

No. 3334

**CANADA
and
JAPAN**

Agreement on commerce (with exchange of notes and agreed official minute). Signed at Ottawa, on 31 March 1954

Official texts of the Agreement: English and Japanese.

Official text of the notes and the agreed official minute: English.

Registered by Canada on 30 April 1956.

**CANADA
et
JAPON**

Accord de commerce (avec échange de notes et mémorandum officiel d'accord). Signé à Ottawa, le 31 mars 1954

Textes officiels de l'Accord: anglais et japonais.

Texte officiel des notes et du mémorandum officiel d'accord: anglais.

Enregistré par le Canada le 30 avril 1956.

No. 3334. AGREEMENT¹ ON COMMERCE BETWEEN CANADA AND JAPAN. SIGNED AT OTTAWA, ON 31 MARCH 1954

The Government of Canada and the Government of Japan, desiring to strengthen the traditional bonds of friendship which unite the two countries and to facilitate further and to develop the commercial relations existing between Canada and Japan, have resolved to conclude an agreement which will regulate the commercial relations between Canada and Japan and have accordingly appointed their respective representatives for this purpose, who have agreed as follows :

Article I

1. Each Contracting Party shall accord to the other Contracting Party unconditional most-favoured-nation treatment in all matters 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, with respect to the rules and formalities connected with importation or exportation, and with respect to all internal taxes or other internal charges of any kind, and with respect to all laws, regulations and requirements affecting internal sale, offering for sale, purchase, distribution or use of imported goods within the territory of such Contracting Party.

2. Accordingly, products of either Contracting Party imported into the territory of the other Contracting Party shall not be subject, in regard to the matters referred to in paragraph 1 of this Article, to any duties, taxes or charges higher, or to any rules or formalities more burdensome, than those to which the like products of any third country are or may hereafter be subject.

3. Similarly, products exported from the territory of either Contracting Party and consigned to the territory of the other Contracting Party shall not be subject, in regard to the matters referred to in paragraph 1 of this Article, to any duties, taxes, or charges higher, or to any rules or formalities more

¹ Came into force on 7 June 1954 by the exchange of the instruments of ratification at Tokyo, in accordance with article VII.

burdensome, than those to which the like products when consigned to the territory of any third country are or may hereafter be subject.

4. Any advantage, favour, privilege or immunity which has been or may hereafter be granted by either Contracting Party in regard to the matters referred to in paragraph 1 of this Article to any product originating in any third country or consigned to the territory of any third country shall be accorded immediately and without compensation to the like product originating in or consigned to the territory of the other Contracting Party, respectively, and irrespective of the nationality of the carrier.

5. The provisions of this Article relating to most-favoured-nation treatment are not applicable to exclusive advantages accorded by Canada to members of the British Commonwealth of Nations, including their dependent territories, and to the Republic of Ireland.

Article II

Either Contracting Party shall accord to the products of the other Contracting Party, which have been in transit through the territory of any third country receiving most-favoured-nation treatment from the importing country, treatment no less favourable than that which would have been accorded to such products had they been transported from their place of origin to their destination without going through the territory of such third country. Either Contracting Party shall, however, be free to maintain its requirements of direct consignment existing on the date of the present Agreement in respect of any goods in regard to which such direct consignment has relation to the Contracting Party's prescribed method of valuation for duty purposes.

Article III

1. No prohibitions or restrictions shall be applied by either Contracting Party on the importation of any product of the other Contracting Party, or, except as provided in legislation affecting essential security interests, on the exportation of any product consigned to the territory of such other Contracting 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.

2. In all matters relating to the allocation of foreign exchange, and to the administration of foreign exchange restrictions, affecting transactions involving the importation and exportation of goods, each Contracting Party undertakes to accord to the other Contracting Party unconditional most-favoured-nation treatment.

3. Both Contracting Parties recognize that the existence of balance of payments difficulties in many countries, and the widespread inconvertibility of currencies, do not permit the immediate and full achievement of non-discriminatory application of trade and exchange restrictions affecting imports. Accordingly, notwithstanding the provisions of the present Agreement, either Contracting Party may, in the application of trade or exchange restrictions affecting imports for the purpose of safeguarding its external financial position and balance of payments, temporarily deviate from the provisions of paragraphs 1 and 2 of this Article, provided that :

- (a) its restrictions shall be applied in such a way as to avoid unnecessary damage to the commercial or economic interests of the other Contracting Party;
- (b) its restrictions shall not be applied in such a way as to result directly or indirectly in discrimination as between countries which are treated as part of the United States dollar area under its exchange control regulations, or as between countries whose currencies are or become convertible in the hands of persons who are treated as non-residents under the exchange control regulations of the countries concerned.

Article IV

1. Each Contracting Party undertakes that if it establishes or maintains a state enterprise wherever located, or grants to any enterprise, formally or in effect, exclusive or special privileges, such enterprise shall, in its purchases or sales involving either imports or exports, act in a manner consistent with the principles of non-discriminatory treatment provided for in the present Agreement. To this end, subject to the provisions of Article III, such enterprise 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 Contracting 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 resale or use in the production of goods for sale. With respect to such imports, each Contracting Party shall accord to the trade of the other Contracting Party fair and equitable treatment.

Article V

Each Contracting Party undertakes to conform in its trade and commerce to internationally accept fair practices, particularly in matters relating to trade marks, marks of origin and rights under patents, and to co-operate with the other Contracting Party with a view to preventing any practices which might prejudicially affect the commerce between the two countries.

Article VI

The Government of either Contracting Party shall give sympathetic consideration to any representations which the Government of the other Contracting Party may make in respect of the implementation of the present Agreement.

Article VII

1. The present Agreement shall be ratified by both Contracting Parties and shall enter into force on the date of the exchange of the instruments of ratification which shall take place in Tokyo.

2. The present Agreement shall continue in effect for a period of one year from its entry into force and thereafter until three months from the day on which either Contracting Party shall have given notice to the other Contracting Party of an intention of terminating the Agreement.

IN WITNESS WHEREOF the representatives of the two Governments, duly authorized for the purpose, have signed the present Agreement.

DONE at Ottawa this thirty-first day of March 1954, in duplicate in the English and Japanese languages, both equally authentic.

For Canada :
C. D. HOWE
L. B. PEARSON

For Japan :
Koto MATSUDAIRA

EXCHANGE OF NOTES

I

Ottawa, March 31, 1954

Your Excellency,

With reference to the Agreement on Commerce¹ between Japan and Canada signed today, I have the honour to inform Your Excellency that the most-favoured-nation provisions of the said Agreement shall not apply to advantages accorded or to be accorded hereafter by Japan to such areas as set forth in Article 3 of the Treaty of Peace with Japan signed at the city of San Francisco on September 8, 1951,² 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 those areas.

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

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

Koto MATSUDAIRA
Ambassador of Japan

The Honourable L. B. Pearson
Secretary of State for External Affairs
Ottawa

II

Ottawa, March 31, 1954

Your Excellency,

I have the honour to acknowledge receipt of Your Excellency's Note dated March 31, 1954 which reads as follows :

[See note I]

On behalf of the Government of Canada I have the honour to confirm the understanding stated in Your Excellency's Note with respect to the application of the Agreement on Commerce signed today to the areas specified in Article 3 of the treaty of Peace with Japan.

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

L. B. PEARSON
Secretary of State for External Affairs

His Excellency Koto Matsudaira
Ambassador of Japan
Ottawa

¹ See p. 338 of this volume.

² United Nations, *Treaty Series*, Vol. 136, p. 45; Vol. 163, p. 385; Vol. 184, p. 358, and Vol. 199, p.344.

III

Ottawa, March 31, 1954

Your Excellency,

On the occasion of signing the Agreement on Commerce between Canada and Japan, I have the honour to inform Your Excellency that the Government of Canada reserves the right to establish values for ordinary and special duty purposes in the following terms :

1. If, as a result of unforeseen developments and of the effect of the obligations incurred by Canada under the aforesaid Agreement, any product is being imported into its territory in such increased quantities and under such conditions as to cause or threaten serious injury to the domestic producers in its territory of like or directly competitive products, Canada will be free, in respect of such product, and to the extent and for such a time as may be necessary to prevent or remedy such injury, to establish values for ordinary and special duty purposes.

2. In determining whether values should be established in respect of any product pursuant to paragraph 1 and in determining the level at which such values should be established, Canada will take into account the prices of like or directly competitive products, if any, being imported at that time from other countries.

3. Before Canada takes action pursuant to paragraph 1, it will give notice in writing to Japan as far in advance as may be practicable and will afford the latter an opportunity to consult with it in respect of the proposed action. In critical circumstances, where delay would cause damage which it would be difficult to repair, action under paragraph 1 may be taken provisionally without prior consultation, on the condition that consultation shall take place immediately after taking such action.

I have the honour to state further that in the view of the Government of Canada these provisions are consistent with the General Agreement on Tariffs and Trade¹ and that the Government of Canada will regard these provisions as continuing to be applicable in the event that the General Agreement on Tariffs and Trade is applied between Canada and Japan.²

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

L. B. PEARSON
Secretary of State for External Affairs

His Excellency Koto Matsudaira
Ambassador of Japan
Ottawa

¹ United Nations, *Treaty Series*, Vol. 55, p. 187; Vols. 56 to 64; Vol. 65, p. 335; Vol. 66, pp. 358 and 359; Vol. 68, p. 286; Vol. 70, p. 306; Vol. 71, p. 328; Vol. 76, p. 282; Vol. 77, p. 367; Vol. 81, pp. 344 to 377; Vol. 90, p. 324; Vol. 92, p. 405; Vol. 104, p. 351; Vol. 107, p. 83; Vol. 117, p. 387; Vol. 123, p. 303; Vol. 131, p. 316; Vol. 135, p. 336; Vol. 138, p. 334; Vol. 141, p. 382; Vols. 142 to 146; Vol. 147, p. 159; Vol. 161, p. 365; Vol. 163, p. 375; Vol. 167, p. 265; Vol. 172, p. 340; Vol. 173, p. 395; Vol. 176; Vol. 180, p. 299; Vol. 183, p. 351; Vol. 186, p. 314; Vol. 188, p. 366; Vol. 189, p. 360; Vol. 191, p. 364; Vol. 220, p. 154; Vol. 225, p. 258; Vol. 226, p. 342; Vol. 228, p. 366; Vol. 230, p. 430, and Vol. 234, p. 310.

² United Nations, *Treaty Series*, Vol. 220, p. 164; Vol. 225, p. 258; Vol. 228, p. 366, and Vol. 234, p. 310.

IV

Ottawa, March 31, 1954

Your Excellency,

I have the honour to acknowledge receipt of Your Excellency's note dated March 31, 1954 which reads as follows :

[See note III]

I have the honour to state that the Government of Japan recognizes that in the application of the Agreement on Commerce signed this day, the Government of Canada has the right to establish values for ordinary and special duty purposes in accordance with the terms set forth in Your Excellency's Note referred to above. The Government of Japan concurs in the view that the provisions set forth in Your Excellency's Note are consistent with the General Agreement on Tariffs and Trade. The Government of Japan will also regard these provisions as continuing to be applicable in the event that the General Agreement on Tariffs and Trade is applied between Japan and Canada.

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

Koto MATSUDAIRA
Ambassador of Japan

The Honourable L. B. Pearson
Secretary of State for External Affairs
Ottawa

V

Ottawa, March 31, 1954

Your Excellency,

With reference to the Agreement on Commerce between Japan and Canada which has been signed today, I have the honour to state that notwithstanding the provisions of paragraph 3 of Article III which permit certain temporary deviations from the provisions of paragraphs 1 and 2 of this Article, the Government of Japan undertakes to accord unconditional non-discriminatory treatment with respect to the importation into Japan of the nine commodities listed below, subject to exceptions agreed upon between the Government of Japan and the Government of Canada.

Wheat
Barley
Woodpulp
Flaxseed

Primary Copper
Lead in Pigs
Zinc Spelter
Synthetic Resins
Milk Powder

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

Koto MATSUDAIRA
Ambassador of Japan

The Honourable L. B. Pearson
Secretary of State for External Affairs
Ottawa

VI

Ottawa, March 31, 1954

Your Excellency,

I have the honour to acknowledge receipt of Your Excellency's Note dated March 31, 1954 which reads as follows :

[See note V]

I have the honour to state that the Government of Canada is pleased to note this undertaking of the Government of Japan concerning non-discriminatory treatment with respect to the importation into Japan of the commodities listed.

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

L. B. PEARSON
Secretary of State for External Affairs

His Excellency Koto Matsudaira
Ambassador of Japan
Ottawa

AGREED OFFICIAL MINUTE

With reference to Article III of the Agreement on Commerce signed today between Canada and Japan, and with reference to the Note of the Government of Japan concerning the accordance of unconditional non-discriminatory treatment with respect to the importation into Japan of nine commodities, it is understood that the obligation incurred by each Contracting Party is only towards the other Contracting Party and that these commitments create no new obligations towards third countries.

It is also understood with respect to the application of the Agreement on Commerce including the Exchange of Notes signed today between Canada and Japan that the Agreement and the Notes will continue to be applicable in the event that the General Agreement on Tariffs and Trade is applied between Canada and Japan.

Ottawa, March 31, 1954

For Canada :

L. B. PEARSON

For Japan :

Koto MATSUDAIRA