

RECIPROCAL TRADE

*Agreement and joint declaration signed at Washington September 13, 1935*¹

Approved and confirmed by the President of the United States October 25, 1935

Ratified by Colombia April 20, 1936

Instrument of approval and confirmation and instrument of ratification exchanged at Bogotá April 20, 1936

Proclaimed by the President of the United States April 20, 1936

Entered into force May 20, 1936

*Terminated December 1, 1949*²

49 Stat. 3875; Executive Agreement Series 89

AGREEMENT

The President of the United States of America and the President of the Republic of Colombia, desiring to strengthen the traditional bonds of friendship between the two countries by granting mutual advantages for the promotion of reciprocal trade and for the general expansion of international trade, have decided to conclude a trade agreement and for that purpose have appointed their Plenipotentiaries as follows:

The President of the United States of America: Cordell Hull, Secretary of State of the United States of America;

The President of the Republic of Colombia: Señor Don Miguel Lopez Pumarejo, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Colombia to the United States of America,

Who, after having exchanged their full powers, found to be in good and due form, have agreed upon the following articles:

ARTICLE I

Articles the growth, produce or manufacture of the United States of America, enumerated and described in Schedule I¹ annexed to this Agree-

¹ For schedules annexed to agreement, see 49 Stat. 3890 or p. 18 of EAS 89. For proclamations relating to allocation of tariff quotas on crude petroleum and fuel oil dated Dec. 12, 1939, Dec. 28, 1940, and Dec. 26, 1941, see 54 Stat. 2451, 54 Stat. 2456, 55 Stat. 1393; EAS 191, 192, 226.

² Pursuant to exchange of notes at Washington Oct. 12, 1949 (2 UST 569; TIAS 2207).

ment and made a part thereof, shall, on their importation into the Republic of Colombia, be exempt from ordinary customs duties in excess of those set forth in the said Schedule. For purposes of this article the term "ordinary customs duties" means the duties set forth in the Tariff Schedule of Colombian law 62 of 1931 and the respective modifications thereof.

Except as provided in Article IV of this Agreement, no other or higher duties, taxes, fees, or charges of whatever denomination, other than customs duties, shall be imposed on or in connection with the importation into the Republic of Colombia of articles the growth, produce or manufacture of the United States of America, enumerated and described in Schedule I, than those imposed or required to be imposed by laws of the Republic of Colombia in effect on the day of the signature of this Agreement.

ARTICLE II

Articles the growth, produce or manufacture of the Republic of Colombia, 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, except as provided in Article IV of this Agreement, 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.

ARTICLE III

All articles the growth, produce or manufacture of the United States of America or the Republic of Colombia, 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 any foreign origin.

All articles the growth, produce or manufacture of the United States of America or the Republic of Colombia, shall, after importation into the other country, be exempt from all national or Federal internal taxes, fees, charges or exactions, other or higher than those payable on like articles of domestic origin: Provided, That the provisions of this paragraph 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 nor to the canalization tax which the Republic of Colombia has established on merchandise and products imported or exported through its customs houses.

All articles the growth, produce or manufacture of the Republic of Colombia, shall, after importation into the United States of America, be

exempt from all State or Municipal taxes, fees, charges or exactions, other or higher than those payable on like articles of domestic origin.

Articles the growth, produce or manufacture of the United States of America, enumerated and described in Schedule I, shall, after importation into the Republic of Colombia, be exempt from all internal taxes, fees, charges or exactions, imposed by any Department or Municipality of the Republic of Colombia, other or higher than those provided for by laws in effect in the Republic of Colombia on the day of signature of this Agreement.

Articles the growth, produce or manufacture of the United States of America or the Republic of Colombia, enumerated and described in Schedules I and II, respectively, shall, after importation into the other country, be exempt from any national or Federal internal taxes, fees, charges or exactions, other or higher than those imposed or required to be imposed by laws of the Republic of Colombia or the United States of America, respectively, in effect on the day of signature of this Agreement.

Insofar as rates and charges for transportation services within the United States of America or the Republic of Colombia are imposed or controlled by the Government of the respective country, goods which are grown, produced or manufactured in the territory of either country shall pay within the territory of the other country transportation rates and charges which are not discriminatory as compared with the rates and charges on like goods of domestic origin transported under like circumstances and conditions.

ARTICLE IV

The provisions of this Agreement shall not apply to such special duties as are or may be required by laws of the United States of America or the Republic of Colombia to be assessed on importations which are not properly marked to indicate their origin, nor to such special duties as may be required by such laws to be assessed on importations which have been sold at less than the foreign market value, or, in the absence of such value, than the cost of production in the country of origin.

ARTICLE V

1. No prohibition or restriction on importations shall be imposed by the United States of America or the Republic of Colombia on articles the growth, produce or manufacture of the other country with respect to which obligations have been assumed under Articles II or I, respectively, of this Agreement: Provided, That the foregoing provision shall not apply to prohibitions or restrictions (a) relating to public security; (b) imposed on moral or humanitarian grounds; (c) designed to protect human, animal, or plant life, subject to the provisions of the second and third paragraphs of Article VIII; (d) relating to prison-made goods; (e) relating to the enforcement of police or revenue laws; or (f) permitted by paragraph 2 of this Article.

2. The provisions of the first paragraph of this Article shall not apply to any quantitative restriction imposed by the United States of America or the Republic of Colombia 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: Provided, That before any quantitative restriction on importation under the foregoing provisions of this paragraph is established, or having been established, is materially changed, the Government of the country which proposes to establish or materially change such restriction shall give notice thereof in writing to the other Government and shall accord the latter Government thirty days from the receipt of such notice to examine such proposed restriction or change; and Provided further, That in the the event such other Government objects to such proposed restriction or change, and if an agreement is not reached by the end of the thirtieth day following receipt of the notice of the intention to establish or change such restriction, the Government which proposes 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 the imposition of such restriction or change to terminate this Agreement on thirty days' notice.

3. It is understood that the sole purpose of proviso "(e)" of paragraph 1 of this Article is to reserve to the Governments of the United States of America and the Republic of Colombia the right to impose such import prohibitions or restrictions as may be necessary to enforce police or revenue laws now or hereafter in effect in the respective countries. That is to say, the only object of the proviso is to permit the operation of enforcement measures in conjunction with police or revenue laws.

ARTICLE VI

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

Unless otherwise required under constitutional provisions, no administrative ruling by the United States of America or the Republic of Colombia effecting advances in rates of duty or charges applicable under an established and uniform practice to imports from 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 antidumping duties, or relating to sanitation or public safety, or giving effect to judicial decisions or decisions of customs courts.

ARTICLE VII

It is agreed that the United States of America and the Republic of Colombia will grant each other unconditional and unrestricted most favored nation treatment in all matters concerning customs duties and subsidiary charges of every kind and in the method of levying duties, and, further, in all matters concerning the rules, formalities and charges, imposed in connection with the clearing of goods through the customs.

Accordingly, natural or manufactured products having their origin in the United States of America or the Republic of Colombia shall in no case be subject in the other country, in regard to the above mentioned matters, to any duties, taxes or charges other or higher, or to any rules or formalities other or more burdensome, than those to which the like products of any third country or any third country are or may hereafter be subject.

Similarly, natural or manufactured products exported from the territory of the United States of America or the Republic of Colombia and consigned to the territory of the other country shall in no case be subject with respect to exportation and in regard to the above mentioned matters to any duties, taxes or charges other or higher, or to any rules or formalities other or more burdensome, than those to which the like products when consigned to the territory of any third country are or may hereafter be subject.

Any advantage, favor, privilege or immunity which has been or may hereafter be granted by the United States of America or the Republic of Colombia in regard to the above mentioned matters to a natural or manufactured product originating in any third country or consigned to the territory of any third country shall be accorded immediately and without compensation to the like product originating in or consigned to the territory of the Republic of Colombia or the United States of America, respectively.

Neither the United States of America nor the Republic of Colombia 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. Any abolition of an import prohibition or restriction which may be granted even temporarily by the United States of America or the Republic of Colombia in favor of an article of a third country shall be applied immediately and unconditionally to the like article originating in the territory of the Republic of Colombia 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 Colombia for the importation of any article otherwise restricted or prohibited, it is agreed, that in the allocation of the quantity of restricted goods which may be authorized for importation, a share will be granted to the Republic of Colombia or the United States of America, respectively, equivalent to the proportion of the trade in such article which it enjoyed in a previous representative five year period or such other previous

representative period as may be agreed upon by the Governments of the two countries.

The provisions of the two preceding paragraphs shall not be construed to authorize the United States of America or the Republic of Colombia to establish any prohibition or maintain any restriction on articles the growth, produce or manufacture of the other country with respect to which obligations have been assumed under Articles II or I, respectively of this Agreement, other than such prohibitions and restrictions as are expressly authorized by the provisions of Article V.

Nevertheless, the advantages now accorded or which may hereafter be accorded by the United States of America or the Republic of Colombia to adjacent countries in order to facilitate frontier traffic and advantages resulting from a customs union to which either country may become a party shall be excepted from the operation of this Agreement, and, except as otherwise provided in Article VIII, this Agreement shall not apply to police or sanitary regulations or to the advantages now or hereafter accorded by the United States of America to the commerce of the Republic of Cuba, or to commerce between the United States of America and the Panama Canal Zone, the Philippine Islands, or any territory or possession of the United States of America, or to the commerce of the territories and possessions of the United States of America with one another. The provisions of this paragraph which except from the operation of this Agreement the commerce between the United States of America and the Philippine Islands and the commerce of the territories and possessions of the United States of America with one another shall apply in respect of advantages now or hereafter accorded by the United States of America or any territory or possession of the United States of America to the Philippine Islands, notwithstanding any change that may take place in the political status of the Philippine Islands.

Subject to the reservations set forth in the preceding paragraph, the provisions of this Article 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 Republic of Colombia, imported from or exported to any territory under the sovereignty or authority of the Republic of Colombia or the United States of America, respectively. It is understood, however, that the provisions of this paragraph do not apply to the Panama Canal Zone.

ARTICLE VIII

The Government of the United States of America and the Government of the Republic of Colombia, respectively, will accord sympathetic consideration to such reasonable representations as the other Government may make regarding the operation of customs regulations, the observance of customs formalities, and the application of sanitary laws and regulations for the protection of human, animal, or plant life.

In the event that the Government of either country makes representations to the Government of the other country in respect of the application of any sanitary law or regulation for the protection of human, animal, or plant life, 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 to the two Governments.

Whenever practicable the Government of either country, before applying any new measure of a sanitary character, will consult with the Government of the other country with a view to insuring that there will be as little injury to the commerce of the latter country as may be consistent with the purpose of the proposed measure. The provisions of this paragraph do not apply to actions affecting individual shipments under sanitary measures already in effect or to actions based on pure food and drug laws.

ARTICLE IX

Except as otherwise provided in Article VII the provisions of this Agreement relating to the treatment to be accorded by the United States of America or the Republic of Colombia, respectively, to the commerce of the other country, shall not apply to the Philippine Islands, the Virgin Islands, American Samoa, the Island of Guam, nor to the Panama Canal Zone.

ARTICLE X

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 Colombia 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 Republic of Colombia or the United States of America, respectively, in effect on the day of the signature of this Agreement, be levied and collected upon the weight of such merchandise at the time of its entry.

ARTICLE XI

As long as the present Agreement remains in force, it shall supersede any provisions of the Treaty of Peace, Amity, Navigation and Commerce between the United States of America and the Republic of New Granada, signed at

Bogotá, December 12, 1846,³ which may be inconsistent with this Agreement. However, upon the expiration of this Agreement, the provisions of the aforesaid Treaty which have been suspended temporarily shall automatically resume operation and shall continue in full force and effect subject to termination as provided in that Treaty.

Nothing in the present Agreement shall be construed in any way to affect any of the provisions of the treaty between the United States of America and the Republic of Colombia, signed at Bogotá, April 6, 1914.⁴

ARTICLE XII

The Governments of the United States of America and the Republic of Colombia declare that the purpose of this Agreement is to grant mutual and reciprocal concessions and advantages for the promotion of commercial relations between the two countries; and that each and every one of the provisions contained herein shall be complied with and interpreted in accordance with this spirit and intention.

ARTICLE XIII

The present Agreement shall be approved and confirmed by the President of the United States of America by virtue of the Act of Congress of the United States of America approved June 12, 1934, entitled "An Act to Amend the Tariff Act of 1930",⁵ and shall be ratified by the President of the Republic of Colombia, after approval of the Congress of Colombia, in accordance with constitutional requirements. The Agreement shall enter into full force thirty days after the exchange of the instrument of approval and confirmation and the instrument of ratification, which shall take place in the city of Bogotá as soon as possible, and shall continue in force for a term of two years, unless terminated in accordance with the provisions of Article V.

Unless at least six months before the expiration of the aforesaid term of two 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, or unless terminated in accordance with the provisions of Article V.

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

³ TS 54, *ante*, p. 868.

⁴ TS 661, *ante*, p. 900.

⁵ 48 Stat. 943.

Done in duplicate, in the English and Spanish languages, both authentic, at the City of Washington, this thirteenth day of September 1935.

CORDELL HULL [SEAL]
MIGUEL LÓPEZ PUMAREJO [SEAL]

[For schedules annexed to agreement, see 49 Stat. 3890 or p. 18 of EAS 89.]

JOINT DECLARATION

The undersigned, the Secretary of State of the United States of America and the Minister of the Republic of Colombia at Washington, in proceeding to the signature of the reciprocal trade agreement between the United States of America and the Republic of Colombia, dated this day, do hereby confirm the understanding reached by them during the negotiations that the use or employment in Schedule I of the said Agreement of any name, word or combination of words, or designation to which any natural or juristic person may have a right of ownership or exclusive use, is intended to illustrate the type of products to which the respective rates of duty shall apply, and that the inclusion in the said Schedule of any such name, word or combination of words, or designation shall not prejudice or impair in any manner any rights which any natural or juristic person may have to the exclusive use or ownership of such name, word or combination of words, or designation.

WASHINGTON, *September 13, 1935*

CORDELL HULL
MIGUEL LÓPEZ PUMAREJO