

New Zealand.

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1937, No. 4.

AN ACT to ratify certain Agreements for the Promotion of Trade made between His Majesty's Government of the Dominion of New Zealand and the Consul of Germany in New Zealand acting on behalf of the Government of the German Reich.

Title.

[9th October, 1937.]

WHEREAS a trade agreement has been entered into for and on behalf of His Majesty's Government of the Dominion of New Zealand and for and on behalf of the Government of the German Reich for the purpose of promoting trade between the said countries: And whereas the said agreement is an agreement to which section ten of the Customs Amendment Act, 1921, applies: And whereas by the said section it is provided that no such agreement shall have any effect unless and until it is ratified by Parliament: And whereas an ancillary agreement (referred to as a payments agreement) has been entered into for and on behalf of His Majesty's Government of the Dominion of New Zealand and for and on behalf of the Government of

Preamble.

the German Reich: And whereas it is desired to ratify the said agreements:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. This Act may be cited as the Trade Agreement (New Zealand and Germany) Ratification Act, 1937, and shall be read together with and deemed part of the Customs Act, 1913.

Ratification of trade agreement.
See Reprint of Statutes, Vol. VII,

2. (1) The trade agreement set out in Part I of the Appendix hereto (being an agreement to which section ten of the Customs Amendment Act, 1921, applies) and the payments agreement set out in Part II of the Appendix hereto are hereby ratified and confirmed.

(2) Notwithstanding anything to the contrary in section ten of the Customs Amendment Act, 1921, any agreement modifying the trade agreement as ratified by this Act may be given effect to by Order in Council under that Act, notwithstanding that such modifying agreement may not have been ratified as required by that section, and every such Order in Council shall come into force according to its tenor.

Ibid., p. 215

(3) Notwithstanding anything to the contrary in section five of the Customs Acts Amendment Act, 1930, or in any other enactment, surtax shall not be payable on any goods, being the produce or manufacture of Germany, enumerated in the Schedule to the trade agreement as ratified by this Act, and imported into New Zealand or entered for home consumption therein on or after the date on which the said agreement is brought into force.

Duties herein provided for may be extended to apply to similar goods from other countries.

3. Notwithstanding anything to the contrary in the Customs Acts, the Governor-General may by Order in Council apply the duties provided for by the aforesaid trade agreement or by any amendment thereof, in respect of goods being the produce or manufacture of Germany, to similar goods being the produce or manufacture of any other country not being part of the British dominions.

Commencement of operation of the trade agreement hereby ratified.

4. The date on which the trade agreement ratified by this Act is brought into force in accordance with Article VII thereof shall be notified by the Governor-General by Proclamation, and the duties provided for in

the said agreement shall, subject to the provisions of section one hundred and forty-three of the Customs Act, 1913, be imposed on all goods to which the agreement relates imported into New Zealand or entered therein for home consumption on or after the said date.

A P P E N D I X.

Appendix.

PART I.

TRADE AGREEMENT BETWEEN NEW ZEALAND AND GERMANY.

THE Government of New Zealand and the Government of the German Reich, desiring to facilitate the reciprocal extension of trade between New Zealand and Germany, have concluded the following agreement:—

Article I.

In all matters concerning rates of Customs duties, the method of levying and securing of Customs duties and taxes including all charges, surcharges, coefficients and other increases, and in all matters concerning Customs formalities, articles produced or manufactured in the territory of either of the contracting parties shall on importation into the territory of the other party or on exportation from the territory of one party to the territory of the other be accorded treatment not less favourable than that accorded to like articles the produce or manufacture of the most favoured foreign country.

Accordingly, any advantage which is or hereafter may be extended, in regard to the above-mentioned matters, by either of the contracting parties to any foreign country shall be accorded immediately and without compensation to the other party.

Article II.

The provisions of Article I shall not extend to:—

- (a) Special privileges which either of the contracting parties grants or may hereafter grant to neighbouring countries for facilitating frontier traffic within a zone not extending as a rule beyond fifteen kilometres on either side of the frontier;
- (b) Privileges which either of the contracting parties may hereafter accord to a country by virtue of a Customs Union with that country;
- (c) Advantages now accorded or which may hereafter be accorded by New Zealand exclusively to other territories under the sovereignty of His Majesty the King of Great Britain, Ireland, and the British Dominions beyond the Seas, Emperor of India, or under His Majesty's suzerainty, protection or mandate;

- (d) Special agreements in so far as they relate to cereals, concluded or which may hereafter be concluded, conforming to the recommendations of the Conference of Stresa.

Article III.

Goods being the produce or manufacture of Germany enumerated in the Schedule annexed to the present Agreement shall not, on importation into New Zealand, be subject to higher duties than those specified in the said Schedule nor to surtax at present payable on such goods.

The foregoing provision shall not exempt the said goods from sales tax.

Article IV.

When representations are received that goods of German origin are being or are likely to be imported into New Zealand under conditions which would warrant the imposition of dumping duty, and if it appears that such representations are justified, the Government of New Zealand, before imposing any such duty, undertake to notify the Government of the German Reich of the grounds on which imposition of such duty is considered justifiable, and to afford the latter Government reasonable opportunity to remedy the position; provided that the Government of New Zealand reserve the right to impose such duty without notice in cases where New Zealand industries or preferences accorded to British countries are immediately and adversely affected.

Article V.

In the event of either of the contracting parties prohibiting or restricting or applying any form of quantitative regulation to the importation or exportation of goods, that party undertakes to give due consideration to the interests of the other party.

Article VI.

Nothing in this Agreement shall be deemed to affect the rights of either contracting party to impose or maintain prohibitions or restrictions—

- (a) Applying to articles which are by the State declared to be a monopoly;
- (b) Relating to public security;
- (c) Imposed on moral or humanitarian grounds;
- (d) Occasioned by the necessity of securing the safety of persons;
- (e) Imposed for the protection of animals and plants against diseases and pests;

Provided that such measures are applied under the same conditions to like articles imported from any other foreign country.

Article VII.

The present Agreement shall be ratified as soon as practicable and shall come into force on a date to be agreed upon, and shall remain in force until the 30th September, 1939. In case neither of the contracting parties shall have given notice to the other three months before the said date of its intention to terminate the present Agreement, it shall remain in force thereafter until the expiration of three months from the date on which either of the contracting parties shall have given to the other notice of its intention to terminate it.

In witness whereof this Agreement has been duly signed by Michael Joseph Savage, Prime Minister of New Zealand, on behalf of the Government of New Zealand and by Walter Hellenthal, Consul of Germany in New Zealand, on behalf of the Government of the German Reich.

Done in duplicate at Wellington in English and German Texts, both authentic, this thirtieth day of September, 1937.

[L.S.]
[L.S.]

M. J. SAVAGE.
HELLENTHAL.

SCHEDULE.

Item No. of the Customs Tariff of New Zealand.	Tariff Item.	Rate of Duty payable in New Zealand on Articles produced or manufactured in Germany.
Ex 90	Wine containing not more than 40 per cent. of proof spirit, viz. :— (2) Other kinds ; per gallon, or for six reputed quart bottles, or the reputed equivalent in bottles of a larger or smaller reputed capacity	4s. plus 20 per cent. ad val., or 6s. whichever rate returns the lower duty.
Ex 121	(1) Medicinal preparations (except wines) containing 50 per cent. of proof spirit or less ; medicinal preparations, drugs, druggists' sundries, and apothecaries' wares, n.e.i. ; also aerated-water makers', cordial-makers', and brewers' drugs, chemicals, and other sundries, n.e.i. ; chemicals, and chemical preparations, n.e.i.	40 per cent. ad val.
143	Braids, and bindings, all kinds, n.e.i. ; cords, n.e.i., of wool, cotton, silk, imitation silk, artificial silk, or of combinations of these materials with one another or with any other material	40 per cent. ad val.

Item No. of the Customs Tariff of New Zealand.	Tariff Item.	Rate of Duty payable in New Zealand on Articles produced or manufactured in Germany.
227	Lenses, all kinds, unmounted, and without attachments	20 per cent. ad val.
233	Artists' materials—viz., academy boards, canvas in the piece or on stretchers, oiled paper and drawing-paper in blocks, colours, palettes, and palette-knives	20 per cent. ad val.
234	Camera covers and cases	40 per cent. ad val.
237	Clocks, time-registers, and time-detectors	40 per cent. ad val.
Ex 247	Musical instruments, and parts, viz. :—	
	(4) Pianos, player pianos, organs n.e.i., harmoniums, and similar instruments	25 per cent. ad val.
	(5) Musical instruments n.e.i.	25 per cent. ad val.
254	Photographic cameras	40 per cent. ad val.
255	Photographic goods n.e.i.	40 per cent. ad val.
287	Emery-paper, emery-cloth, and glass-paper, cut into shapes, in rolls, or in sheets	20 per cent. ad val.
290	Paperhangings	25 per cent. ad val.
Ex 335	Engines, viz. :—	
	(1) Specially suited for use on cycles	30 per cent. ad val.
354	Artificers' tools, n.e.i., not including brushes or brushware; and the following tools—viz., axes, hatchets, spades, shovels, forks, picks, mattocks, hammers, scythes, sheep-shears, reaping-hooks, scissors (not less than 10 inches in length), butchers' and other cleavers and choppers, hand-saws, saw-blades machine or hand, bill-hooks, bush-hooks, slashers, and hedge-knives	25 per cent. ad val.
356	Ex (1) Field glasses	40 per cent. ad val.
	(3) Builders' and cabinetmakers' hardware, viz. :—hinges (not being gate hinges) suited for doors, box-lids, or similar articles; latches, latch sets, locks, lock sets, and keys for locks; handles, pulls, catches, clips, slides, and similar articles, suited for use on drawers or cabinets; metal escutcheon plates; handles, pulls, bolts, knockers, letter-plates, and bells, for doors; metal plugs, clips, and similar fittings, specially suited for builders' use in affixing articles to concrete or plaster	25 per cent. ad val.
Ex 397	Paints, colours, varnishes, and similar materials, viz. :—	
	(6) Kalsomine, distempers, and similar preparations, in powder form	25 per cent. ad val.

PART II.

PAYMENTS AGREEMENT BETWEEN NEW ZEALAND AND GERMANY.
THE Government of New Zealand and the Government of the German Reich, desiring to facilitate payments for the exchange of goods between New Zealand and Germany, have concluded the following Agreement:—

Article I.

For the purchase of goods produced or manufactured in New Zealand the Government of the German Reich shall make available the foreign exchange accruing from exports to New Zealand of goods produced or manufactured in Germany.

The amount of the foreign exchange accruing from German exports to New Zealand shall be ascertained by the Reichsbank, which will examine regularly the foreign exchange declarations (Exportvaluta - Erklärungen) submitted by the German exporters as to their shipments to New Zealand and compute the total amount of foreign exchange accruing therefrom.

At the beginning of each quarter the Government of the German Reich shall inform the Government of New Zealand as to the amount of the foreign exchange accrued from the German exports to New Zealand during the previous three months.

If it should appear that there exists a considerable discrepancy between the amount of foreign exchange accrued from the German exports to New Zealand, as notified quarterly by the German Government, and the corresponding figures of the German export statistics and the New Zealand import statistics, both contracting parties shall jointly investigate the reason for such discrepancies and shall determine the figure to give effect to the first paragraph hereof.

Article II.

The amount of foreign exchange to be made available for the purchase of products of New Zealand shall be fixed in accordance with the provisions of the first paragraph of Article I, for each quarter.

This amount will correspond to the receipts of foreign exchange during the previous three months computed in accordance with the provisions of the second paragraph of Article I.

The amount of foreign exchange to be made available for the purchase of products of New Zealand in the first quarter of 1938 shall be calculated upon the sum of all payments (viz: foreign exchange and payments out of New Zealand ASKI) for German exports to New Zealand received during the last three months of 1937.

Article III.

The German Import Control Boards (Überwachungsstellen) shall be empowered by the Reich Foreign Exchange Control Administration (Reichsstelle für Devisenbewirtschaftung) to issue to German importers foreign exchange certificates for the payment of goods, produced or manufactured in New Zealand, up to the amounts provided for in Article II, taking into account the agreements between the two contracting parties as to certain classes of goods.

The German Import Control Boards shall regularly be informed in advance of the amount up to which the Foreign Exchange Certificates can be issued during each quarter. The amount of these limits (Wertgrenzen) shall at first be estimated, and shall then be adjusted during the course of the quarter, according to the amount of foreign exchange actually accrued during the previous quarter from German exports to New Zealand.

The amount up to which any limits have not been exhausted during one quarter shall be added to the limits of the following quarter; any excess over and above the limits of one quarter shall be deducted from the limits of the following quarter.

Article IV.

Since an orderly execution of this Agreement is assured only if German exports to New Zealand are paid for in foreign exchange, the Government of the German Reich shall no longer permit any other kind of payments for the German exports to New Zealand, such as compensation, Aski or blocked marks, except with the consent of the New Zealand Government.

Notwithstanding the foregoing the Government of the German Reich will permit the liquidation of any balances held by or on behalf of New Zealand exporters in respect of exports from New Zealand to Germany.

Article V.

The provisions of this Agreement shall apply only to goods the produce or manufacture of New Zealand which are shipped or sent direct from New Zealand to Germany, whether or not through ports in third countries and whether or not through, in the name of, or for the account of, persons resident in third countries. This restriction does not apply to dairy produce sold by the Primary Products Marketing Department of New Zealand or fruit sold under the control of the New Zealand Fruit Export Control Board.

Likewise the provisions of this Agreement shall apply only to articles, the produce or manufacture of Germany, which are shipped or sent direct from Germany to New Zealand, whether or not through ports in third countries and whether or not through, in the name of, or for the account of, persons resident in third countries.

The Government of the German Reich, on representations from the Government of New Zealand, agree, however, to give special consideration to the inclusion in the total credits which accrue to Germany from the sale to New Zealand of goods, the produce or manufacture of Germany, of the amount accruing to Germany from exports to New Zealand through other countries. In connection with any such representations due regard shall be had to purchases by Germany of goods the produce or manufacture of New Zealand from stocks held in other countries.

Article VI.

In the event of the economic benefits anticipated by both contracting parties on concluding the present Agreement not being attained or in the event of either of the contracting parties considering itself at a disadvantage through developments unfavourable to its interests or through the adoption by the other party of measures of an economic nature, either of the contracting parties may request that negotiations be commenced without delay with a view to effecting a mutually satisfactory adjustment of the matter. If such negotiations should not lead to a satisfactory settlement within three months from the date of receipt of the request, the party which considers itself at a disadvantage shall have the right to terminate the present Agreement six weeks from the date of the receipt by the other party of notification of termination.

Article VII.

This Agreement shall come into force on January 1st, 1938, and shall be binding for a period of two years from the date of coming into force, subject to the provisions of Article VI. In case neither of the contracting parties shall have given notice to the other, three months before the expiration of that period of its intention to terminate the present Agreement, it shall remain in force thereafter until the expiration of three months from the date on which either of the contracting parties shall have given to the other notice of its intention to terminate the Agreement.

In any event this Agreement shall cease to have effect from the date of the termination of the Trade Agreement concluded on this day between the Government of New Zealand and the Government of the German Reich.

In witness whereof this Agreement has been duly signed by Michael Joseph Savage, Prime Minister of New Zealand, on behalf of the Government of New Zealand and by Walter Hellenthal, Consul of Germany in New Zealand, on behalf of the Government of the German Reich.

Done in duplicate at Wellington in English and German texts, both authentic, this thirtieth day of September, 1937.

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