

RECIPROCAL TRADE

*Agreement and supplementary exchange of notes signed at Ankara
April 1, 1939*¹

Proclaimed by the President of the United States April 5, 1939

Ratified by Turkey June 20, 1939

Entered into force provisionally May 5, 1939; definitively November 20, 1939

*Amended by agreement of April 14 and 22, 1944*²

*Terminated August 4, 1952*³

54 Stat. 1870; Executive Agreement Series 163

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

The President of the United States of America and the President of the Turkish Republic, being desirous of strengthening the traditional bonds of friendship and of extending commercial relations between the two countries by granting mutual and reciprocal concessions and advantages for the promotion of 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:

Mr. John V. A. MacMurray, Ambassador Extraordinary and Plenipotentiary of the United States of America to the Turkish Republic, and

Mr. Robert F. Kelley, First Secretary of Embassy of the United States of America; and

The President of the Turkish Republic:

Mr. Sükrü Saracoglu, Minister of Foreign Affairs of the Turkish Republic, and

Mr. Numan Menemencioglu, Ambassador, Secretary General of the Ministry of Foreign Affairs;

Who, after communicating to each other their respective full powers, found to be in good and due form, have agreed upon the following Articles:

¹ For schedules annexed to agreement, see 54 Stat. 1878 or p. 10 of EAS 163.

² EAS 406, *post*, p. 1145.

³ By exchange of notes at Ankara July 5, 1952 (not printed).

ARTICLE 1

Natural or manufactured products originating in the United States of America, enumerated and described in Schedule I¹ annexed to this Agreement, shall, on their importation into the territory of the Turkish Republic, be accorded the tariff reductions provided for in the said Schedule.

In the event that the Government of the Turkish Republic should increase the duties provided for in the said Schedule, such increased duties shall not be applied to the said products until two months after the date of their promulgation.

If before the expiration of the aforesaid period of two months an agreement between the two Governments has not been reached with respect to such compensatory modifications of this Agreement as may be deemed appropriate, the Government of the United States of America shall be free within fifteen days after the date of the application of such increased duties to terminate this Agreement in its entirety on thirty days' written notice.

ARTICLE 2

Natural or manufactured products originating in the Turkish Republic, enumerated and described in Schedule II annexed to this Agreement, 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, subject to the conditions therein set out. The said products 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 3

The provisions of Articles 1 and 2 of this Agreement shall not prevent the Government of either country from imposing at any time on 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 product from which the imported product has been manufactured or produced in whole or in part.

ARTICLE 4

Natural or manufactured products originating in the United States of America or the Turkish 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 products of national or foreign origin.

ARTICLE 5

Natural or manufactured products originating in the United States of America, enumerated and described in Schedule I, and natural or manu-

factured products originating in the Turkish Republic, enumerated and described in Schedule II, shall be permitted to be imported into the other country without any prohibition or restriction whatsoever.

Nevertheless, the two Governments reserve the right to impose quantitative restrictions on the importation of products enumerated and described in the said schedules in conjunction with governmental measures

- (a) operating to regulate the production or market supply or to control the prices of like domestic products or
- (b) tending to increase the labor costs of production of such products;

Provided, however, that the Government proposing to impose any such quantitative restriction is satisfied, in the case of measures described in subparagraph (a) of this paragraph, that such quantitative restriction is necessary to assure the effective operation of such measures, and, in the case of measures described in subparagraph (b), that such measures are causing the domestic production of the product concerned to be injuriously affected by imports which constitute an abnormal proportion of the total consumption of such product in relation to the proportion supplied in the past by foreign countries.

If the Government of either of the two countries proposes to establish or change such import restrictions, it shall give written notice thereof to the other Government at least two months before they are put into force. If an agreement between the two Governments concerning the proposed measures is not reached before the expiration of the said period of two months, the other Government shall be free, within fifteen days after the application of any such restriction or change, to terminate the present Agreement in its entirety on thirty days' written notice.

ARTICLE 6

Unconditional most-favored-nation treatment shall be accorded by the Government of each country to the commerce of the other country with respect to customs duties or charges imposed on or in connection with imports or exports and the method of levying such duties or charges, with respect to all regulations and formalities in connection with importation or exportation, the sale or use of imported products within the country, transit, warehousing, the transshipment of goods, the re-exportation of goods, and with respect to official charges applicable to these various operations.

Unconditional most-favored-nation treatment shall likewise be accorded by the Government of each country to the commerce of the other country with respect to all duties, charges or exactions other than customs duties imposed on or in connection with imports or exports.

In awarding contracts for public works and in purchasing nonmilitary supplies, the Government of neither country shall discriminate against the other country in favor of any third country.

ARTICLE 7

No prohibition, restriction or limitation of any kind shall be imposed by the Government of either country upon the importation of natural or manufactured products originating in the other country or upon the exportation of natural or manufactured products destined for the other country, except as provided below.

Subject to the provisions of Article 5 of this Agreement, either of the two Governments may impose prohibitions or quantitative restrictions upon the importation of products originating in the other country as well as upon the exportation of products destined for the other country, provided that importation of the like products originating in all third countries, or exportation of the same products to all third countries, respectively, is similarly prohibited or restricted. If the Government of either country applies quantitative restrictions to the importation of any products in which the other country has an interest, and these restrictions are implemented by quantitative allocation among the various exporting countries, there shall be allocated to the other country a proportion of the total importations equivalent to the proportion of the imports of such product supplied by the other country during a representative period prior to the establishment of the restrictions in question.

ARTICLE 8

In the event that the Government of either of the two countries shall establish or maintain, either directly or indirectly, any form of control of the means of international payment, it shall, in all aspects of the administration of such control, accord to the other country unconditional most-favored-nation treatment.

It is agreed that this provision does not affect the provisions of Article 9.

ARTICLE 9⁴

The Government of the Turkish Republic undertakes that, so long as it maintains, directly or indirectly, any form of control of the means of international payment, it will provide, in any calendar year, for the transfer of payments for commercial importations of natural or manufactured products originating in the United States of America, imported into the territory of the Turkish Republic during the calendar year in question, an amount of free foreign exchange which shall not be less, in proportion to the total value of the commercial imports of the Turkish Republic during the said calendar year, than the amount corresponding to the proportion of the total commercial imports supplied by the United States of America in the period from January 1, 1935 to December 31, 1937.

⁴ For an understanding relating to art. 9, see exchange of notes, p. 1142.

ARTICLE 10

The provisions of this Agreement relating to the treatment to be accorded by the United States of America and the Turkish Republic, respectively, to the commerce of the other country shall apply, on the part of the United States of America, to the continental territory of the United States of America and such of its territories and possessions as are included in its customs territory on the day of the signature of this Agreement. The provisions of this Agreement relating to most-favored-nation treatment shall apply, however, to all the territories under the sovereignty or authority of the United States of America, other than the Panama Canal Zone.

ARTICLE 11

The provisions of this Agreement shall not apply to:

- (a) advantages now accorded or which may hereafter be accorded by either country to adjacent countries in order to facilitate frontier traffic within a zone not exceeding fifteen kilometers on either side of the frontier;
- (b) advantages resulting from a customs union to which either the United States of America or the Turkish Republic may become a party, so long as such advantages are not accorded to any third country;
- (c) advantages which the Turkish Republic has accorded or may hereafter accord in the matter of the customs tariff affecting products originating within the territories detached in 1923 from the Ottoman Empire;
- (d) 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, irrespective of any change in the political status of any of the territories or possessions of the United States of America.

ARTICLE 12

Nothing in the present 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. Nothing in the present Agreement shall prevent the adoption or enforcement of measures relating to neutrality.

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, the provisions of this Agreement shall not extend to prohibitions or restrictions:

- (a) relative to public security;
- (b) imposed on moral or humanitarian grounds;

- (c) designed to protect public health or the life of animals or plants;
- (d) relative to prison-made goods; or
- (e) relative to measures taken for the enforcement of police or revenue laws.

ARTICLE 13

In the event that either the Government of the United States of America or the Government of the Turkish 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 impair the effectiveness of the Agreement, the Government which has adopted any such measure shall consider such representations and proposals as the other Government may make with a view to effecting a mutually satisfactory adjustment of the matter. If no agreement is reached with respect to such representations or proposals within thirty days after they are received, 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 sixty days' written notice.

ARTICLE 14

In the event that the rate of exchange between the currencies of the United States of America and the Turkish 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. If such negotiations have not resulted in an agreement within a period of thirty days, the Government which has proposed them shall be free to terminate this Agreement in its entirety on thirty days' written notice.

ARTICLE 15

Nothing in this Agreement shall be deemed to affect the rights and obligations arising out of the Treaty of Commerce and Navigation between the United States of America and the Turkish Republic, signed at Ankara on October 1, 1929.⁵

ARTICLE 16

The present Agreement shall be proclaimed by the President of the United States of America and shall be ratified by the Grand National Assembly of Turkey.

The present Agreement shall come provisionally into force on May 5, 1939. The Agreement shall come definitively into force on the day on which the Government of the United States of America shall have communicated officially to the Government of the Turkish Republic the proclamation of the

⁵ TS 813, *ante*, p. 1122.

President of the United States of America and the Government of the Turkish Republic on its part shall have informed the Government of the United States of America of the ratification of the Agreement by the Grand National Assembly of Turkey.

The Agreement shall remain in force, subject to the provisions of Articles 1, 5, 13 and 14, until it is terminated in accordance with the provisions set forth below. The Government of either country may terminate this Agreement on December 31, 1939, December 31, 1940 or December 31, 1941, in each case on two months' written notice. After December 31, 1941, the Agreement, if not previously terminated, shall continue in force subject to the provisions of Articles 1, 5, 13 and 14 until six months from the day on which the Government of either country shall have given notice to the other Government of its intention to terminate the Agreement.

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

Done in duplicate, in the English and Turkish languages, both authentic, at the City of Ankara, this 1st day of April, nineteen hundred and thirty-nine.

JOHN V. A. MACMURRAY
ROBERT F. KELLEY

[SEAL]

S. SARACOGLU
N MENEMENCI OGLU

[SEAL]

[For schedules annexed to agreement, see 54 Stat. 1878 or p. 10 of EAS 163.]

EXCHANGE OF NOTES

The Minister of Foreign Affairs to the American Ambassador

[TRANSLATION]

ANKARA, *April 1, 1939*

MR. AMBASSADOR:

I have the honor to refer to the provisions of the Trade Agreement between our two Governments signed this day and to inform Your Excellency that my understanding of the agreement with respect to the application of Article 9, reached during the negotiations, is as follows:

1. The total value of the commercial imports from the United States of America into the territory of the Turkish Republic during the period from January 1, 1935 to December 31, 1937, mentioned in Article 9, is 10.91 percent of the total value of the commercial imports of the Turkish Republic from all sources during the same period. It is agreed that, in determining

the amount of free foreign exchange which shall be made available each year, this percentage shall be applied to the total value of the commercial imports into the territory of the Turkish Republic from all sources during the year in question, after deducting from such total value the amount by which the value of commercial imports resulting, during the same year, from the utilization of the credits provided for in the Agreement with the United Kingdom of Great Britain and North Ireland, signed on May 27, 1938, and the Agreement with Germany, the principles of which were established in October, 1938, at Ankara, exceeds the payments made during that year in accordance with the provisions of the said credit agreements. This deduction has been decided upon for the reason that the total value of commercial imports into the Turkish Republic will be temporarily increased to an abnormal extent by imports under the governmental credits mentioned above.

The amount of available free foreign exchange envisaged in Article 9, shall be applied to payments for commercial imports originating in all the territories under the sovereignty or authority of the United States of America.

2. The amount of free foreign exchange mentioned above which shall be made available each year under Article 9 shall be utilized for the transfer of payments for the said commercial imports in the chronological order in which requests for exchange are made.

3. In view of the fact that the Turkish Republic derives its principal supply of free foreign exchange from the export of products, the sale of which has a seasonal character, it is understood that it may not be possible to avoid temporary delays in making available free foreign exchange for the transfer of payments for commercial imports originating in the United States of America. It is agreed that the provisions of Article 9 do not preclude seasonal delays in making available free foreign exchange for transfer of the said payments within any calendar year.

4. If the Government of the Turkish Republic should not be in a position, through lack of free foreign exchange, as a result of unforeseen developments affecting adversely the commerce of the Turkish Republic, to make available the amount of free foreign exchange agreed upon in Article 9, the Government of the United States of America and the Government of the Turkish Republic shall enter into negotiations for the purpose of reaching an arrangement satisfactory to the two Governments.

5. The present note constitutes an integral part of the Trade Agreement signed this day.

Accept, Mr. Ambassador, the assurances of my highest consideration.

S. SARACOGLU

Mr. JOHN V. A. MACMURRAY
*Ambassador Extraordinary and
Plenipotentiary of the United States of America
to the Turkish Republic*

*The American Ambassador to the Minister of Foreign Affairs**ANKARA, April 1, 1939***MR. MINISTER:**

I have the honor to acknowledge the receipt of your note of today's date containing a statement of your understanding of the agreement reached with respect to the application of Article 9 of the Trade Agreement signed this day, which is as follows:

[For text of understanding, see numbered paragraphs in Turkish note, above.]

I have the honor to confirm Your Excellency's understanding of the agreement thus reached.

Accept, Mr. Minister, the assurances of my highest consideration.

JOHN V. A. MACMURRAY**Mr. SÜKRÜ SARACOĞLU**

*Minister of Foreign Affairs
of the Turkish Republic*