

RECIPROCAL TRADE

*Agreement and exchange of notes signed at Washington August 24, 1934*¹

Proclaimed by the President of the United States August 24, 1934

Proclaimed by Cuba August 30, 1934

Entered into force September 3, 1934

Supplemented and amended by agreements of December 18, 1939,² and December 23, 1941³

Made inoperative by agreement of October 30, 1947⁴

Terminated August 21, 1963⁵

49 Stat. 3559; Executive Agreement Series 67

AGREEMENT

The President of the United States of America and the President of the Republic of Cuba, desirous of strengthening the traditional bonds of friendship and commerce between their respective countries by maintaining as the basis for their commercial relations the granting of reciprocal preferential treatment, in continuation of the policy adopted in the Convention of Commercial Reciprocity of 1902⁶ between the two countries, and taking into consideration that changed conditions have rendered it necessary to modify the provisions of that Convention, have arrived at the following Agreement:

ARTICLE I⁷

During the term of this Agreement, all articles the growth, produce or manufacture of the United States of America which would have been admitted free of duty if imported into the Republic of Cuba on the day of signature of this Agreement, and all articles the growth, produce or manufacture of the Republic of Cuba which would have been admitted free of

¹ For schedules annexed to agreement, see 49 Stat. 3570 or p. 14 of EAS 67.

² EAS 165, *post*, p. 1187.

³ EAS 229, *post*, p. 1198.

⁴ TIAS 1703, *post*, p. 1229.

⁵ Pursuant to notice of termination given by the United States Aug. 21, 1962.

⁶ Convention signed at Havana Dec. 11, 1902 (TS 427, *ante*, p. 1106).

⁷ For understandings relating to art. I, see protocol of Dec. 18, 1939 (EAS 165), *post*, p. 1190.

duty if imported into the United States of America on the day of signature of this Agreement, shall be so admitted by the respective country free of duty.

ARTICLE II ⁸

Articles the growth, produce or manufacture of the United States of America enumerated and described in Schedule I annexed hereto ⁹ and made a part of this Agreement, shall, on their importation into the Republic of Cuba, be granted exclusive and preferential reductions in duties not less than the percentages specified respectively in Column 1 of the said Schedule, such percentages of reduction being applied to the lowest rates of duty, respectively, now or hereafter payable on like articles the growth, produce or manufacture of any other foreign country.

No article the growth, produce or manufacture of the United States of America enumerated and described in Schedule I annexed hereto, with respect to which a rate of duty is specified in Column 2 of the said Schedule, shall in any case, except as provided in Article VIII or X, be subject to any customs duty in excess of the rate so specified.

Every article the growth, produce or manufacture of the United States of America which is not provided for in Article I, and which is not enumerated and described in Schedule I annexed to this Agreement, shall, on importation into the Republic of Cuba, be granted an exclusive and preferential reduction in duty of not less than the percentage of reduction which would have been accorded if imported into Cuba on the day of the signature of this Agreement, such percentage of reduction being applied to the lowest rate of duty now or hereafter payable on the like article the growth, produce or manufacture of any other foreign country.

ARTICLE III

Articles the growth, produce or manufacture of the Republic of Cuba enumerated and described in Schedule II annexed hereto and made a part of this Agreement, shall, on their importation into the United States of America, be granted exclusive and preferential reductions in duties not less than the percentages specified respectively in Column 1 of the said Schedule, such percentages of reduction being applied to the lowest rates of duty, respectively, now or hereafter payable on like articles the growth, produce or manufacture of any other foreign country.

No article the growth, produce or manufacture of the Republic of Cuba enumerated and described in Schedule II annexed hereto, with respect to which a rate of duty is specified in Column 2 of the said Schedule, shall in

⁸ For understandings relating to art. II, see exchange of notes of Dec. 18, 1939 (EAS 165), *post*, p. 1187.

⁹ See footnote 1, p. 1163.

any case, except as provided in Article VIII or X, be subject to any customs duty in excess of the rate so specified.

Every article the growth, produce or manufacture of the Republic of Cuba which is not provided for in Article I, and which is not enumerated and described in Schedule II annexed to this Agreement, shall, on importation into the United States of America, be granted an exclusive and preferential reduction in duty of not less than 20 per centum, such percentage of reduction being applied to the lowest rate of duty now or hereafter payable on the like article the growth, produce or manufacture of any other foreign country.

ARTICLE IV

The United States of America and the Republic of Cuba agree that the notes included in the Schedules I and II are hereby given force and effect as integral parts of this Agreement.

ARTICLE V¹⁰

No quantitative restriction shall be imposed by the Republic of Cuba on any article the growth, produce or manufacture of the United States of America enumerated and described in Schedule I annexed to this Agreement, nor by the United States of America on any article the growth, produce or manufacture of the Republic of Cuba enumerated and described in Schedule II: Provided, That the foregoing provision shall not apply to prohibitions or restrictions relating to public security; imposed on moral or humanitarian grounds; designed to protect human, animal or plant life; relating to prison-made goods or goods the product of forced labor; relating to the enforcement of police or revenue laws; or designed to extend to imported products a regime analogous to that affecting like or competing domestic products, such as restrictions imposed on imported products the production of which may be restricted within the importing country.

With respect to the allotment of quotas by the United States of America or the Republic of Cuba for any article on which quantitative restrictions are not prohibited by this Agreement, there shall be no discrimination against any person or company importing or exporting such articles between the two countries.

ARTICLE VI

On and after July 1, 1935, fees, charges or exactions imposed by the United States of America or the Republic of Cuba for consular certification of invoices and for other consular services pertaining to the documentation of any shipment of articles the growth, produce or manufacture of the territory of the other country shall not exceed in the aggregate 2 per centum of the free on board (F.O.B.) invoice value of the merchandise concerned, at the

¹⁰ For an amendment to art. V, see agreement of Dec. 23, 1941 (EAS 229), *post*, p. 1199.

port of exportation, except that this limitation shall apply only when the charges for such services would otherwise be in excess of two dollars and a half on merchandise of Cuban origin or two pesos and a half on merchandise of origin in the United States of America. Such fees, charges or exactions shall not in any case be higher than those imposed by the United States of America or the Republic of Cuba, respectively, upon shipments of like merchandise from any other country. This article, however, shall not be construed to embrace such reasonable fees, charges or exactions pertaining to documentation required by the sanitary laws or regulations of the United States of America or the Republic of Cuba as are commensurate with the services performed.

ARTICLE VII

In respect to articles the growth, produce or manufacture of the United States of America or the Republic of Cuba, imported into the other country, on which ad valorem rates of duty may be assessed, it is understood and agreed that the methods of determining dutiable value and of converting currencies shall be no less favorable to importers than the methods prescribed under presently existing laws and regulations of the respective importing country.

ARTICLE VIII ¹¹

All articles the growth, produce or manufacture of the United States of America or the Republic of Cuba, shall, after importation into the territory of the other country, be exempt from national or federal internal taxes, fees, charges or exactions, other or higher than those payable on like articles of national or any other foreign origin.

All articles enumerated and described in Schedule I annexed to this Agreement, with respect to which a rate of duty is specified in Column 2 of the said Schedule, shall be exempt from all taxes, fees, charges, or exactions, in excess of those imposed or required to be imposed by laws of the Republic of Cuba in effect on the day on which this Agreement comes into force; and all articles enumerated and described in Schedule II annexed to this Agreement, with respect to which a rate of duty is specified in Column 2 of the said Schedule, shall be exempt from all taxes, fees, charges or exactions, in excess of those imposed or required to be imposed by laws of the United States of America in effect on the day on which this Agreement comes into force.

The provisions of this Article, insofar as they apply to taxes, fees, charges, or exactions imposed within the United States of America, shall apply only to such taxes, fees, charges, or exactions as are subject to statutory control by the Federal Government of the United States of America.

¹¹ For amendments to art. VIII, see agreements of Dec. 18, 1939 (EAS 165), *post*, p. 1188, and Dec. 23, 1941 (EAS 229), *post*, p. 1200.

ARTICLE IX

On and after the day on which this Agreement comes into force, articles the growth, produce or manufacture of the United States of America and articles the growth, produce or manufacture of the Republic of Cuba previously imported into the other country shall be subject to the provisions of this Agreement, if entry therefor has not been made, or if they have been previously entered without payment of duty and under bond for warehousing, transportation, or any other purpose, and without any permit of delivery to the importer or to his agent having been issued: Provided, That when duties are based upon the weight of merchandise deposited in any public or private warehouse, the said duties shall, except as may be otherwise specially provided in the tariff laws of the respective countries in force on the day of signature of this Agreement, be levied and collected upon the weight of such merchandise at the time of its entry.

ARTICLE X¹²

In respect to articles subject to specific rates of duty, neither the United States of America nor the Republic of Cuba shall impose any additional duty, surtax, or other charge, by reason of any reduction in the value of its coin or currency with reference to the legal gold equivalent thereof as of June 1, 1934: Provided, That in the event that any such reduction shall have exceeded 10 per centum with reference to the legal gold equivalent of such coin or currency as of June 1, 1934, the rates of duty levied on a specific basis in the country whose coin or currency is so reduced in value on imported articles the growth, produce or manufacture of the other country may be increased to an extent no greater than is necessary to compensate for such reduction on the date of the arrival of the imported merchandise at the port of entry; except that any such increase in rates of duty imposed by either country on imported articles the growth, produce or manufacture of the other country, shall not be greater proportionately than the increase in rates of duty on like articles the growth, produce or manufacture of any other foreign country.

ARTICLE XI¹³

The customs preferences and other benefits provided for in this Agreement are granted by the United States of America and the Republic of Cuba to each other subject to the condition that the Government of each country will refrain from subjecting payments or the transfer of means of payment or the disposition thereof to any regulation, restriction, charge or exaction, other or higher than was in force on April 1, 1934, which results in (one) impairing or circumventing any provision of this Agreement, (two) placing an undue burden on trade between the nationals or residents of the respective countries,

¹² For an amendment to art. X, see agreement of Dec. 23, 1941 (EAS 229), *post*, p. 1200.

¹³ For an amendment to art. XI, see *ibid.*, p. 1201.

or (three) preventing or hindering nationals of either country residing, doing business, or traveling in the territory of the other country from securing and transferring in or to either country the funds reasonably necessary for, or arising from, such residence, business, or travel. In the event that the Government of either country considers that the other country has failed to comply with the conditions expressed in this Article, and the latter country shall not have satisfactorily corrected the regulation, restriction, charge or exaction out of which such failure arose, after formal complaint has been made thereof, the Government of the country so complaining may terminate the Agreement thirty days after giving notice to the other Government.

Nothing in this Article shall be construed to prevent the adoption of measures prohibiting or restricting the exportation of gold or silver.

ARTICLE XII

The United States of America and the Republic of Cuba retain the right to apply such measures as they respectively may see fit with respect to the control of the export or sale for export of arms, munitions, or implements of war, and in exceptional circumstances of other material needed in war.

ARTICLE XIII¹⁴

No administrative ruling by the United States of America or the Republic of Cuba effecting advances in duties or charges applicable under an established and uniform practice to imports from the territory of the other country shall be effective retroactively or with respect to articles either entered for or withdrawn 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 Article do not apply to administrative orders imposing anti-dumping duties, nor relating to sanitation or public safety, nor giving effect to judicial decisions.

ARTICLE XIV

Laws, regulations of administrative authorities, and decisions of administrative or judicial authorities, pertaining to the classification of articles for customs purposes and 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 of the United States of America or the Republic of Cuba shall be applied uniformly at all ports of entry of the country, except as otherwise specifically provided in statutes of the United States of America relating to articles imported into Puerto Rico.

¹⁴ For an understanding relating to art. XIII, see protocol of Dec. 18, 1939 (EAS 165), *post*, p. 1191.

ARTICLE XV

The provisions of this Agreement shall not apply to the Philippine Islands, the Virgin Islands, American Samoa, the Island of Guam, nor to the Panama Canal Zone.

ARTICLE XVI

The operation of the provisions of the Commercial Convention, concluded between the United States of America and the Republic of Cuba on December 11, 1902, shall be suspended on the day on which the present Agreement comes into force. In the event of the expiration or the denunciation of the present Agreement, the provisions of the aforesaid Convention of 1902 shall automatically resume operation and shall continue in full force and effect as provided therein until the expiration of one year from the day on which the Government of either country shall have given notice to the other Government of an intention to terminate it.

ARTICLE XVII¹⁵

The present Agreement shall come into force on the tenth day following the day of the signature thereof, after proclamation by the President of the United States of America and the President of the Republic of Cuba, and shall remain in full force for the term of three years thereafter, unless terminated pursuant to the provisions of Article XI or of the third paragraph of this Article.

Unless at least six months before the expiration of the aforesaid term of three years the Government of either country shall have given to the other Government notice of an intention to terminate the Agreement upon the expiration of the aforesaid term or it shall have been terminated pursuant to the provisions of Article XI or of the third paragraph of this Article, the Agreement shall remain in full force thereafter until six months from such time as the Government of either country shall have given notice to the other Government.

If, however, the rates of duty on sugar or tobacco specified in Column 2 of Schedule II annexed to this Agreement shall be increased in accordance with the provisions set forth in the notes to paragraphs 501 or 605 of the said Schedule, this Agreement may be terminated by the Government of either country by giving notice to the other Government of an intention to terminate it at the expiration of thirty days from the date of such notice.

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

¹⁵ For amendments to art. XVII, see agreements of Dec. 18, 1939 (EAS 165), *post*, p. 1189, and Dec. 23, 1941 (EAS 229), *post*, p. 1201.

DONE in duplicate, in the English and Spanish languages, both authentic, at the city of Washington, this 24th day of August, 1934.

For the President of the United States of America:

CORDELL HULL [SEAL]

Secretary of State

JEFFERSON CAFFERY [SEAL]

*Ambassador Extraordinary
and Plenipotentiary to
the Republic of Cuba*

SUMNER WELLES [SEAL]

Assistant Secretary of State

For the President of the Republic of Cuba:

COSME DE LA TORRIENTE [SEAL]

Secretary of State

M. MÁRQUEZ STERLING [SEAL]

*Ambassador Extraordinary
and Plenipotentiary to
the United States of America*

[For schedules annexed to agreement, see 49 Stat. 3570 or p. 14 of EAS 67.]

EXCHANGE OF NOTES

The American Secretary of State to the Cuban Secretary of State

DEPARTMENT OF STATE
Washington, August 24, 1934

EXCELLENCY:

I have the honor to confirm my understanding of the views developed by the conversations which have recently taken place at Habana between the Government of the United States of America and the Government of the Republic of Cuba with reference to the exportation of avocados and pineapple slips from Cuba to the United States of America, its territories and possessions, as follows:

The conversations between the two Governments have resulted in a mutual understanding that the Government of Cuba agrees not to permit the exportation of avocados to the United States of America by any carrier clearing from the final Cuban port or place of call except during the period from June 1 to September 30, inclusive, of each year, beginning with the calendar year 1935, and that the Government of Cuba will promulgate forthwith and enforce the regulations necessary to make this commitment effective.

These conversations between the two Governments have also developed a further understanding that the Cuban Government will permit the exportation of pineapple slips to the United States of America, its territories and possessions, subject to such regulations as the Cuban Department of Agriculture may establish. I shall be obliged if I may receive your confirmation of the correctness of this understanding.

I am happy to avail myself of this opportunity to renew to you, Excellency, the assurances of my highest and most distinguished consideration.

CORDELL HULL

Secretary of State of the United States of America

Dr. COSME DE LA TORRIENTE,
Secretary of State of Cuba,
Washington, D.C.

The Cuban Secretary of State to the American Secretary of State

[TRANSLATION]

EMBASSY OF CUBA
Washington, August 24, 1934

EXCELLENCY:

I have the honor to acknowledge the receipt of your note of today's date, communicating to me your understanding of the views developed by the conversations which have recently taken place at Habana between the Government of the United States of America and the Government of the Republic of Cuba with reference to the exportation of avocados and pineapple slips from Cuba to the United States of America, its territories and possessions.

Your Excellency's understanding is in exact accord with my own. The conversations between the two Governments have resulted in a mutual understanding that the Government of Cuba agrees not to permit the exportation of avocados to the United States of America by any carrier clearing from the final Cuban port or place of call, except during the period from June 1 to September 30, inclusive, of each year, beginning with the calendar year 1935, and that the Government of Cuba will promulgate forthwith and enforce the regulations necessary to make this commitment effective.

These conversations between the two Governments have also developed the further understanding that the Cuban Government will permit the exportation of pineapple slips to the United States of America, its territories and possessions, subject to such regulations as the Cuban Department of Agriculture may establish.

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

COSME DE LA TORRIENTE
Secretary of State of the Republic of Cuba

His Excellency

Mr. CORDELL HULL,
Secretary of State,
Washington.