

RECIPROCAL TRADE

*Agreement and related notes signed at Washington March 7, 1938*¹

Proclaimed by the President of the United States March 15, 1938

*Schedules and protocol amended by protocol of April 15, 1938*²

Entered into force provisionally April 16, 1938

*Terminated April 22, 1939, by proclamation of March 23, 1939*³

53 Stat. 2293; Executive Agreement Series 147

The President of the United States of America and the President of the Czechoslovak Republic, 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

Articles the growth, produce or manufacture of the United States of America, enumerated and described in Section A of Schedule I¹ annexed to this Agreement and made a part thereof, shall, on their importation into the Czechoslovak Republic, be exempt from ordinary customs duties in excess of those set forth and provided for in the said Section. 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 Czechoslovak Republic in force on the day of the signature of this Agreement.

With respect to articles enumerated and described in Section B of Schedule I for which import quotas are specified in the said Section, the quantities of such articles the growth, produce or manufacture of the United States of America which shall be permitted to be imported annually into the customs territory of the Czechoslovak Republic, beginning with the day on which this

¹ For schedules annexed to agreement and protocol of Mar. 7, 1938, amending schedules, see 53 Stat. 2310 or p. 20 of EAS 147.

² 53 Stat. 2338; EAS 147.

³ 53 Stat. 2530.

Agreement comes into force, shall not be less than those specified in the said Section.

ARTICLE II

Articles the growth, produce or manufacture of the Czechoslovak Republic, enumerated and described in Schedule II annexed to this Agreement and made a 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 Schedule. 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 the day of the signature of this Agreement.

ARTICLE III

The provisions of Articles I and II of this Agreement shall not prevent the Government of either country from imposing at any time on or in connection with the importation of any product a charge equivalent to an internal tax imposed in respect of a like domestic product or in respect of a commodity from which the imported product has been manufactured or produced in whole or in part.

ARTICLE IV

The United States of America and the Czechoslovak Republic agree that the notes and provisions included in Schedules I and II annexed to this Agreement and in the accompanying Protocol are hereby given force and effect as integral parts of this Agreement.

ARTICLE V

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

ARTICLE VI

In respect of articles the growth, produce or manufacture of the United States of America or of the Czechoslovak Republic enumerated and described in Schedules I and II, 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, it is understood and agreed that the bases and methods of determining dutiable value and of converting currencies shall be no less favorable to importers than the bases and methods prescribed under laws and regulations of the Czechoslovak Republic and the

United States of America, respectively, in force on the day of the signature of this Agreement.

ARTICLE VII

Except as otherwise provided in this Agreement, no prohibitions, import or customs quotas, or any other form of limitation of the amount of imports, whether or not operated in connection with any agency of centralized control, shall be imposed by the Czechoslovak Republic on the importation or sale of any article the growth, produce or manufacture of the United States of America enumerated and described in Section A of Schedule I, or by the United States of America on the importation or sale of any article the growth, produce or manufacture of the Czechoslovak Republic, enumerated and described in Schedule II.

The foregoing provision shall not apply to quantitative restrictions in whatever form imposed by the United States of America or by the Czechoslovak Republic on the importation or sale of any article the growth, produce or manufacture of the other country, in conjunction with governmental measures operating to regulate or control the production, market supply or prices of like domestic articles, or tending to increase the labor costs of production of such articles. The Government of the country imposing any such restriction will give sympathetic consideration to any representations which the Government of the other country may make in regard thereto and will consult promptly with the Government of such other country with respect to the subject matter of such representations; and if an agreement with respect thereto is not reached within thirty days following the receipt of written representations, the Government making them shall be free, within fifteen days after the expiration of the aforesaid period of thirty days, to terminate this Agreement in its entirety on thirty days' written notice.

ARTICLE VIII

1. If the United States of America or the Czechoslovak Republic establishes or maintains any form of quantitative restriction or control of the importation or sale of any article in which the other country has an interest, or imposes a lower import duty or charge on the importation or sale of a specified quantity of any such article than the duty or charge imposed on importations in excess of such quantity, the Government of the country taking such action shall:

(a) Upon request inform the Government of the other country as to the total quantity, or any change therein, of any such article permitted to be imported or sold or permitted to be imported or sold at such lower duty or charge, during a specified period; and

(b) Allot to the other country for such specified period a share of such total quantity as originally established or subsequently changed in any man-

ner equivalent to the proportion of the total importation of such article which such other country supplied during a previous representative period, unless it is mutually agreed to dispense with such allotment.

2. Except as otherwise provided for in this Agreement, neither the United States of America nor the Czechoslovak Republic shall regulate the total quantity of importations into its territory or sales therein of any article in which the other country has an interest, by import licenses or permits issued to individuals or organizations, unless the total quantity of such article permitted to be imported or sold, during a quota period of not less than three months, shall have been established. The Government of each country will, upon request, inform the Government of the other country of the total quantity of any such article permitted to be imported and of the regulations covering the issuance of such licenses or permits.

3. In the event that the Government of either country shall make representations concerning the application by the Government of the other country of the provisions of this Article, the Government of such other country shall give sympathetic consideration to such representations, and if, within thirty days after the receipt of such representations, a satisfactory adjustment has not been made or an agreement has not been reached with respect thereto, the Government making them may, within fifteen days after the expiration of the aforesaid period of thirty days, terminate this Agreement in its entirety on thirty days' written notice.

ARTICLE IX ⁴

1. In the event that the United States of America or the Czechoslovak Republic establishes or maintains a monopoly for the importation, production or sale of a particular commodity or grants exclusive privileges, formally or in effect, to one or more agencies to import, produce or sell a particular commodity, the Government of the country establishing or maintaining such monopoly, or granting such monopoly privileges, agrees that in respect of the foreign purchases of such monopoly or agency the commerce of the other country shall receive fair and equitable treatment. To this end it is agreed that in making its foreign purchases of any product such monopoly or agency will be influenced solely by competitive considerations such as price, quality, marketability and terms of sale.

2. It is agreed that each Government, in the awarding of contracts for public works and generally in the purchase of supplies shall not discriminate against the other country in favor of any third country.

ARTICLE X

In the event that the United States of America or the Czechoslovak Republic establishes or maintains, directly or indirectly, any form of control of the

⁴ See also related note, p. 1293.

means of international payment, it shall, in the administration of such control:

(a) Impose no prohibition, condition, restriction, or delay on the transfer of payment for imported articles the growth, produce or manufacture of the other country, or on the transfer of payments necessary for and incidental to the importation of such articles;

(b) Accord unconditionally, with respect to rates of exchange and taxes or surcharges on exchange transactions in connection with payments for or payments necessary and incidental to the importation of articles the growth, produce or manufacture of the other country, treatment no less favorable than that accorded in connection with the importation of any article whatsoever the growth, produce or manufacture of any third country; and

(c) Accord unconditionally, with respect to all rules and formalities applying to exchange transactions in connection with payments for or payments necessary and incidental to the importation of articles the growth, produce or manufacture of the other country, treatment no less favorable than that accorded in connection with the importation of the like articles the growth, produce or manufacture of any third country.

ARTICLE XI

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 goods within the country, any advantage, favor, privilege or immunity which has been or may hereafter be granted by the United States of America or by the Czechoslovak Republic 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 Czechoslovak Republic or the United States of America, respectively.

ARTICLE XII

In the event that the rate of exchange between the currencies of the United States of America and the Czechoslovak Republic varies considerably from the rate obtaining on the day of the signature of this Agreement, the Government of either country, if it considers the change in rate so substantial as to prejudice the industry or commerce of the country, shall be free to propose negotiations for the modification of this Agreement or to terminate this Agreement in its entirety on thirty days' written notice.

ARTICLE XIII

Greater than nominal penalties will not be imposed in the United States of America or in the Czechoslovak Republic 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.

The Government of each country 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 restrictions 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.

ARTICLE XIV

1. Except as otherwise provided in the second paragraph of this Article, the provisions of this Agreement relating to the treatment to be accorded by the United States of America and the Czechoslovak Republic, respectively, to the commerce of the other country, shall not apply to the Philippine Islands, the Virgin Islands, American Samoa, the Island of Guam, or to the Panama Canal Zone.

2. Subject to the reservations set forth in paragraphs 3, 4 and 5 of this Article, the provisions of this Agreement regarding most-favored-nation treatment shall apply to articles the growth, produce or manufacture of any territory under the sovereignty or authority of the United States of America or the Czechoslovak Republic, imported from or exported to any territory under the sovereignty or authority of the other country. It is understood, however, that the provisions of this paragraph do not apply to the Panama Canal Zone.

3. The advantages now accorded or which may hereafter be accorded by the United States of America or the Czechoslovak Republic to adjacent countries in order to facilitate frontier traffic, and advantages resulting from a customs union to which either the United States of America or the Czechoslovak Republic may become a party so long as such advantages are not extended to any other country, shall be excepted from the provisions of this Agreement.

4. The advantages now accorded or which may hereafter be accorded by the Czechoslovak Republic to Austria, Hungary, Yugoslavia, Rumania or Bulgaria for the purpose of closer mutual economic cooperation between the Danubian countries, in respect of those commodities benefiting from special advantages now accorded by the Czechoslovak Republic to such countries, shall be excepted from the provisions of this Agreement. However, in the event that such advantages should have the effect of impairing materially the value of any concession provided for in Schedule I of this Agreement, the Government of the United States of America reserves the right to reopen negotiations with a view to the modification of this Agreement.⁵

⁵ See also related note, p. 1294.

5. 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 XV

Subject to the requirement that, under like circumstances and conditions, there shall be no arbitrary discrimination by either country against the other country in favor of any third country, and without prejudice to the provisions of Article IX or of the second paragraph of Article XIII, the provisions of this Agreement shall not extend to prohibitions or restrictions

- (1) relating to public security;
- (2) imposed on moral or humanitarian grounds;
- (3) designed to protect human, animal or plant life or health;
- (4) relating to prison-made goods;
- (5) relating to the enforcement of police or revenue laws and regulations;
- (6) applied to products which, as regards production or trade, are or may in future be subject within the country to State monopoly or to monopolies exercised under State control.

Nothing in this Agreement shall be construed to prevent the adoption of measures prohibiting or restricting the exportation or importation of gold or silver, or to prevent the adoption of such measures as either Government may see fit with respect 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. It is agreed, further, that nothing in this Agreement shall be construed to prevent the adoption or enforcement of measures relating to neutrality.

ARTICLE XVI

In the event that the United States of America or the Czechoslovak Republic adopts any measure which, even though it does not conflict with the terms of this Agreement, is considered by the Government of the other country to have the effect of nullifying or impairing any object of the Agreement, the Government of the country which has adopted any such measure shall consider such representations and proposals as the Government of the other country may make with a view to effecting a mutually satisfactory adjustment of the matter.

ARTICLE XVII

The Government of the United States of America and the Government of the Czechoslovak Republic reserve the right to withdraw or to modify the concession granted on any article under this Agreement, or to impose quantitative restrictions on any such article if, as a result of the extension of such concession to third countries, such countries obtain the major benefit of such concession and in consequence thereof an unduly large increase in importations of such article takes place: Provided, That before the Government of either country shall avail itself of the foregoing reservation, it shall give notice in writing to the other Government of its intention to do so, and shall afford such other Government an opportunity within thirty days after receipt of such notice to consult with it in respect of the proposed action; and if an agreement with respect thereto is not reached within thirty days following receipt of the aforesaid notice, the Government which proposed to take such action shall be free to do so at any time thereafter, and the other Government shall be free within fifteen days after such action is taken to terminate this Agreement in its entirety on thirty days' written notice.

ARTICLE XVIII

The present Agreement shall, from the date on which it comes into force, supplant the agreement between the United States of America and the Czechoslovak Republic, effected by exchange of notes signed on October 29, 1923,⁶ as prolonged by the agreement signed December 5, 1924,⁷ and as amended by the agreement signed on March 29, 1935.⁸

ARTICLE XIX

The present Agreement shall be proclaimed by the President of the United States of America, and shall be ratified by the President of the Czechoslovak Republic after the declaration of approval by the National Assembly of the Czechoslovak Republic.

Pending ratification of the present Agreement by the President of the Czechoslovak Republic, the present Agreement shall be applied provisionally by the United States of America and the Czechoslovak Republic on April 16, 1938, and thereafter until the day on which the Agreement shall come definitively into force, subject to the provisions of Article VII, Article VIII, Article XII, Article XVII, numbered paragraph 14 of the Protocol, and the third paragraph of this Article. The Agreement shall come definitively into force thirty days after the exchange of the proclamation of the President of the United States of America and the instrument of ratification of the Presi-

⁶ TS 673-A, *ante*, p. 1244.

⁷ TS 705; IV Trenwith 4058.

⁸ EAS 74, *ante*, p. 1280.

dent of the Czechoslovak Republic which shall take place at Praha as soon as possible.

The present Agreement shall remain in force, subject to the provisions of Article VII, Article VIII, Article XII, Article XVII, and numbered paragraph 14 of the Protocol, until April 15, 1939. Unless at least six months before April 15, 1939, the Government of either country shall have given notice of termination to the other Government, the Agreement shall continue in force thereafter, subject to the provisions of Article VII, Article VIII, Article XII, Article XVII, and numbered paragraph 14 of the Protocol, until six months from the day on which the Government of either country shall have given notice of termination to the other Government.

In witness whereof the respective Plenipotentiaries have signed this Agreement and have affixed their seals hereto.

Done in duplicate, in the English and Czechoslovak languages, both authentic, at the City of Washington, this 7th day of March 1938.

For the President of the United States of America:

CORDELL HULL [SEAL]

For the President of the Czechoslovak Republic:

V. S. HURBAN [SEAL]

[For schedules annexed to agreement and protocol of March 7, 1938, amending schedules, see 53 Stat. 2310 or p. 20 of EAS 147.]

NOTES

The Czechoslovak Minister to the Secretary of State

CZECHOSLOVAK LEGATION
WASHINGTON, D.C.

MARCH 7, 1938

EXCELLENCY:

With reference to Article IX of the Trade Agreement signed this day on behalf of the United States of America and the Czechoslovak Republic, I have the honor to inform Your Excellency that pursuant to the understanding reached in the course of the negotiations of the said Agreement, the Czechoslovak Tobacco Monopoly will make every effort to increase the purchases of leaf tobacco of United States origin and provenance, particularly those types used for cigarettes.

The Government of the Czechoslovak Republic also engages that any quantitative restriction it may establish on imports of wheaten flour shall take the form of an unallocated global quota, which shall be announced and shall be administered in such a way as to permit the full utilization thereof on a fair and equitable basis as between exporters in the several supplying countries.

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

V. S. HURBAN

His Excellency,
The Honorable CORDELL HULL,
Secretary of State,
Washington, D. C.

The Czechoslovak Minister to the Secretary of State

CZECHOSLOVAK LEGATION
WASHINGTON, D.C.

MARCH 7, 1938

EXCELLENCY:

During the course of the negotiation of the trade agreement signed this date, and with direct reference to Paragraph 4 of Article XIV thereof, the Czechoslovak delegation set forth the policies and intentions of the Government of the Czechoslovak Republic in respect of closer mutual economic cooperation between the Danubian countries. It was explained that:

1. These advantages will be granted only for the purpose of stimulating the flow of commerce in the Danubian area.

2. It is the intention of the Government of the Czechoslovak Republic to substitute for the system of quota and other advantages now accorded to the Danubian countries, a system of special tariff advantages.

3. The advantages granted by the Government of the Czechoslovak Republic will not be excessive and will be effected through the reduction of existing restrictions in favor of the Danubian countries, rather than by the imposition of new or greater limitations on the commerce of the United States.

4. The Government of the Czechoslovak Republic will immediately inform the Government of the United States of America if and when any changes are made in the present special advantages.

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

V. S. HURBAN

His Excellency,
The Honorable CORDELL HULL,
Secretary of State,
Washington, D. C.