

RECIPROCAL TRADE

*Agreement signed at Washington March 28, 1935*¹

Proclaimed by Haiti April 29, 1935

Proclaimed by the President of the United States May 4, 1935

Entered into force June 3, 1935

*Modified by agreement of February 16 and 19, 1942*²

*Supplemented by agreement of April 25, 1942*³

*Terminated January 1, 1950, by agreement of December 29, 1949*⁴

49 Stat. 3737; Executive Agreement Series 78

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

On and after the day on which this Agreement comes into force, all articles the growth, produce or manufacture of the United States of America, enumerated and described in Schedule I annexed to this Agreement¹ and made a part thereof, except those enumerated and described under items numbered 11033, 12011, and 13007, shall, on their importation into the Republic of Haiti, be exempt from ordinary customs duties in excess of those set forth in the said Schedule and from all other duties, taxes, fees, charges or exactions, imposed on or in connection with importation, in excess of those imposed or required to be imposed by laws of the Republic of Haiti in effect on the day of the signature of this Agreement.

Whenever the budget of expenditures of the Republic of Haiti for any fiscal year is promulgated in the amount of Gourdes 40,000,000 or more, articles the growth, produce, or manufacture of the United States of America, enumerated and described under items numbered 11033, 12011, and 13007 in Schedule I of this Agreement, shall, on their importation during such fiscal year into the Republic of Haiti, be exempt from ordinary customs duties in excess of those set forth in the said Schedule; and on and after the day of

¹ For schedules annexed to agreement, see 49 Stat. 3748 or p. 14 of EAS 78.

² EAS 238, *post*, p. 753.

³ EAS 252, *post*, p. 759.

⁴ 2 UST 458; TIAS 2189.

the signature of this Agreement, they shall be exempt on their importation into the Republic of Haiti, from all duties, taxes, fees, charges or exactions, imposed on or in connection with importation, in excess of those imposed or required to be imposed by laws of the Republic of Haiti in effect on the day of the signature of this Agreement.

ARTICLE II

Articles the growth, produce or manufacture of the Republic of Haiti, 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 in the said Schedule, and from all other duties, taxes, fees, charges, or exactions, imposed on or in connection with importation, in excess of those imposed or required to be imposed by laws of the United States of America in effect on the day of the signature of this Agreement.

As long as the quota provisions of the Act "to include sugar beets and sugar cane as basic agricultural commodities under the Agricultural Adjustment Act, and for other purposes," approved by the President of the United States of America on May 9, 1934,⁵ are operative, any sugar imported into the United States of America from the Republic of Haiti with respect to which a drawback of duty is allowed, under the provisions of Section 313 of the Tariff Act of 1930,⁶ shall not be charged against the quota established by the Secretary of Agriculture of the United States of America for the Republic of Haiti.

ARTICLE III

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

ARTICLE IV

Articles the growth, produce or manufacture of the United States of America or the Republic of Haiti, 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. The provisions of this Article in regard to the granting of national treatment shall not apply to taxes imposed in the United States of America on coconut oil or on any combination or mixture containing a substantial quantity of coconut oil, or to taxes imposed in the Republic of Haiti on cigarettes.

Cigarettes originating in the United States of America shall, after importation into the Republic of Haiti, be exempt from all internal taxes, fees,

⁵ 48 Stat. 670.

⁶ 46 Stat. 693.

charges or exactions other or higher than those in effect on the day of the signature of this Agreement.

ARTICLE V

In respect of articles the growth, produce or manufacture of the United States of America or the Republic of Haiti, enumerated and described in Schedules I and II, respectively, imported into the other country, on which ad valorem rates of duty 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 presently existing laws and regulations of the Republic of Haiti and the United States of America, respectively.

ARTICLE VI

No prohibition or restriction on importations shall be imposed by the United States of America or the Republic of Haiti on articles the growth, produce or manufacture of the other country with respect to which obligations have been assumed under Articles I or II of this Agreement: 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; 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.

ARTICLE VII

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

Without prejudice to the provisions of Article VI of this Agreement, neither the United States of America nor the Republic of Haiti shall establish any prohibition or maintain any restriction on imports from the territory of the other country which is not applied to the importation of any like article originating in any third country.

Without prejudice to the provisions of Article VI of this Agreement, any abolition of an import prohibition or restriction which may be granted even temporarily by the United States of America or the Republic of Haiti in favor of an article of a third country shall be applied immediately and un-

conditionally to the like article originating in the territory of the Republic of Haiti or the United States of America, respectively.

In the event of rations or quotas being established by the United States of America or the Republic of Haiti for the importation of any article restricted or prohibited, it is agreed, without prejudice to the provisions of Article VI, that in the allocation of the quantity of restricted goods which may be authorized for importation, the other country will be granted a share equivalent to the proportion of the trade which it enjoyed in a previous representative period.

If either the United States of America or the Republic of Haiti establishes or maintains any system of control of foreign exchange or enters directly or indirectly into any arrangement which affects in fact the provision of foreign exchange or the regulation or control of the transfer or disposition of means of payment, or employs any other system of control or any other arrangement with respect to the settlement of international obligations, any advantage, favor, privilege, or immunity which may be granted in connection with any such system or arrangement or the administration thereof to the nationals or commerce of any third country shall be accorded immediately and unconditionally to the nationals or commerce of the Republic of Haiti or the United States of America, respectively.

The advantages now accorded or which may hereafter be accorded by the United States of America or the Republic of Haiti 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 Republic of Haiti may become a party, shall be excepted from the operation of this Agreement.

The advantages now accorded or which may hereafter be accorded by the United States of America, its territories and possessions and 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 the Philippine Islands irrespective of any change that may take place in the political status of the Philippine Islands.

Unless otherwise specifically provided in this Agreement, the provisions thereof shall not be construed to apply to police or sanitary regulations; and nothing in this Agreement shall be construed to prevent the adoption of measures prohibiting or restricting the exportation of gold or silver.

ARTICLE VIII

Laws, regulations of administrative authorities and decisions of administrative or judicial authorities of the United States of America and the Republic of Haiti, 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.

No administrative ruling by the United States of America or the Republic of Haiti effecting advances in rates of duties or 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 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 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 relating to public safety, or giving effect to judicial decisions.

ARTICLE IX

The United States of America and the Republic of Haiti 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 X

Greater than nominal penalties will not be imposed in the United States of America or in the Republic of Haiti upon importations of articles the growth, produce or manufacture of the other country because of errors in documentation which the importer or other party in interest can establish to the satisfaction of the customs authorities to have been clerical in origin or to have been made in good faith.

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.

ARTICLE XI

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 Republic of Haiti, 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.

Subject to the reservations set forth in Article VII, the provisions of that Article shall apply to articles the growth, produce or manufacture of any area under the sovereignty or authority of the United States of America or the Republic of Haiti imported from or exported to any area 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.

ARTICLE XII

The present Agreement shall, from the date on which it comes into force, supplant the agreement by exchange of notes signed by the United States of America and the Republic of Haiti on July 8, 1926.⁷

ARTICLE XIII

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 Haiti 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 entered previously 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 otherwise may specially be 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 XIV

The present Agreement shall come 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 Haiti, 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 shall remain in force for the term of three years thereafter. The Government of each country shall notify the Government of the other country of the date of its proclamation.

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 intention to terminate the Agreement upon the expiration of the aforesaid term, the Agreement shall remain in force thereafter, until six months from such time as the Government of either country shall have given notice to the other Government.

⁷ TS 746, *ante*, p. 696.

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

Done in duplicate, in the English and French languages, both authentic, at the city of Washington, the 28th day of March in the year 1935.

For the President of the United States of America:

CORDELL HULL [SEAL]

For the President of the Republic of Haiti:

A. BLANCHET [SEAL]

[For schedules annexed to agreement, see 49 Stat. 3748 or p. 14 of EAS 78.]