

RECIPROCAL TRADE

*Agreement signed at Washington December 23, 1942*¹

Proclaimed by the President of the United States December 28, 1942

Proclaimed by Mexico December 31, 1942

Entered into force January 30, 1943

*Terminated December 31, 1950*²

57 Stat. 833; Executive Agreement Series 311

The President of the United States of America and the President of the United Mexican States, being desirous of strengthening the traditional bonds of friendship existing between the two countries by maintaining the principle of equality of treatment in its unconditional and unlimited form as the basis of commercial relations and by granting mutual and reciprocal concessions and advantages for the promotion of trade, have through their respective plenipotentiaries arrived at the following Agreement:

ARTICLE I

With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation or exportation, and with respect to all laws and regulations affecting the taxation, sale, distribution or use of imported articles within the country, any advantage, favor, privilege or immunity which has been or may hereafter be granted by the United States of America or the United Mexican States to any article originating in or destined for any third country shall be accorded immediately and unconditionally to the like article originating in or destined for the United Mexican States or the United States of America, respectively.

ARTICLE II

Articles the growth, produce or manufacture of the United States of America or the United Mexican States imported into the other country, shall be exempt from all internal taxes, fees, charges or exactions other or higher than those imposed on like articles of national origin.

¹ For schedules annexed to agreement, see 57 Stat. 852 or p. 20 of EAS 311.

² By exchange of notes at México June 23, 1950.

ARTICLE III

1. No prohibition or restriction of any kind shall be imposed by the Government of the United States of America or the Government of the United Mexican States on the importation, sale, distribution or use of any article the growth, produce or manufacture of the other country, or on the exportation of any article destined for the territory of the other country, unless the importation, sale, distribution or use of the like article the growth, produce or manufacture of all third countries, or the exportation of the like article to all third countries, respectively, is similarly prohibited or restricted.

2. If the Government of the United States of America or the Government of the United Mexican States imposes any quantitative regulation on the importation or exportation of any article, or on the sale, distribution or use of any imported article, it shall as a general rule give public notice of the total quantity or value of such article permitted to be imported, exported, sold, distributed or used during a specified period, and of any change in such quantity or value. Furthermore, if the Government of either country allots a share of such total quantity or value to any third country, it shall as a general rule allot to the other country, with respect to any article in which the latter has an important interest, a share based upon the proportion of the total quantity or value supplied by, or in the case of exports a share based upon the proportion exported to, such other country during a previous representative period. In such cases the Government imposing the regulation shall consult with the Government of the other country before the share to be allotted to that country is determined.

3. The provisions of this Article relating to imported articles shall also apply in respect of the quantity or value of any article permitted to be imported free of duty or tax or at a lower rate of duty or tax than the rate of duty or tax imposed on imports in excess of such quantity or value.

ARTICLE IV

1. If the Government of the United States of America or the Government of the United Mexican States establishes or maintains any form of control of the means of international payment, it shall accord unconditional most-favored-nation treatment to the commerce of the other country with respect to all aspects of such control.

2. The Government establishing or maintaining such control shall impose no prohibition, restriction or delay on the transfer of payment for any article the growth, produce or manufacture of the other country which is not imposed on the transfer of payment for the like article the growth, produce or manufacture of any third country. With respect to rates of exchange and with respect to taxes or charges on exchange transactions, articles the growth, produce or manufacture of the other country shall be accorded unconditionally treatment no less favorable than that accorded to the like articles the

growth, produce or manufacture of any third country. The foregoing provisions shall also extend to the application of such control to payments necessary for or incidental to the importation of articles the growth, produce or manufacture of the other country. In general, the control shall be administered so as not to influence to the disadvantage of the other country the competitive relationships between articles the growth, produce or manufacture of the territories of that country and like articles the growth, produce or manufacture of third countries.

ARTICLE V

1. If the Government of the United States of America or the Government of the United Mexican States establishes or maintains an exclusive agency for the importation, exportation, sale, distribution or production of any article or grants exclusive privileges to any agency to import, export, sell, distribute or produce any article, the commerce of the other country shall be accorded fair and equitable treatment in respect of the foreign purchases or sales of such agency. To this end such agency shall, in making its foreign purchases or sales of any article, be influenced solely by considerations, such as price, quality, marketability, transportation and terms of purchase or sale, which would ordinarily be taken into account by a private commercial enterprise interested solely in purchasing or selling such article on the most favorable terms.

2. The Government of the United States of America and the Government of the United Mexican States, in the awarding of contracts for public works and generally in the purchase of supplies, shall accord fair and equitable treatment to the commerce of the other country as compared with the treatment accorded to the commerce of any third country.

ARTICLE VI

1. Laws, regulations of administrative authorities and decisions of administrative or judicial authorities of the United States of America and the United Mexican States, respectively, pertaining to the classification of articles for customs purposes or to rates of duty shall be published promptly in such a manner as to enable traders to become acquainted with them. Such laws, regulations and decisions shall be applied uniformly at all ports of the respective country, except as otherwise specifically provided in statutes of the United States of America relating to articles imported into Puerto Rico.

2. No administrative ruling by the Government of the United States of America or the Government of the United Mexican States effecting advances in rates of duties or in charges applicable under an established and uniform practice to imports originating in the territory of the other country, or imposing any new requirement with respect to such importations, shall be effective retroactively or as a general rule with respect to articles either entered, or withdrawn from warehouse, for consumption prior to the expiration of thirty

days after the date of publication of notice of such ruling in the usual official manner. The provisions of this paragraph do not apply to administrative orders imposing antidumping duties, or relating to regulations for the protection of human, animal or plant life or health, or relating to public safety, or giving effect to judicial decisions.

3. Greater than nominal penalties shall not be imposed by the Government of the United States of America or the Government of the United Mexican States in connection with the importation of articles the growth, produce or manufacture of the other country because of errors in documentation which are obviously clerical in origin or with regard to which good faith can be established.

4. The Government of the United States of America and the Government of the United Mexican States will accord sympathetic consideration to such representations as the other Government may make with respect to the operation of customs regulations, quantitative regulations or the administration thereof, the observance of customs formalities, and the application of sanitary laws and regulations for the protection of human, animal or plant life or health.

5. If the Government of the United States of America or the Government of the United Mexican States makes representations to the other Government in respect of the application of any sanitary law or regulation for the protection of human, animal or plant life or health, and if there is disagreement with respect thereto, a committee of technical experts on which each Government shall be represented shall, on the request of either Government, be established to consider the matter and to submit recommendations with respect thereto as soon as practicable.

ARTICLE VII

Articles the growth, produce or manufacture of the United States of America, enumerated and described in Schedule I³ annexed to this Agreement and made an integral part thereof, shall, on their importation into the United Mexican States, be exempt from ordinary customs duties in excess of those set forth and provided for in the said Schedule, subject to the conditions therein set out. The said articles shall also be exempt from all other duties, taxes, fees, charges or exactions, imposed on or in connection with importation, in excess of those imposed on the day of the signature of this Agreement or required to be imposed thereafter under laws of the United Mexican States in force on that day.

ARTICLE VIII

1. Articles the growth, produce or manufacture of the United Mexican States, enumerated and described in Schedules II and III annexed to this

³ See footnote 1, p. 1109.

Agreement and made an integral part thereof, shall, on their importation into the United States of America, be exempt from ordinary customs duties in excess of those set forth and provided for in the said Schedules, subject to the conditions therein set out. The said articles shall also be exempt from all other duties, taxes, fees, charges or exactions, imposed on or in connection with importation, in excess of those imposed on the day of the signature of this Agreement or required to be imposed thereafter under laws of the United States of America in force on that day.

2. The Government of the United States of America reserves the right to withdraw or to modify the concession in respect of the ordinary customs duty granted on any article enumerated and described in Schedule III of this Agreement at any time after the termination of the unlimited national emergency proclaimed by the President of the United States of America on May 27, 1941,⁴ on giving six months' written notice to the Government of the United Mexican States, but in no event shall the rate of duty on such article exceed the rate of duty in effect on the day of the signature of this Agreement.

ARTICLE IX

The provisions of Articles VII and VIII of this Agreement shall not prevent the Government of the United States of America or the Government of the United Mexican States from imposing at any time on the importation of any article a charge equivalent to an internal tax imposed in respect of a like domestic article or in respect of a commodity from which the imported article has been manufactured or produced in whole or in part.

ARTICLE X

1. No prohibition, restriction or any other form of quantitative regulation shall be imposed by the Government of the United Mexican States on the importation, sale, distribution or use of any article the growth, produce or manufacture of the United States of America enumerated and described in Schedule I, or by the Government of the United States of America on the importation, sale, distribution or use of any article the growth, produce or manufacture of the United Mexican States enumerated and described in Schedule II or Schedule III.

2. The foregoing provision shall not prevent the Government of either country from imposing quantitative regulations in whatever form on the importation or sale of any article in conjunction with governmental measures or measures under governmental authority operating to regulate or control the production, market supply, quality or prices of like domestic articles, or tending to increase the labor costs of production of such articles, or to maintain the exchange value of the currency of the country. Whenever the Gov-

⁴ 55 Stat. 1647.

ernment of either country proposes to impose or to alter substantially any quantitative regulation authorized by this paragraph, it shall give notice thereof in writing to the other Government and shall afford such other Government an opportunity to consult with it in respect of the proposed action; and if agreement with respect thereto is not reached the Government which proposes to take such action shall, nevertheless, be free to do so and the other Government shall be free within thirty days after such action is taken to terminate this Agreement in whole or in part on thirty days' written notice.

3. The provisions of paragraph 1 of this Article shall not apply in respect of quantitative restrictions imposed by the Government of the United States of America on imports of coffee from the United Mexican States pursuant to the provisions of the Inter-American Coffee Agreement signed on November 28, 1940.⁵

ARTICLE XI

1. If, as a result of unforeseen developments and of the concession granted on any article enumerated and described in the Schedules annexed to this Agreement, such article is being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of like or similar articles, the Government of either country shall be free to withdraw the concession, in whole or in part, or to modify it to the extent and for such time as may be necessary to prevent such injury. Accordingly, if the President of the United States of America finds as a fact that imports of any article enumerated and described in Schedule II or Schedule III are entering the United States of America under the circumstances specified in the preceding sentence, he shall determine whether the withdrawal, in whole or in part, of the concession with regard to the article, or any modification of the concession, by the imposition of quantitative regulations or otherwise, is necessary to prevent such injury, and he shall, if he finds that the public interest will be served thereby, proclaim such finding and determination, and on and after the effective date specified in such proclamation, and so long as such proclamation remains in effect, imports of the article into the United States of America shall be subject to the customs treatment so determined to be necessary to prevent such injury. Similarly, if the Government of the United Mexican States finds as a fact that any article enumerated and described in Schedule I is being imported into the United Mexican States under the circumstances specified, it may, if it finds that the public interest will be served thereby, withdraw in whole or in part the concession with regard to the article, or modify the concession by the imposition of quantitative regulations or otherwise, to the extent and for such time as may be necessary to prevent such injury.

⁵ TS 970, *ante*, vol. 3, p. 671.

2. Before the Government of either country shall withdraw or modify a concession pursuant to the provisions of paragraph 1 of this Article, it shall give notice in writing to the Government of the other country as far in advance as may be practicable and shall afford such other Government an opportunity to consult with it in respect of the proposed action; and if agreement with respect thereto is not reached the Government which proposes to take such action shall, nevertheless, be free to do so and the other Government shall be free within thirty days after such action is taken to terminate this Agreement in whole or in part on thirty days' written notice.

ARTICLE XII

In respect of articles the growth, produce or manufacture of the United States of America or of the United Mexican States enumerated and described in Schedule I or in Schedule II or Schedule III, respectively, imported into the other country, on which ad valorem rates of duty, or duties based upon or regulated in any manner by value, are or may be assessed, the general principles applicable in the respective countries for determining dutiable value and converting currencies shall not be altered so as to impair the value of any of the concessions provided for in this Agreement.

ARTICLE XIII

1. There shall be freedom of transit through the United States of America and the United Mexican States, respectively, on the routes most convenient for international transit for articles coming from or going to the territories of the other country.

2. Articles in transit shall be entered at the proper customhouse, but, subject to applicable customs laws and regulations, they shall be exempt from the payment of any transit duty, customs duty or similar charge, and they shall not be subject to any unnecessary delays or restrictions.

3. All charges and regulations imposed on transport in transit shall be reasonable, having regard to the conditions of the traffic.

4. Articles coming from or going to either country shall be accorded treatment in the other country with respect to all charges, rules and formalities in connection with transit no less favorable than the treatment accorded to articles coming from or going to any third country.

ARTICLE XIV

If the Government of the United States of America or the Government of the United Mexican States should consider that any measure adopted by the other Government, even though it does not conflict with the terms of this Agreement, has the effect of nullifying or impairing any object of the Agreement, such other Government shall give sympathetic consideration to

such written representations or proposals as may be made with a view to effecting a mutually satisfactory adjustment of the matter.

ARTICLE XV

1. The provisions of this Agreement relating to the treatment to be accorded by the United States of America and the United Mexican States, respectively, to the commerce of the other country shall apply to the respective customs territories of the two countries.

2. Furthermore, the provisions of this Agreement relating to most-favored-nation treatment shall apply to all territory under the sovereignty or authority of the United States of America or the United Mexican States, except that they shall not apply to the Panama Canal Zone.

ARTICLE XVI

1. The advantages now accorded or which may hereafter be accorded by the United States of America or the United Mexican States to adjacent countries in order to facilitate frontier traffic, and advantages accorded by virtue of a customs union to which either country may become a party, shall be excepted from the operation of this Agreement.

2. The advantages now accorded or which may hereafter be accorded by the United States of America, its territories or possessions or the Panama Canal Zone to one another or to the Republic of Cuba shall be excepted from the operation of this Agreement. The provisions of this paragraph shall continue to apply in respect of any advantages now or hereafter accorded by the United States of America, its territories or possessions or the Panama Canal Zone to one another, irrespective of any change in the political status of any of the territories or possessions of the United States of America.

ARTICLE XVII

Nothing in this Agreement shall be construed to prevent the adoption or enforcement of measures

- (a) imposed on moral or humanitarian grounds;
- (b) designed to protect human, animal or plant life or health;
- (c) relating to prison-made goods;
- (d) relating to the enforcement of police or revenue laws;
- (e) relating to the importation or exportation of gold or silver;
- (f) relating to the control of the export, sale for export, or transit of arms, ammunition, or implements of war, and, in exceptional circumstances, all other military supplies;
- (g) relating to neutrality;
- (h) relating to public security, or imposed for the protection of the country's essential interests in time of war or other national emergency.

ARTICLE XVIII

1. This Agreement shall enter into full force on the thirtieth day following proclamation thereof by the President of the United States of America and the President of the United Mexican States or, should the proclamations be issued on different days, on the thirtieth day following the later in time of such proclamations, and, subject to the provisions of Article X and Article XI, shall remain in force for a period of three years thereafter.

2. Unless six months before the expiration of the aforesaid period of three years the Government of the United States of America or the Government of the United Mexican States shall have given to the other Government notice of intention to terminate this Agreement upon the expiration of the aforesaid period, the Agreement shall remain in force thereafter, subject to the provisions of Article X and Article XI, until six months from the date on which notice of intention to terminate it shall have been given by either Government.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed this Agreement and have affixed their seals hereto.

DONE in the English and Spanish languages, both authentic, in duplicate, at Washington, this twenty-third day of December 1942.

For the President of the United States of America:

For the President of the United States of America:

CORDELL HULL [SEAL]

*Secretary of State
of the United States of America*

For the President of the United Mexican States:

F. CASTILLO NÁJERA [SEAL]

*Ambassador Extraordinary and Plenipotentiary
of the United Mexican States at Washington*

[For schedules annexed to agreement, see 57 Stat. 852 or p. 20 of EAS 311.]