

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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## AUSTRALIA - JAPAN TRADE AGREEMENT

On 6 July the Governments of Australia and Japan concluded an Agreement on Commerce. A joint communiqué issued by the two Governments together with the text of the Agreement and extracts<sup>1</sup> from the Agreed Minutes are circulated herewith for the information of contracting parties in connexion with the item "Application of Article XXXV to Japan" which appears on the Provisional Agenda for the Twelfth Session.

### JOINT COMMUNIQUE

On 6 July an Agreement on Commerce between Japan and Australia was signed in Tokyo by the Minister for Foreign Affairs, Mr. Kishi and the Australian Minister for Trade, Mr. J. McEwen. The Agreement follows exploratory talks between the two Governments early in 1956 and preparatory negotiations in Canberra from November 1956. In the course of the discussions a comprehensive review was made of the trade relations between the two countries. The economic conditions in each country have been kept constantly in mind.

Both Governments felt that there were significant mutual advantages to be gained from stabilizing in an Agreement the basis of trade between the two countries. The basis of the Agreement is the exchange of most-favoured-nation rights in tariff matters and reciprocal assurances of non-discriminatory treatment in import control and exchange control matters.

Accordingly all Australian commodities for which there are export opportunities in Japan are assured of most-favoured-nation tariff treatment and non-discrimination in import and exchange controls. In view of the way the Japanese import system affects imports of certain commodities, the Japanese Government has indicated the specific treatment to be given certain major imports from Australia. The Japanese Government has also agreed not to vary the present duty-free entry for Australian wool for a three-year period.

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<sup>1</sup> The full text of the Agreed Minutes together with Notes exchanged by the two Governments are on file at the secretariat.

The Australian Government will henceforth admit Japanese goods at rates of customs duty no higher than those applying to goods imported into Australia from other foreign countries. Japanese exports to Australia will not be subject to any discrimination in import licensing. The Australian Government has also agreed to enter into discussions with the Japanese Government within three years (and in the light of the experience gained under this Agreement) with a view to exploring the possibility of applying the General Agreement on Tariffs and Trade between the two countries.

The Agreement provides opportunity for increased mutual trade. Specific arrangements have been made for consultation on a variety of matters and it is recognized that it is important that export trade from Japan to Australia be conducted in an orderly manner. The Agreement provides, however, that where necessary special action may be taken to prevent serious damage to domestic industry.

The Agreement may be terminated on or after 6 July 1960 subject to three months prior written notice. As it may be some time before formal ratification is effected it has been agreed that the Agreement will operate from 6 July 1957 on a provisional basis.

AGREEMENT ON COMMERCE BETWEEN  
THE COMMONWEALTH OF AUSTRALIA AND JAPAN

Article I

1. With respect to customs duties and charges of any kind imposed on or in connexion 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 all rules and formalities in connexion 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 connexion 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 the Government of either country 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 other country.

2. The provisions of paragraph 1 shall not entitle the Government of Japan to claim the benefit of any preference or advantage which may at any time be accorded by the Government of the Commonwealth of Australia to any member country of the Commonwealth of Nations including its dependent territories, or to the Republic of Ireland.

Article II

1. No prohibitions or restrictions, whether made effective through quotas, import or export licences or other measures, shall be instituted or maintained by the Government of either country on the importation of any product of the other country or on the exportation or sale for export of any product destined for the other country unless such prohibitions or restrictions are applied to all third countries.
2. In all matters relating to the allocation of foreign exchange affecting transactions involving the importation and exportation of goods, the Government of each country shall accord to the other country treatment no less favourable than it accords to any third country.
3. Notwithstanding the provisions of paragraphs 1 and 2 either Government may take such measures as are necessary to safeguard its external financial position and balance of payments.

Article III

1. With respect to trade between Australia and Japan.
  - (a) Each Government undertakes that if it establishes or maintains a State-trading enterprise, wherever located, or grants to any trading enterprise, formally or in effect, exclusive or special privileges, such trading enterprise shall, in its purchases or sales involving imports or exports, act in a manner consistent with the general principles of non-discriminatory treatment prescribed in this Agreement for governmental measures affecting imports or exports by private traders.
  - (b) The provisions of sub-paragraph (a) of this paragraph shall be understood to require that such trading enterprises shall, having due regard to the other provisions of this Agreement, make any such 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 trading enterprises of the other country adequate opportunity, in accordance with customary business practice, to compete for participation in such purchases or sales.
  - (c) Neither Government shall prevent any enterprise (whether or not an enterprise described in sub-paragraph (a) of this paragraph) under its jurisdiction from acting in accordance with the principles of sub-paragraphs (a) and (b) of this paragraph.
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, the Government of each country shall accord to the trade of the other country fair and equitable treatment.

Article IV

1. The provisions of this Agreement shall not be regarded as conferring any more favourable treatment on the trade of either country than the Government of the other country is entitled or obliged to accord to those countries in respect of which it applies the General Agreement on Tariffs and Trade. The two Governments shall, so far as practicable and as may be agreed between them from time to time, base their commercial relations upon the provisions of the General Agreement on Tariffs and Trade in respect of matters not covered by this Agreement.

2. The provisions of this Agreement or any action taken under the Agreement shall not affect the rights of either Government under Article XXXV of the General Agreement on Tariffs and Trade nor detract from the freedom of either Government in any negotiations for the application of the General Agreement on Tariffs and Trade between the two countries.

Article V

1. It is the expectation of both Governments that mutual trade will be increased as a result of this Agreement. It is further expected that this expansion of trade will be achieved without serious injury being caused or threatened to domestic producers in Australia or Japan. If, nevertheless, as a result of unforeseen developments, the Government of either country finds that any product is being imported from the other country under such conditions as to cause or threaten serious injury to producers in the country of importation of like or directly competitive products, that Government may, in respect of such product, **suspend** obligations under this Agreement to the extent and for such time as may be necessary to prevent or remedy such injury.

2. Before either Government takes action pursuant to the provisions of paragraph 1 of this Article, it shall give written notice to the other Government as far in advance as may be practicable and shall afford the other Government an opportunity to consult with it as fully as circumstances permit in respect of the proposed action.

3. In the event that either Government finds it necessary to take action under this Article which affects such a number of products or such a volume of trade that in the view of the other Government the achievement of the objectives of this Agreement is seriously impaired, the Government which considers its interests adversely affected may request consultations with the other Government on the situation which has developed including the action taken; and may after two months from the time of the action being taken, if no mutually satisfactory solution is reached or at an earlier date if it is agreed that no solution is likely to emerge seek a renegotiation of the terms of this Agreement. Such renegotiation shall be commenced as soon as practicable after a written request has been made. In the event that a satisfactory solution is not reached within two months after such renegotiation is requested, the Government which sought renegotiation may terminate the Agreement on two months' notice, notwithstanding the provisions of paragraph 2 of Article VII.

Article VI

1. Each Government shall accord sympathetic consideration to representations made by the other Government on matters arising out of the operation of this Agreement and shall afford to the other Government adequate opportunity for consultation.
2. Consultation shall in any event be held annually on the operation of this Agreement.

Article VII

1. This Agreement shall be ratified by each Government and shall enter into force on the date of the exchange of instruments of ratification.
2. This Agreement shall remain in force until 5 July 1960 and shall continue in force thereafter provided that it shall be terminated on that date or thereafter if either Government has previously given to the other Government 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 this Agreement.

Done in the English and Japanese languages, both equally authentic, this 6 July, 1957, at Hakone.

AGREED MINUTES

Part B

1. The Australian delegation pointed out that Australia had already bound against increase the rates of duty on a relatively large number of items to other countries which were of export interest to Japan and consequently by extending most-favoured-nation treatment to Japanese goods in the Australian tariff, Australia did in fact assure a stability of tariff treatment of Japanese goods that was of considerable importance. On the other hand, the principal items of export interest to Australia in the Japanese market were not subject in the Japanese tariff to binding against increased duties and consequently there was not a comparable assurance of stable tariff treatment being accorded to Australia by Japan. Moreover, the fact that many of the duties in the Australian tariff of export interest to Japan were already bound against increase meant that they could only be raised after considerable negotiation and compensatory payment in terms of the tariff to other countries. By contrast, Japan, as emphasized by recent reports from Tokyo, was in a position to vary materially the tariff conditions applying to major Australian exports to Japan. In order to meet these circumstances, an assurance was requested that Japan would maintain the present duty-free entry for wool. In this connexion, the Australian delegation emphasized that since wool accounted for such a high proportion of Australia's total exports to Japan, Australia attached considerable importance to continued duty-free entry for wool into Japan.

2. The Japanese delegation noted the benefits which Japan would receive in the Australian tariff. It also noted that under the Agreement Japanese goods were entitled to those reductions in most-favoured-nation rates of duty in the Australian tariff which were made effective in May, 1957, and that Japanese goods would similarly be accorded the benefits of any further reduction in most-favoured-nation rates of duty in the Australian tariff whether arising from trade negotiations with other countries or otherwise. The Japanese delegation stated that in view of the great importance attached to the question by the Australian Government, the Japanese Government would take no action to vary the present level of duty on wool imports from Australia for a period of three years after the date of signing of the Agreement.

3. The Japanese delegation added that in making the statement in paragraph 2, they had in mind that during the above-mentioned three years of the Agreement, the Australian Government would endeavour to move towards the application of the General Agreement on Tariffs and Trade between the two countries.

4. The Australian delegation in response said that the Australian Government had in mind entering into discussion with the Japanese Government at an appropriate time before the end of the above-mentioned three-year period of the Agreement (and in the light of experience gained under the Agreement) with a view to exploring the possibility and examining the basis of applying the General Agreement on Tariffs and Trade between the two countries.

5. The Australian delegation referred again to the importance attached to continued duty-free entry for wool into Japan and said that the Australian Government would need to be free to review the operation of the Agreement should there be an increase in the wool duty. It was agreed that in relation to the discussions referred to in paragraph 4, the present understanding on duty-free entry for wool into Japan would not be regarded by either country as a prior commitment by Japan affecting those discussions. Both Governments would be free to consider the tariff conditions under which the General Agreement on Tariffs and Trade might apply between the two countries.