APPENDICES
AGREEMENT ON COMMERCE BETWEEN
AUSTRALIA AND JAPAN

The Government of the Commonwealth of Australia and the Government of Japan,
Being desirous of improving and developing the commercial relations between the two 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 all 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 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 resale 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 the fifth day of July, 1960, and shall continue in force thereafter provided 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 authorised for the purpose, have signed this Agreement.

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

Source: Commonwealth of Australia, paper no. 3629/57, Government Printer, Canberra.

In an exchange of letters between the Japanese Minister for Foreign Affairs and the Australian Minister for Trade it was agreed that:

(a) the most-favoured-nation provisions of the Agreement shall not apply to advantages accorded by Japan to areas set forth in Article 3 of the Peace Treaty with Japan signed at San Francisco on 8th September, 1951.

(b) the provisions of the Agreement shall not apply to external territories administered by Australia nor to any advantages accorded between these territories and Australia.

(c) the understandings concerning the implementation of the Agreement embodied in the following Minutes be confirmed.

The 'Agreed Minutes' summarised, are as follows:

**PART A**

Japan indicated the treatment she intended to accord under her import system to the following Australian goods: wool, wheat, barley, sugar, beef tallow, cattle hides, dried skim milk and dried vine fruits. In general Australia was to be given the opportunity to compete for a substantial share of the Japanese market in these goods. If the opportunity for Australian soft wheat to compete freely in the Japanese market should be impaired, due to transactions not conforming with normal fair trade or commercial practice (e.g. surplus disposals), the Japanese Government would ensure that the Australian wheat which would be purchased through commercial channels and on a competitive basis, represented an equitable share of the Japanese market.

**PART B**

Australia had already bound against increase the rates of duty on a relatively large number of items to other countries of export interest to Japan, and by extending most-favoured-nation treatment to Japanese goods, Australia assured stability of treatment to those goods. Japan was in a position to vary materially the tariff conditions applying to major Australian exports to Japan. To meet these circumstances Australia requested an assurance that Japan would maintain the present duty free entry for wool. Japan gave such an assurance for a period of three years after the date of signing the Agreement, having in mind that during that period the Australian Government would endeavour to move towards the application of the General Agreement on Tariffs and Trade
between the two countries. The Australian Delegation confirmed that the Australian Government had in mind entering into discussion with the Japanese Government during that period with a view to examining the basis of applying the General Agreement between the two countries.

**PART C**

The Australian Delegation pointed out that the basis of Article V was the mutual expectation of increased opportunity for expansion of Japanese exports to Australia without serious damage to Australian industry or sudden and serious disruption of the pattern of Australia's imports. It would welcome the co-operation of the Japanese authorities in dealing with such situations if they arose.

The Japanese Delegation stated that under Japanese legislation export was free in principle and that the Japanese Government could only take limited measures to deal with these problems. However, the Japanese Government would use its best endeavours within its constitutional authority to see that exports from Japan to Australia were conducted so as to avoid or remedy the damage or prospect of damage to which the Australian Delegation had referred.

It was agreed that the maximum degree of consultation between the two Governments was essential to the satisfactory solution of any particular problem and that:

(a) effective liaison would immediately be established in Canberra between the Japanese Embassy and the Australian Government and in Tokyo between the Australian Embassy and the Japanese Government;

(b) statistical information would be provided on a continuing basis;

(c) if in the opinion of either Government serious injury were threatened because of imports, immediate consultations would be held to try to remedy the situation;

(d) if a situation required the application of Article V, the procedure provided for in that Article would be adopted.

The Australian Delegation said that the following considerations would apply in respect of any action taken by Australia under Article V. Such action

(i) would not be taken except after consultation, which would be as far in advance as practicable;

(ii) would only be taken where the consultation process failed to provide a mutually acceptable alternative solution to the problem. If urgency required action before the consultation process was completed, consultation would be continued to try to find an acceptable solution;

(iii) so far as administratively practicable, would only apply to those specific goods in respect of which action was necessary;

(iv) would only apply for such time as was necessary to correct the particular situation;

(v) would be limited to cases where serious damage was caused or threatened.

In a further exchange of letters Australia and Japan agreed to the provisional application of the agreements and undertakings set out above as from 6 July 1957.

*Source: Commonwealth of Australia, papers 1957, Government Printer, Canberra.*
AUSTRALIA.

TREATY SERIES, 1964.

No. II:

PROTOCOL

(Tokyo, 5th August, 1963)

BETWEEN

AUSTRALIA

AND

JAPAN

AMENDING THE AGREEMENT ON COMMERCE OF 6TH JULY, 1957 TOGETHER WITH AGREED MINUTES AND NOTES.

Entry into force: (see Article IV) 27th May, 1964.

DEPARTMENT OF EXTERNAL AFFAIRS,

CANBERRA, A.C.T.
PROTOCOL AMENDING THE AGREEMENT ON COMMERCE BETWEEN THE COMMONWEALTH OF AUSTRALIA AND JAPAN

The Government of the Commonwealth of Australia and the Government of Japan,

Desiring to amend the Agreement on Commerce between the Commonwealth of Australia and Japan, signed at Hakone on the 6th July, 1957, (hereinafter referred to as "the Agreement") as a result of the disinvocation by the Government of the Commonwealth of Australia of Article XXXV of the General Agreement on Tariffs and Trade in respect of Japan,

Have agreed as follows:

ARTICLE I

Paragraphs 1 and 2 of Article IV of the Agreement shall be deleted and replaced by the following:

"Nothing in this Agreement shall be construed so as to derogate from the rights and obligations that either country has or may have as a contracting party to the General Agreement on Tariffs and Trade, so long as both countries are contracting parties to the General Agreement on Tariffs and Trade ".

ARTICLE II

Article V of the Agreement shall be deleted.

ARTICLE III

Paragraph 2 of Article VII of the Agreement shall be amended by replacing the words "the fifth day of July, 1960" by the words "the day three years after the date of the entry into force of the Protocol of 5th August, 1963 amending the Agreement".

ARTICLE IV

This Protocol shall be subject to ratification by each Government and shall enter into force on the date of the exchange of the instruments of ratification which shall take place at Canberra as soon as possible.

In witness whereof the representatives of the two Governments, duly authorised for the purpose, have signed this Protocol.

Done at Tokyo in duplicate, in the English and Japanese languages, both equally authentic, this fifth day of August, 1963.

FOR THE GOVERNMENT OF THE COMMONWEALTH OF AUSTRALIA

(Signed) J. McEwen
(Signed) L. R. McIntyre

FOR THE GOVERNMENT OF JAPAN

(Signed) Hajime Fukuda

** Instruments of ratification were exchanged on 27th May, 1964.
7266/64—2
AGREED MINUTES

The representatives of the Government of the Commonwealth of Australia and the representatives of the Government of Japan, confirming that the General Agreement on Tariffs and Trade will be applied between the Commonwealth of Australia and Japan, hereby record the following understandings which have been reached during the course of the negotiations between their respective Delegations leading to the signing today of the Protocol amending the Agreement on Commerce between the Commonwealth of Australia and Japan of 6th July, 1957:

PART A

1. (a) The Japanese Delegation stated that the Japanese Government would not discriminate against raw wool, as compared with raw cotton, with respect to non-tariff matters which might affect its importation into Japan.

(b) The Japanese Delegation noted the significance which the Australian Government placed on the continued duty-free import of raw wool into Japan. The Australian Delegation was given to understand that the Japanese Government at this time had no intention of imposing a duty on raw wool, but that this did not in any way bind the Japanese Government legally or morally.

2. (a) In response to a request from the Australian Delegation with respect to the export of soft wheat to Japan, the Japanese Delegation stated that the importation into Japan of Australian soft wheat would continue at a stabilised level. The Japanese Delegation also indicated that it was the intention of the Japanese Government to study with the Australian Government the possibility of bringing the price differential in Japan between Australian F.A.Q. wheat and U.S. Western White wheat down to the differential in world markets.

(b) The Japanese Delegation also stated that the Japanese Government was prepared to purchase Queensland and northern New South Wales hard wheat when the necessary requirements for such purchase were found to have been met.

3. The Japanese Delegation stated that under normal circumstances Japan was now self-sufficient in barley production, but that emergency imports might be necessary from time to time, and confirmed that, with respect to any imports which might be made by the Food Agency, Australian barley would be accorded non-discriminatory access on a most-favoured-nation treatment basis.

4. (a) The Japanese Delegation confirmed that its Government would ensure most-favoured-nation and non-discriminatory treatment in respect of Australian products which were subject to import restrictions in Japan, and stated that it was the intention of its Government to make every effort to expand the opportunities for the import into Japan of the following Australian products: sugar, canned meat, leather, motor vehicles, butter and cheese.
(b) Both the Australian and Japanese Delegations stated that it was the intention of their respective Governments to maintain the scope of import liberalisation currently in force in their respective countries, and further stated that, if, however, further import restrictions were imposed for balance of payment reasons, they would not be applied so as to prevent unreasonably the importation of the products concerned in minimum commercial quantities the exclusion of which would impair regular channels of trade.

PART B

(a) Against the background of the overall balance and pattern of trade between the two countries, the Japanese Delegation expressed active interest in the export of Japanese heavy industry products to Australia and requested that, in particular reference to the purchase of goods from abroad by the Australian Government and certain of its Statutory Authorities such as the Snowy Mountains Hydro-electric Authority and the Commonwealth Railways Commissioner for use in their developmental projects, full opportunities of fair competition would be accorded to Japanese products. The Australian Delegation took note of the above statement of the Japanese Delegation and stated that it was the general policy of the Australian Government and the Statutory Authorities named above to call public tenders for their overseas purchases, and further stated that equal opportunities of fair and equal competition were accorded to Japanese products in regard to such tenders.

(b) In regard to such tenders the Australian Delegation further confirmed that upon request by unsuccessful tenderers, explanations of the reasons for failure were given in detail by the Australian Government and the Statutory Authorities named above covering such matters as quality, efficiency of units, conformity with specifications, terms of delivery and servicing or availability of spares, etc. as the case may be and were also given as far as practicable on price.

PART C

(a) The Australian Delegation confirmed that temporary protection under Part V of the Tariff Board Act was applied only when a product was being imported in such quantities or under such conditions as to cause or threaten serious injury to domestic producers of like or competitive products and that such temporary protection was applied only to such extent and for such time as might be necessary to prevent or remedy such injury.

(b) The Australian Delegation confirmed that the Australian Government would, before making a reference to a Special Advisory Authority on items of which Japan was a significant supplier, afford the Japanese Government the maximum practical degree of consultation, and stated that, if the urgency of the matter required a reference before the completion of such consultation, the consultation would be continued, if desired by the Japanese Government, after the reference had been made.

(c) The Japanese Delegation confirmed that in the course of such consultation the Japanese Government would be prepared to co-operate with the Australian Government with a view to finding whether the need for action under Part V of the Tariff Board Act could be obviated by measures taken in Japan.
(d) The Australian Delegation confirmed that the practice of its Government in regard to such consultation was, upon receipt of an official application for temporary protection under Part V of the Tariff Board Act, to notify immediately the Japanese Government thereof, and to provide the Japanese Government with such details of the circumstances of the application as were relevant, available and not of a confidential nature in order for the consultation to proceed, and that before reaching a decision on action under Part V of the Tariff Board Act, the Australian Government would take full account of any representations made by the Japanese Government, particularly as to measures taken by Japanese interests to restrict exports to Australia of the items concerned.

(e) The Australian Delegation confirmed that in any reference made to a Special Advisory Authority on items of which Japan was a significant supplier, the Australian Government would continue to seek the advice of a Special Advisory Authority as to whether any temporary protection recommended should apply to products in direct transit to Australia at the date of the reference, and in considering such advice, the Australian Government would continue to pay due regard to the need not to apply such temporary protection unreasonably to such goods.

(f) The Australian Delegation confirmed that in any case where a reference was made to a Special Advisory Authority, the Japanese Government and other Japanese interests would be free to place any information they might so desire before the Australian authorities.

The understandings contained in these Agreed Minutes will, as from the date of the coming into force of the 'Protocol amending the Agreement on Commerce between the Commonwealth of Australia and Japan of 6th July, 1957 signed today, supersede the understandings embodied in the Agreed Minutes attached to the Exchange of Notes of 6th July, 1957.

**FOR THE GOVERNMENT OF THE COMMONWEALTH OF AUSTRALIA**

(Signed) J. McEwen  
(Signed) L. R. McIntyre

**FOR THE GOVERNMENT OF JAPAN**

(Signed) Hajime Fukuda

Tokyo, 5th August, 1963.
Basic Treaty of Friendship and Co-operation between Australia and Japan

The Prime Minister of Australia, Mr. J. M. Fraser, and the Japanese Prime Minister, Mr. Takeo Miki, signed the Basic Treaty of Friendship and Co-operation between Australia and Japan in Tokyo on 16 June. The Treaty will enter into force thirty days after ratification which is expected to take place early next year. The text of the Treaty follows:

Australian and Japan

Affirming the spirit of friendship and co-operation on which relations between the two countries are based, and wishing to place their relations on an even closer and more concrete basis,

Acknowledging the importance to each country of the wide-ranging relationship between them and the close and enduring connexion between the well-being of their peoples,

Wishing to enhance the valuable contribution to their relations made by the existing agreements between the two countries in various fields,

Resolved to provide wider opportunities for their governments and their peoples to work together in a spirit of understanding on matters of mutual interest in the political, economic, trade, commercial, social, cultural and other fields,

Convinced of the importance of strengthening and diversifying their relations on an equitable and mutually advantageous basis in a long-term perspective,

Recognising that co-operation between the two countries should have in view not only their own mutual benefit but also their common interest in the prosperity and welfare of other countries, including those in the Asian and Pacific region, of which they are part,

Convinced that the conclusion of a Treaty which formally embodies and further advances the friendship and co-operation between the governments and peoples of the two countries will facilitate the further development of their relations,

Have resolved to conclude a Basic Treaty of Friendship and Co-operation and for that purpose have appointed as their Plenipotentiaries:

Australia: John Malcolm Fraser, Prime Minister.
Japan: Takeo Miki, Prime Minister.

Who, having communicated to each other their full powers, found to be in good and due form, have agreed as follows:

Article I
1. The basis of relations between Australia and Japan shall be enduring peace and friendship between the two countries and their peoples.
2. The objective of the present Treaty shall be to extend and strengthen relations between the Contracting Parties, in particular by promoting understanding between the two countries and their peoples and by developing co-operation on matters of mutual interest.
3. The Contracting Parties, noting that the agreements existing between them are consistent with the objective expressed in paragraph 2 of this Article, may enter into further agreements between them, where necessary, on matters dealt with in the present Treaty or on other matters, including those not covered by the existing agreements.

Article II
The Contracting Parties, recognising the importance of peaceful and friendly relations among countries in the international community, shall co-operate with each other in accordance with the Principles of the Charter of the United Nations in maintaining and strengthening those relations.

Article III
1. The Contracting Parties shall endeavour to facilitate, strengthen and diversify mutual understanding and co-operation in such areas of mutual interest as the political, economic, labour relations, human rights, legal, scientific, technological, social, cultural, professional, sporting and environmental fields. To this end, the Contracting Parties shall encourage and promote in these fields, to the fullest extent practicable, appropriate study and research, exchange of information, knowledge and visits, and other suitable activities.
2. The Contracting Parties shall also develop mutual understanding and co-operation in those international organisations of which both Contracting Parties are members and which are concerned with any of the fields referred to in paragraph 1 of this Article.

3. The Contracting Parties shall collaborate closely with each other in developing the mutual understanding and co-operation referred to in paragraphs 1 and 2 of this Article. To this end, they shall hold consultations, whenever necessary, on matters in the fields referred to in paragraphs 1 and 2 of this Article, making use, where appropriate, of the means provided for in existing agreements or arrangements.

Article IV

The Contracting Parties recognise that the continuous expansion of international trade on an open, multilateral and non-discriminatory basis is of fundamental importance for the sound development of the world economy. They shall co-operate with each other to this end, in accordance with the objectives and principles of the General Agreement on Tariffs and Trade, the Articles of Agreement of the International Monetary Fund, the Convention on the Organisation for Economic Co-operation and Development and other relevant multilateral agreements to which both Contracting Parties are parties.

Article V

1. The Contracting Parties, recognising the importance of their relations in the economic, trade and commercial fields, shall co-operate in strengthening and developing those relations on the basis of mutual benefit and trust.

2. In respect of trade between the two countries, each Contracting Party, recognising a mutual interest in each being a stable and reliable supplier to and market for the other, shall promote the further strengthening and development of trade between the two countries on a fair and stable basis.

Article VI

The Contracting Parties, recognising the importance to them of mineral resources, including energy resources, shall co-operate in the trade in and development of those resources in accordance with the provisions of Article V.

Article VII

The Contracting Parties, in accordance with the objectives and principles of international agreements to which both Contracting Parties are parties and also in accordance with the provisions of Article V, shall co-operate in the exchange of capital and technology in a mutually acceptable and beneficial manner.

Article VIII

1. Each Contracting Party shall accord to the nationals of the other Contracting Party fair and equitable treatment with respect to their entry into, sojourn or residence in, travel within and departure from its territory, provided that in no case shall such treatment be discriminatory between nationals of the other Contracting Party and nationals of any third country.

2. Each Contracting Party shall endeavour to simplify its procedures relating to—

(a) the entry into its territory of nationals of the other Contracting Party;

(b) the departure from its territory of nationals of the other Contracting Party; and

(c) the registration as aliens of nationals of the other Contracting Party.

Article IX

1. The nationals of one Contracting Party shall enjoy within the territory of the other Contracting Party constant and complete protection and security for their persons and property.

2. The nationals of one Contracting Party shall enjoy within the territory of the other Contracting Party access to courts of justice and tribunals in accordance with law.

3. Each Contracting Party shall accord within its territory to the nationals of the other Contracting Party fair and equitable treatment with respect to matters relating to their business and professional activities, provided that in no case shall such treatment be discriminatory between nationals of the other Contracting Party and nationals of any third country.

4. The property of nationals of one Contracting Party within the territory of the other Contracting Party shall not be compulsorily taken unless for a public purpose and unless prompt, adequate and effective compensation is paid. Without prejudice to the foregoing, with respect to all matters dealt with in this paragraph, the nationals of one Contracting Party shall be accorded within the territory of the other Contracting Party treatment which shall in no case be discriminatory between
those nationals and nationals of any third country.
5. In paragraphs 1, 2, 3 and 4 of this Article, the term 'nationals' shall include companies except where the context otherwise requires.
6. The companies of one Contracting Party which are controlled, directly or indirectly, or in which more than one half of the interests are owned, directly or indirectly, by nationals or companies of the other Contracting Party shall be accorded within the territory of the former Contracting Party, with respect to matters dealt with in paragraphs 1, 2, 3 and 4 of this Article, the treatment prescribed therein; provided that the requirement prescribed in paragraphs 3 and 4 shall be applied as between such companies and companies of the former Contracting Party which are controlled, directly or indirectly, or in which more than one half of the interests are owned, directly or indirectly, by nationals or companies of any third country.

Article X

The Contracting Parties, recognising that international shipping activities between the two countries play a significant role in the development of their economic, trade and commercial relations, and bearing in mind the objectives and principles of international agreements to which both Contracting Parties are parties, shall promote mutual co-operation for the development of shipping between the two countries on a fair and mutually advantageous basis.

Article XI

The Contracting Parties shall periodically review, at the ministerial level, the general operation of the present Treaty with a view to ensuring that the purposes of the present Treaty are being fully realised.

Article XII

Each Contracting Party may make representations to the other Contracting Party on matters arising out of or in connexion with the implementation of the present Treaty. Any such representations shall receive sympathetic consideration. Where appropriate the Contracting Parties shall consult together on such matters.

Article XIII

Nothing in the present Treaty shall affect the validity of agreements which are in force between the Contracting Parties at the date of signature of the present Treaty.

Article XIV

1. The present Treaty shall be ratified and the instruments of ratification shall be exchanged at Canberra as soon as possible.
2. The present Treaty shall enter into force on the thirtieth day after the date of the exchange of the instruments of ratification. It shall remain in force until the expiry of twelve months from the
date on which either Contracting Party gives to
the other Contracting Party written notice of its
intention to terminate the present Treaty.

IN WITNESS WHEREOF the abovenamed
Plenipotentiaries have signed the present Treaty
and have affixed thereto their seals.

DONE in duplicate, in the English and Japanese
languages, each text being equally authentic, at
Tokyo, this sixteenth day of June one thousand
nine hundred and seventy-six.

For Australia: For Japan:

PROTOCOL

At the time of signing the Basic Treaty of
Friendship and Co-operation between Australia
and Japan (hereinafter referred to as 'the Treaty'),
the undersigned Plenipotentiaries, duly authorised
by their respective Governments, have further
agreed on the following provisions, which shall
be considered integral parts of the Treaty:

1. Nothing in the Treaty shall—
   (a) entitle either Contracting Party to claim the
       benefit of any treatment, preference or
       privilege—
   (i) that the other Contracting Party has accorded
       or may hereafter accord to any developing
       country or to its nationals or companies by
       virtue of special agreements or arrangements
       with that developing country for the purpose
       of economic development or technical
       assistance;
   (ii) in the nature of special tax advantages that
       the other Contracting Party has accorded
       or may hereafter accord on a basis of reciprocity
       or by virtue of agreements for the avoidance
       of double taxation or for the prevention of
       fiscal evasion; or
   (iii) relating to passports or visas which the other
       Contracting Party has accorded or may
       hereafter accord to nationals of any third
country by virtue of special agreements or
       arrangements;
   (b) entitle Australia to claim the benefit of any
       treatment, preference or privilege which is or
       may hereafter be accorded by Japan
       exclusively to 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 8 September 1951; or
   (c) entitle Japan to claim the benefit of any
       treatment, preference or privilege which is or
       may hereafter be accorded by Australia—
       (i) to any country or to its nationals or
       companies, where that treatment, preference
       or privilege originates from that country's
       membership of the Commonwealth of
       Nations;
      (ii) to Ireland or to its nationals or companies;
      (iii) to Papua New Guinea or to its nationals or
      companies;
      (iv) to any non-metropolitan area for the
      international relations of which Australia is
      responsible at the date of signature of the
      Treaty, or to its residents or companies; or
      (v) to any third country or to its nationals who are
      migrants to Australia, by virtue of a
      special agreement on migration between
      Australia and that country, with respect to
      matters relating to the entry into Australia
      for residence of such migrants or matters
      incidental to such entry.

2. Nothing in the Treaty shall affect the rights
and obligations that either Contracting Party has
or may hereafter have as a party to the General
Agreement on Tariffs and Trade, the Articles of
Agreement of the International Monetary Fund,
the Convention on the Organisation for Economic
Co-operation and Development or any multilateral
agreement amending or supplementing them, or
other relevant multilateral agreements to which
both Contracting Parties are parties.

3. For the purposes of the Treaty, the term
'companies'—
   (a) in relation to a Contracting Party means legal
       persons incorporated pursuant to the laws in
       force in the territory of that Contracting
       Party; and
   (b) in relation to any third country means legal
       persons incorporated pursuant to the laws
       in force in the territory of that country.

IN WITNESS WHEREOF the respective
Plenipotentiaries have signed the present Protocol
and have affixed thereto their seals.

DONE in duplicate, in the English and Japanese
languages, each text being equally authentic, at
Tokyo, this sixteenth day of June one thousand
nine hundred and seventy-six.

For Australia: For Japan:

EXCHANGE OF NOTES RELATING TO
THE NON-METROPOLITAN AREAS
OF AUSTRALIA

(Australian Note)

Tokyo, 16 June 1976

Excellency,

I have the honour to refer to the Basic Treaty of
Friendship and Co-operation between Australia
and Japan signed today.
It is the understanding of the Government of Australia that, as regards Australia, the Treaty will apply only to the metropolitan area of Australia and not to any of the non-metropolitan areas for the international relations of which Australia is responsible.

I should be grateful if Your Excellency would confirm on behalf of Your Excellency's Government that the foregoing is also the understanding of the Government of Japan.

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

(John Malcolm Fraser)
Plenipotentiary of Australia

His Excellency
Mr Takeo Miki
Plenipotentiary of Japan.

(Japanese Note)

Tokyo, 16 June 1978

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

'(Australian Note')
I have further the honour to confirm on behalf of my Government that the foregoing is also the understanding of the Government of Japan.
I have the honour to renew to Your Excellency the assurance of my highest consideration.

(Takeo Miki)
Plenipotentiary of Japan

His Excellency
Mr John Malcolm Fraser
Plenipotentiary of Australia.

EXCHANGE OF NOTES RELATING TO ARTICLE VIII

(Australian Note)

Tokyo, 18 June 1978

Excellency,
I have the honour to refer to Article VIII of the Basic Treaty of Friendship and Co-operation between Australia and Japan signed today and to confirm, on behalf of the Government of Australia, the following understanding reached between the representatives of the two Governments:

1. Each Government shall permit, in accordance with the relevant laws and regulations, nationals of the other country entering its territory temporarily for business purposes to stay therein initially for a period of one hundred and eighty days.

2. Each Government intends to treat nationals of the other country entering its territory for the following purposes and their spouses and their unmarried minor children as favourably as possible, within the scope of the relevant laws and regulations, when determining their period of stay—
   (a) for the purpose of carrying on trade between the two countries or engaging in related commercial activities;

   (b) for the purpose of developing or directing the operations of an enterprise; or

   (c) for other purposes recognised by the laws and regulations relating to the entry and sojourn of aliens.

3. Each Government intends, in the application of the relevant laws and regulations, not to take discriminatory measures when the nationals of the other country referred to in paragraphs 1 and 2 above file applications for the renewal of the period of stay under their current authorised status, and to give to such applications as favourable consideration as possible.

I should be grateful if Your Excellency would confirm the foregoing understanding on behalf of Your Excellency's Government.

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

(John Malcolm Fraser)
Plenipotentiary of Australia

His Excellency
Mr Takeo Miki
Plenipotentiary of Japan.
(Japanese Note)

Tokyo, 16 June 1976

Excellency,

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

'(Australian Note)'

I have further the honour to confirm on behalf of my Government the understanding set forth in Your Excellency's Note.

I have the honour to renew to Your Excellency the assurance of my highest consideration.

(Takeo Miki)
Plenipotentiary of Japan

His Excellency
Mr John Malcolm Fraser
Plenipotentiary of Australia.

AGREED MINUTES

In connexion with the Basic Treaty of Friendship and Co-operation between Australia and Japan (hereinafter referred to as 'the Treaty') signed today and the instruments related thereto, the Plenipotentiaries of Australia and of Japan hereby record the following understandings:

1. It is confirmed that the treatment prescribed in the provisions of paragraph 1 of Article VIII and paragraph 3 of Article IX of the Treaty will in effect be treatment which is no less favourable than that accorded to nationals of any third country, it being understood that these provisions in no way require either country to accord to nationals of the other country treatment which has been accorded to nationals of any third country under policies which are then no longer operative.

2. The term 'property' used in Article IX of the Treaty includes rights and interests therein.

3. The term 'matters relating to business and professional activities' used in paragraph 3 of Article IX of the Treaty comprises the levying of taxes, fees or charges of any kind, study and research, the making and performance of contracts, rights to property, participation in companies, investment activities and generally the conduct of all types of commercial, industrial, financial and other business activities as well as professional activities.

4. The provisions of Article IX of the Treaty will not be construed so as to affect in any way the right of either country to make provision in its legislation for the seizure or forfeiture of property for suspected breaches or breaches of its laws and to apply such legislation.

5. It is understood that the reference to Papua New Guinea in paragraph 1 of the Protocol to the Treaty is made in view of the now existing state of relations between Australia and Papua New Guinea and that in future the Governments of Australia and Japan will consult each other with a view to examining whether the treatment accorded by Australia to Papua New Guinea should fall within the scope of the provisions of the Treaty.

6. The terms 'the relevant laws and regulations' and 'the laws and regulations' used in the Exchange of Notes relating to Article VIII of the Treaty include administrative procedures.

7. It is noted that the Treaty recognises the importance of trade matters between the two countries and that arrangements between Australia and Japan regarding specific treatment to be accorded by the two countries are prescribed in other agreements, specifically related to trade, to which they are parties.

8. If either country claims, on the basis of provisions of the Treaty, the benefit of any treatment accorded or which may be accorded under any multilateral agreement to which it is not a party, the Governments of the two countries will consult together as to whether the benefit claimed falls within the scope of the provisions of the Treaty, taking into account the relevant circumstances, including the character of the multilateral agreement in question.

Tokyo, 16 June 1976

RECORD OF DISCUSSION

In connexion with the Basic Treaty of Friendship and Co-operation between Australia and Japan signed today, the Plenipotentiaries of Australia and of Japan wish to record the following:

The representative of the Government of Australia stated, with particular reference to Articles VI, VII and IX of the Treaty, that it was Australia's position that the aspirations of each country in relation to the ownership and control of its resources and industries and to the rational and efficient development of its mineral and energy resources were to be taken into account by the two Governments.

In response, the representative of the Government of Japan stated that he noted the statement of the representative of the Government of Australia.