

RECIPROCAL TRADE

*Agreement and exchanges of notes signed at Washington May 7, 1942*¹

Proclaimed by the President of the United States June 29, 1942

Proclaimed by Peru June 29, 1942

Entered into force July 29, 1942

*Terminated October 7, 1951*²

56 Stat. 1509; Executive Agreement Series 256

TRADE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF PERU

The President of the United States of America and the President of the Republic of Peru, being desirous of strengthening the traditional bonds of friendship between the two countries by maintaining the principle of equality of treatment 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 or charges of any kind imposed on or in connection with importation or exportation, and with respect to the method of levying such duties or charges, and with respect to all rules and formalities in connection with importation or exportation, and with respect to all laws or regulations affecting the sale, taxation 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 Republic of Peru 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 Republic of Peru or the United States of America, respectively.

ARTICLE II

Articles the growth, produce or manufacture of the United States of America or the Republic of Peru, shall, after importation into the other

¹ For schedules annexed to agreement, see 56 Stat. 1524 or p. 18 of EAS 256.

² Date on which Peru became a contracting party to the General Agreement on Tariffs and Trade; see understanding effected by exchange of notes Sept. 12 and 28, 1951 (3 UST 2548; TIAS 2421).

country, be exempt from all internal taxes, fees, charges or exactions other or higher than those imposed on like articles of national origin or of any other foreign origin.

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 Republic of Peru on the importation of any article the growth, produce or manufacture of the other country or upon the exportation of any article destined for the other country, unless the importation 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. No restriction of any kind shall be imposed by the Government of the United States of America or by the Government of the Republic of Peru on the importation from the other country of any article in which that country has an interest, whether by means of import licenses or permits or otherwise, unless, the total quantity or value of such article permitted to be imported during a specified period, or any change in such quantity or value, shall have been established and made public. If the Government of the United States of America or the Government of the Republic of Peru allots a share of such total quantity or value to any third country, it shall allot to the other country, unless it is mutually agreed to dispense with such allotment, a share based upon the proportion of the total imports of such article supplied by that country in a previous representative period, account being taken in so far as practicable of any special factors which may have affected or may be affecting the trade in that article, and shall make such share available so as to facilitate its full utilization. No limitation or restriction of any kind other than such an allotment shall be imposed, by means of import licenses or permits or otherwise, on the share of such total quantity or value which may be imported from the other country.

3. The provisions of this article shall apply in respect of the quantity or value of any article permitted to be imported at a specified rate of duty.

ARTICLE IV

1. If the Government of the United States of America or the Government of the Republic of Peru 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. In the event that the Government of the United States of America or the Government of the Republic of Peru establishes or maintains a monopoly for the importation, production or sale of a particular article or grants exclusive privileges, formally or in effect, to one or more agencies to import, produce or sell a particular article, the Government of the country establishing or maintaining such monopoly, or granting such exclusive privileges, agrees that in respect of the foreign purchases of such monopoly or agency the commerce of the other country shall be accorded fair and equitable treatment. To this end such monopoly or agency will, in making its foreign purchases of any article, be influenced solely by considerations, such as price, quality, marketability and terms of sale, which would ordinarily be taken into account by a private commercial enterprise interested solely in purchasing on the most favorable terms.

2. The Government of the United States of America and the Government of the Republic of Peru, 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 other foreign countries.

ARTICLE VI

1. Laws, regulations of administrative authorities and decisions of administrative or judicial authorities of the United States of America and the Republic of Peru, respectively, pertaining to the classification of articles for customs purposes or to rates of duty shall be published promptly in such manner as to enable traders to become acquainted with them.

2. No administrative ruling by the Government of the United States of America or the Government of the Republic of Peru 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 effec-

tive 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 anti-dumping 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.

ARTICLE VII

1. Articles the growth, produce or manufacture of the United States of America, enumerated and described in schedule I annexed to this agreement³ and made an integral part thereof, on their importation into the Republic of Peru, if now exempt from ordinary customs duties, shall continue to be so exempt or, if now dutiable, shall 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.

2. 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 the laws of the Republic of Peru in force on that day.

ARTICLE VIII

1. Articles the growth, produce or manufacture of the Republic of Peru, enumerated and described in schedule II annexed to this agreement and made an integral part thereof, on their importation into the United States of America, if now exempt from ordinary customs duties, shall continue to be so exempt or, if now dutiable, shall 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.

2. 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 the laws of the United States of America in force on that day.

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 Republic of Peru 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.

³ See footnote 1, p. 1143.

ARTICLE X

1. No prohibition, restriction or any other form of quantitative regulation, whether or not operated in connection with any agency of centralized control, shall be imposed by the Government of the Republic of Peru on the importation or sale 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 or sale of any article the growth, produce or manufacture of the Republic of Peru enumerated and described in schedule II.

2. The foregoing provision shall not apply to quantitative regulations in whatever form imposed by the Government of the United States of America or by the Government of the Republic of Peru on the importation or sale of any article the growth, produce or manufacture of the other country, 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 Government of the United States of America or the Government of the Republic of Peru 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, in accordance with the procedure provided for in article XI.

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 Peru pursuant to the provisions of the Inter-American Coffee Agreement signed on November 28, 1940⁴ or of any other international agreement.

ARTICLE XI

1. If the Government of the United States of America or the Government of the Republic of Peru should consider that any circumstance, or 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 or of prejudicing an industry or the commerce of the country, 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. If agreement is not reached with respect to the matter within thirty days after such representations or proposals are received, the Government which made them shall be free, within fifteen days after the expiration of the aforesaid period of thirty

⁴ TS 970, *ante*, vol. 3, p. 671.

days, to terminate this agreement in whole or in part on thirty days' written notice.

2. The Government of the United States of America and the Government of the Republic of Peru agree to consult to the fullest possible extent in regard to all matters affecting the operation of the present agreement. In order to facilitate such consultation, a commission consisting of representatives of each Government shall be established to study the operation of the agreement, to make recommendations regarding the fulfillment of the provisions of the agreement, and to consider such other matters as may be submitted to it by the two Governments.

ARTICLE XII

1. The provisions of this agreement relating to the treatment to be accorded by the United States of America and the Republic of Peru, 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 Republic of Peru, except that they shall not apply to the Panama Canal Zone.

ARTICLE XIII

1. The advantages now accorded or which may hereafter be accorded by the United States of America or the Republic of Peru 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 XIV

1. 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 or sale for export 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.

2. The provisions of this agreement relating to the sale, taxation or use of imported articles within the United States of America are understood to be subject to the constitutional limitations on the authority of the Federal Government.

ARTICLE XV

1. Greater than nominal penalties shall not be imposed in the United States of America or in the Republic of Peru upon importations of articles the growth, produce or manufacture of the other country because of errors in documentation obviously clerical in origin or where good faith can be established.

2. The Government of the United States of America and the Government of the Republic of Peru will accord sympathetic consideration to, and when requested will afford adequate opportunity for consultation regarding, 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.

3. In the event that the Government of the United States of America or the Government of the Republic of Peru 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.

ARTICLE XVI

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 Republic of Peru or, should the proclamations be issued on different days, on the thirtieth day following the date of the later in time of such proclamations, and, subject to the provisions of article XI, shall remain in force for a period of two years thereafter. The Government of each country shall notify the Government of the other country of the date of its proclamation.

2. Unless six months before the expiration of the aforesaid period of two years the Government of the United States of America or the Government of the Republic of Peru 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 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 duplicate, in the English and Spanish languages, both authentic, at the city of Washington this seventh day of May, 1942.

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 Republic of Peru:
 DAVID DASSO [SEAL]
Minister of Finance and Commerce
of the Republic of Peru

[For schedules annexed to agreement, see 56 Stat. 1524 or p. 18 of EAS 256.]

EXCHANGES OF NOTES

The Peruvian Minister of Finance and Commerce to the Secretary of State

[TRANSLATION]

EMBASSY OF PERU
 WASHINGTON, D.C.

MAY 7, 1942

EXCELLENCY:

I have the honor to refer to the conversations which have taken place in the course of the negotiation of the trade agreement signed this day between the Republic of Peru and the United States of America, regarding trade relations between Peru and contiguous countries.

During the course of these conversations the Peruvian representatives have pointed out that, although the Government of the Republic of Peru is completely in accord with the principles expressed by the representatives of the Government of the United States of America that international trade should be developed to the fullest possible extent on a multilateral, unconditional most-favored-nation basis the Government of Peru has considered it necessary, in special circumstances, to grant certain tariff preferences to contiguous countries.

The Peruvian representatives have referred in this connection to the recommendation adopted by the Inter-American Financial and Economic Advisory Committee on September 18, 1941, that any such tariff preferences, in order to be an instrument for sound promotion of trade, should be made effective through trade agreements embodying tariff reductions or exemptions; that the parties to such agreements should reserve the right to reduce or eliminate the customs duties on like imports from other countries; and that any such regional tariff preferences should not be permitted to stand in the way of any broad program of economic reconstruction involving the reduction of tariffs and the scaling down or elimination of tariff and other trade preferences with a view to the fullest possible development of international trade on a multilateral, unconditional most-favored-nation basis.

The conversations to which I have referred have disclosed a mutual understanding as follows:

The Government of the United States will not invoke the provisions of article I of the trade agreement signed this day for the purpose of obtaining the benefit of tariff preferences meeting the requirements of the aforementioned recommendation adopted by the Inter-American Financial and Economic Advisory Committee which Peru may accord to a contiguous country, it being understood that if any such preference should be extended by Peru to any non-contiguous country it would be extended immediately and unconditionally to the United States.

Accept, Excellency, the renewed assurances of my highest consideration.

DAVID DASSO

His Excellency

CORDELL HULL,

Secretary of State of the United States of America.

The Secretary of State to the Peruvian Minister of Finance and Commerce

WASHINGTON

May 7, 1942

EXCELLENCY:

I have the honor to acknowledge the receipt of Your Excellency's note of today's date with reference to the understanding reached between representatives of the Government of the United States of America and the Government of the Republic of Peru, in connection with the trade agreement signed this day, regarding trade relations between Peru and contiguous countries.

I have the honor to confirm Your Excellency's statement of the understanding reached with reference to this matter.

Accept, Excellency, the assurances of my most distinguished consideration.

CORDELL HULL
*Secretary of State of the
United States of America*

His Excellency
Señor Doctor Don DAVID DASSO,
*Minister of Finance and Commerce
of the Republic of Peru.*

The Peruvian Minister of Finance and Commerce to the Secretary of State

[TRANSLATION]

EMBASSY OF PERU
WASHINGTON, D.C.

MAY 7, 1942

EXCELLENCY:

I have the honor to refer to the conversations which have taken place in connection with the negotiation of the trade agreement signed this day with reference to the quantitative restrictions imposed by Your Excellency's Government on imports of long-staple cotton of Peruvian origin.

The conversations to which I have referred have resulted in a mutual understanding that the United States Tariff Commission will be requested to make an investigation regarding the import quotas now imposed on long-staple cotton under section 22 of the Agricultural Adjustment Act of 1933, as amended,⁵ with a view to consolidating the existing allocations by countries into a global quota equal to the sum of the present individual country quotas, thus allowing Peru and other countries to utilize fully the total amount permitted to be imported; that if such an investigation by the Tariff Commission results in a finding of fact and a recommendation to the President of the United States in the above sense, the President will then issue a proclamation giving effect to such recommendation; and the President of Peru will then be enabled to issue his proclamation of the trade agreement.

I should appreciate receiving Your Excellency's confirmation of the understanding set forth above.

Accept, Excellency, the assurances of my most distinguished consideration.

DAVID DASSO
*Minister of Finance and Commerce
of the Republic of Peru*

His Excellency
CORDELL HULL,
*Secretary of State of the United States
of America.*

⁵ 49 Stat. 773.

The Secretary of State to the Peruvian Minister of Finance and Commerce

WASHINGTON

May 7, 1942

EXCELLENCY:

I have the honor to acknowledge receipt of Your Excellency's note of today's date regarding the understanding reached between representatives of the Government of the United States of America and the Government of the Republic of Peru, with reference to the quantitative restrictions imposed by the Government of the United States on long-staple cotton of Peruvian origin.

I have the honor to confirm Your Excellency's statement of the understanding which has been reached on this matter.

Accept, Excellency, the assurances of my most distinguished consideration.

CORDELL HULL

*Secretary of State of the
United States of America*

His Excellency

Señor Doctor Don DAVID DASSO,
*Minister of Finance and Commerce
of the Republic of Peru.*