borne by the consular officials making the request.

Article XXII.

Except as otherwise expressly provided in this Treaty, the High Contracting Parties agree that any privileges, favours or immunities which either of the High Contracting Parties may have granted or may hereafter grant to vessels or nationals of any other State in connection with commerce, navigation and industry, shall immediately, unconditionally and without compensation be extended to the vessels or nationals of the other Party, it being their intention that, save in the aforementioned exceptional cases, the commerce, navigation and industry of the respective Parties shall be placed in all respects on the footing of the most favoured nation.

Article XXIII.

Most-favoured-nation treatment, where stipulated in the present Treaty, shall not apply to advantages :

(1) That either of the High Contracting Parties grants or may hereafter grant to contiguous States in order to facilitate local frontier traffic ;

(2) That either of the High Contracting Parties grants or may grant hereafter to its national fisheries and to fisheries which enjoy the same status as national fisheries ;

(3) That either of the High Contracting Parties grants or may hereafter grant to a third State in virtue of agreements, already concluded or to be concluded, for the adjustment of internal and external taxes, and particularly for the avoidance of double taxation, and for mutual administrative or judicial assistance, particularly in fiscal matters and in offences against the fiscal laws.

Article XXIV.

The provisions of the present Treaty shall apply to all territories and possessions belonging to, or under the administration of, either of the High Contracting Parties.

Article XXV.

The present Treaty is drawn up in Japanese, German and French. In case of any difference as to interpretation, the French text shall be authentic.

Article XXVI.

The present Treaty shall remain in force for three years as from the date of its coming into force.

Should neither of the High Contracting Parties have notified the other Party of its intention to denounce the Treaty six months prior to the expiry of this time-limit, the Treaty shall continue in force until the expiry of six months as from the date of its denunciation by either of the High Contracting Parties.

Article XXVII.

The present Treaty shall be ratified.

Ratification by each of the High Contracting Parties shall be notified with the utmost despatch to the Government of the other Contracting Party. The present Treaty shall come into force on the fifteenth day after the date on which the last notification of ratification was made.

The instruments of ratification shall be exchanged at Tokio as soon as possible.

In faith whereof the respective Plenipotentiaries have signed the present Treaty and have thereto affixed the seals bearing their arms.

Done at Tokio in duplicate, July the twentieth, one thousand nine hundred and twenty-seven.

(L. S.) Giichi TANAKA.

(L. S.) Wilhelm SOLF.

FINAL PROTOCOL.

When proceeding to sign the Treaty of Commerce and Navigation between Japan and Germany, the undersigned Plenipotentiaries have communicated to each other the following reservations and declarations, which shall form an integral part of the Treaty itself :

(1) The provisions of Article I shall not affect the statutory regulations relating to passports.

(2) The provisions of Article I, No. 7, of the present Treaty relating to imposts, taxes or similar charges payable by nationals of the High Contracting Parties shall be interpreted as including imposts, taxes or similar charges levied in the name, or on account, not only of the Government of the Reich and the Governments of the German States (*Länder*), but also of provinces, communes (*Gemeinden, Gemeindeverbände*) and other public corporations and institutions entitled to collect taxes.

(3) It is understood that the negotiations now proceeding for supplementing the present Treaty by a tariff convention shall be concluded as soon as possible.

It is agreed, in any case, that, among the products of the soil and industry of Japan, soya bean oil (No. 166 of the German tariff), irrespective of the place from which it comes, shall not be subject, during the validity of the Treaty, to a tariff higher than 2.50 Reichsmarks per 100 kilogrammes on import into Germany.

(4) With regard to the provisions of Article VIII, it is agreed that in the event of either of the High Contracting Parties introducing or enforcing new import or export prohibitions or restrictions likely to be gravely prejudicial to the commerce of the other Party, the latter Party may denounce the present Treaty within a period of one year as from such introduction or enforcement.

In that case, the Treaty shall cease to be binding six months after the denunciation.

(5) The provisions of the last paragraph of Article XIII shall not be considered as involving an exception to the application of the system of taxing juridical persons, as set forth in Article XXI of the Japanese Law, numbered 8 and dated March 27, 1926, concerning taxes on income, as set forth in the analogous provisions of German laws, so long as such exemptions are not granted to any third State.

(6) The provisions of Article XXIII, No. 2, shall be interpreted as referring to the advantages which are or may hereafter be accorded to the products of the national fisheries of the High Contracting Parties, or to special tariff favours conceded by Japan in respect of fish and other aquatic products obtained in the territorial waters of any third Power which is a neighbour of Japan.

Giichi TANAKA.

Wilhelm SOLF.

EXCHANGE OF NOTES.

YOUR EXCELLENCY,

TOKIO, July 20, 1927.

With reference to the understanding arrived at during the negotiations relating to the Treaty of Commerce and Navigation between Germany and Japan, I have the honour to request you to be good enough to assure me of the agreement of the Japanese Government with the German Government on the following point :

Should the arrangement discussed in the Notes exchanged on August 7, 1926, between the German Embassy at Tokio and the Japanese Ministry for Foreign Affairs cease to

have effect prior to the expiry of the Treaty of Commerce and Navigation, the provision of the Final Protocol concerning the reduction of the tariff for soya bean oil shall likewise cease to have effect.

I have the honor to be, etc.,

SOLF.

His Excellency Baron Giichi Tanaka,
Minister for Foreign Affairs,
Tokio.

TOKIO, *July 20, 1927.*

MONSIEUR L'AMBASSADEUR,

In your letter of July 20, 1927, concerning the understanding arrived at during the negotiations relating to the Treaty of Commerce and Navigation between Japan and Germany you requested me to assure you of the Japanese Government's agreement with the German Government on the following point :

Should the arrangement dealt with in the Notes exchanged on August 7, 1926, between the Japanese Ministry for Foreign Affairs and the German Embassy at Tokio cease to have effect prior to the expiry of the Treaty of Commerce and Navigation, the provision of the Final Protocol concerning the reduction of the tariff for soya bean oil shall likewise cease to have effect.

In reply to this request I have the honour to inform you that the Japanese Government is in agreement with the German Government on the aforementioned point.

I have the honour to be, etc.,

G. TANAKA.

His Excellency Dr. Wilhelm Solf,
German Ambassador,
Tokio.

TOKIO, *July 20, 1927.*

MONSIEUR L'AMBASSADEUR,

Before proceeding to sign the Treaty of Commerce and Navigation between Japan and Germany the Imperial Government would request the Government of the Reich to be good enough to declare its acceptance of the two following points :

It is agreed that, notwithstanding the provisions of Article V of the present Treaty, each of the Contracting Parties shall be entitled to introduce on its frontiers, save in its maritime ports, special Customs duties for exceptional reasons, of the kind referred to in paragraph 1 of Article VII and in accordance with the spirit of paragraph 2 of the same article of the Statute of Maritime Ports, adopted by the Second General Conference on Communications and Transit.

It is, moreover, understood that, in regard to the imposition of special Customs duties in accordance with the preceding paragraph, products of either Contracting Party shall be admitted by the other Party to the benefits of most-favoured-nation treatment.

I would be glad if you would assure me that the Government of the Reich is in agreement with the Japanese Government on this subject.

I have the honour to be, etc.,

G. TANAKA.

His Excellency Dr. Wilhelm Solf,
German Ambassador,
Tokio.

TOKIO, *July 20, 1927.*

YOUR EXCELLENCY,

You were good enough to inform me in your letter concerning the Treaty of Commerce and Navigation between Germany and Japan that the Imperial Government requested the Government of the Reich to declare its acceptance of the two following points :

It is agreed that, notwithstanding the provisions of Article V of the present Treaty, each of the Contracting Parties shall be entitled to introduce on its frontiers, save in its maritime ports, special Customs duties for exceptional reasons of the kind referred to in paragraph 1 of Article VII and in accordance with the spirit of paragraph 2 of the same Article of the Statute of Maritime Ports, adopted by the Second General Conference on Communications and Transit.

It is, moreover, understood that, in regard to the imposition of special Customs duties in accordance with the preceding paragraph, products of either Contracting Party shall be admitted by the other Party to the benefits of most-favoured-nation treatment.

I have the honour to assure you that the Government of the Reich is in agreement with the Imperial Government on the two aforementioned points.

I have the honour to be, etc.,

SOLF.

His Excellency Baron Giichi Tanaka,
Minister for Foreign Affairs,
Tokio.
