

MEMORANDUM

Eng.: 31. JAN. 1939
 Tages. Nr. _____
 Divisions) _____
 Unt. _____

DEPARTMENT OF NATIONAL REVENUE
 (CUSTOMS AND EXCISE DIVISIONS)

OTTAWA, January 12, 1939

To Collectors of Customs and Excise and others concerned:

Canada-Hayti Trade Agreement, 1938, in force 10th
 January, 1939

1. The following documents are appended hereto:—
 - The Canada-Hayti Trade Trade Agreement Act, 1938 and Schedule thereto.
 - Copy of Proclamation bringing the above Act into force.
 2. (a) Under Article I of the Trade Agreement, the Republic of Hayti is granted most favoured nation treatment in Tariff matters by Canada.
 - (b) The natural and manufactured products of Hayti are entitled to:—
 - I The benefit of the Intermediate Tariff,
 - II The Special rates and discounts from the Intermediate Tariff rates provided in Schedule "C" of the Canada-France Trade Agreement, 1933, and protocols thereto,
 - III The Special rates in Schedule "B" to the Canada-Poland Convention of Commerce, 1935,
 - IV The Special rates in Schedule "I" to the Canada-United States of America Trade Agreement, 1938.
 - (c) These concessions apply to all goods imported or taken out of warehouse for consumption on and after the 10th of January, 1939, and also to goods previously imported for which no entry for consumption was made before that date.
 - (d) To enjoy these concessions, the natural and manufactured products of Hayti must be conveyed without transshipment from a port of Hayti, or from a port of a country enjoying the benefits of the British Preferential or Intermediate Tariff, into a sea, lake or river port of Canada.
- NOTE.—The concessions granted under the Canada-United States of America Trade Agreement include conveyance into a Customs port of Canada.
3. Invoices of goods for entry under this Agreement shall be certified as to origin, quantity, value and other particulars as prescribed by the Customs Regulations. The certificate of origin shall be in form similar to the Certificate "A" (Form M-A), vide Memorandum Series D No. 43 and Supplements thereto.
 4. Memorandum 820 and Supplement thereto are hereby superseded as from the 9th of January, 1939.

H. S. Truicy

Commissioner of Customs.

2 GEORGE VI.

CHAP. 20.

An Act respecting a certain Trade Agreement between Canada and Hayti.

[Assented to 25th May, 1938.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as the *Canada-Hayti Trade Agreement Act, 1938.* Short title.

2. The Trade Agreement between Canada and Hayti set out in the Schedule to this Act is hereby approved and shall have the force of law notwithstanding the provisions of any law in force in Canada. Agreement approved.

3. The Governor in Council may, notwithstanding the provisions of any law in force in Canada, make such orders and regulations and do such acts and things as are deemed necessary to carry out the provisions and intent of the said Trade Agreement. Orders in Council authorized.

4. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council. Coming into force.

SCHEDULE.

TRADE AGREEMENT BETWEEN CANADA AND HAYTI.

Signed at Port-au-Prince April 23, 1937.

The Government of Canada and the Government of the Republic of Hayti, desiring to facilitate the commercial relations existing between Canada and Hayti, have resolved to conclude a Trade Agreement and for this purpose have agreed upon the following Articles:

ARTICLE I.

Canada and Hayti will grant each other unconditional and unrestricted most-favoured-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, and with respect to all laws or regulations affecting the sale or use of imported goods within the country.

Accordingly, natural or manufactured products having their origin in either of the countries shall in no case be subject, in regard to the matters referred to above, 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 having their origin in any third country are or may hereafter be subject.

Similarly, natural or manufactured products exported from the territory of Canada or Hayti 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, favour, privilege or immunity which has been or may hereafter be granted by Canada or Hayti 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 Hayti or Canada, respectively, and irrespective of the nationality of the carrier.

ARTICLE II.

Neither Canada nor Hayti 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 either country

in favour of an article of a third country shall be applied immediately and unconditionally to the like article originating in the territory of the other country. These provisions equally apply to exports.

In the event of quantitative restrictions being established by either Canada or Hayti for the importation of any article it is agreed 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 prior to the establishment of such quantitative restrictions.

In all matters concerning the rules, formalities or charges imposed in connection with any form of quantitative restriction on the importation of any article, Canada and Hayti agree to extend to each other every favour granted to a third country.

ARTICLE III.

Articles the growth, produce or manufacture of Canada or Hayti 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 to native products shall not apply to the laws at present in force in Hayti relative to excise duty on cigarettes, nor to the laws now in force in Canada whereby leaf-tobacco, spirits, beer, malt and malt syrup imported from abroad are subject to special taxes, nor shall they affect the applicability to goods produced or manufactured in Hayti of special excise taxes imposed by virtue of existing provisions of the *Special War Revenue Act*. In these respects, however, most-favoured-nation treatment shall apply.

ARTICLE IV.

In the event that Canada or Hayti 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 those 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 such product on the most favourable terms.

ARTICLE V.

If the Government of either country shall establish or maintain, directly or indirectly, any form of control of foreign exchange, it shall administer such control so as to insure that the nationals and commerce of the other country will be granted a fair and equitable share in the allotment of exchange.

With respect to the exchange made available for commercial transactions, it is agreed that the Government of each country shall be guided in the administration of any form of control of foreign exchange by the principle that, as nearly as may be determined, the share of the total available exchange which is allotted to the other country shall not be less than the share employed in a previous representative period prior to the establishment of any exchange control for the settlement of commercial obligations to the nationals of such other country.

The Government of each country shall give sympathetic consideration to any representations which the other Government may make in respect of the application of the provisions of this Article.

ARTICLE VI.

In the event that the Government of either country 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 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.

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 VII.

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.

Subject to the requirement that there shall be no arbitrary discrimination by either country against the other country in favour of any third country where similar conditions prevail, the provisions of this Agreement shall not extend to prohibitions or restrictions (1)

imposed on moral or humanitarian grounds; (2) designed to protect human, animal or plant life; (3) relating to prison-made goods; (4) relating to the enforcement of police or revenue laws; (5) directed against mis-branding, adulteration, and other fraudulent practices, such as are provided for in the pure food and drug laws of either country; and (6) directed against unfair practices in import trade.

ARTICLE VIII.

The advantages now accorded or which may hereafter be accorded by Canada exclusively to other territories under the sovereignty of His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, or under His Majesty's suzerainty, protection or mandate shall be excepted from the operation of this Agreement.

The advantages granted or to be granted by the Republic of Hayti to the Dominican Republic with a view to facilitating traffic shall not be affected by the present Agreement.

ARTICLE IX.

The present Agreement shall be ratified and shall enter into force immediately on the exchange of ratifications and shall remain in force for the term of one year thereafter.

Unless at least six months before the expiration of the aforesaid term of one year, 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.

In Witness Whereof, the undersigned, duly authorized to that effect, have signed the present Agreement and have affixed their seals hereto.

Done in duplicate, in English and in French, both authentic, at the City of Port-au-Prince, on the 23rd day of April, 1937.

(L.S.) F. M. SHEPHERD.

(L.S.) G. N. LEGER.

OTTAWA: Printed by JOSEPH OSCAR PATENAUDE, I.S.O., Law Printer to the King's Most Excellent Majesty.

TWEEDSMUIR

[L.S.]

CANADA

GEORGE THE SIXTH, by the Grace of God of Great Britain, Ireland and the British Dominions beyond the Seas KING, Defender of the Faith, Emperor of India.

To ALL TO WHOM these Presents shall come or whom the same may in anywise concern,

GREETING:

A PROCLAMATION

C. P. PLAXTON }
Acting Deputy Minister of Justice, Canada }
WHEREAS in and by section four of an Act of the Parliament of Canada, assented to on the twenty-fifth day of May, in the year of Our Lord one thousand nine hundred and thirty-eight, and intituled "An Act respecting a certain Trade Agreement between Canada and Hayti," being Chapter twenty of the Statutes of Canada, 1938, it is provided that the said Act shall come into force on a day to be fixed by proclamation of Our Governor in Council.

AND WHEREAS it is expedient and Our Privy Council has advised that the said Act should come into force and have effect upon, from and after the tenth day of January in the year of Our Lord one thousand nine hundred and thirty-nine.

NOW KNOW YE that We by and with the advice of Our Privy Council for Canada do by this Our proclamation declare and direct that the said Act shall come into force and have effect upon, from and after the tenth day of January in the year of Our Lord one thousand nine hundred and thirty-nine.

OF ALL WHICH Our Loving subjects and all others whom these Presents may concern, are hereby required to take notice and to govern themselves accordingly.

IN TESTIMONY WHEREOF We have caused these Our Letters to be made Patent and the Great Seal of Canada to be hereunto affixed. WITNESS: Our Right Trusty and Well-beloved John, Baron Tweedsmuir of Elsfield, a Member of Our Most Honourable Privy Council, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Member of Our Order of the Companions of Honour, Governor General and Commander-in-Chief of Our Dominion of Canada.

AT OUR GOVERNMENT HOUSE, in Our City of Ottawa, this fourth day of January, in the year of Our Lord one thousand nine hundred and thirty-nine and in the third year of Our Reign.

By Command,

W. P. J. O'MEARA,
Acting Under-Secretary of State.