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# MEMORANDUM

DEPARTMENT OF NATIONAL REVENUE
(CUSTOMS AND EXCISE DIVISIONS)

OTTAWA, January 12, 1939.

*To Collectors of Customs and Excise and others concerned:*

## Canada-Guatemala Trade Agreement, 1938, in force 14th January, 1939

1. The following documents are appended hereto:—
The Canada-Guatemala 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, Guatemala is granted most favoured nation treatment in Tariff matters by Canada.

(*b*) The natural and manufactured products of Guatemala 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 14th 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 Guatemala must be conveyed without transhipment from a port of Guatemala, 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 Memorandum 825 is hereby superseded as from the 13th day of January, 1939.

H. B. Rowley

*Commissioner of Customs.*

71380

Canada-Guatemala

CHAP. 19.

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

[*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:—

Short title.

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

Agreement approved.

**2.** The Trade Agreement between Canada and Guatemala 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.

Orders in Council authorized.

**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.

Coming into force.

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

## SCHEDULE.

### TRADE AGREEMENT BETWEEN CANADA AND GUATEMALA.

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

### ARTICLE I.

Canada and Guatemala 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 country 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 Guatemala 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 is or may hereafter be granted by Canada or Guatemala 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 Canada or Guatemala, respectively.

### ARTICLE II.

Neither Canada nor Guatemala 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 Guatemala 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 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 Guatemala agree to extend to each other every favour granted to a third country.

The advantages and provisions contained in the present article and in Article IV shall not be applicable to the importation, production or sale of matches, wax matches and lighters, in view of the existing laws in Guatemala on the monopoly of such goods.

ARTICLE III.

Articles the growth, produce or manufacture of Canada or Guatemala 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 granting of national treatment shall not affect 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 Guatemala of special excise taxes imposed under existing provisions of the *Special War Revenue Act.* In these respects, however, most-favoured-nation treatment shall apply.

ARTICLE IV.

In the event that the Government of Canada or the Government of Guatemala establishes or maintains an official monopoly or centralized agency for the importation of or trade in a particular commodity, the Government establishing or maintaining such monopoly or centralized agency will give sympathetic consideration to all representations that the other Government may make with respect to alleged discriminations against its commerce in connection with purchases by such monopoly or centralized agency.

ARTICLE V.

The tariff advantages and other benefits provided for in this Agreement are granted by Canada and Guatemala to each other subject to the condition that 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

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 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 either country 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.

ARTICLE IX.

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 now accorded or which may hereafter be accorded by Guatemala to the commerce of Costa Rica, El Salvador, Honduras, Nicaragua or Panama, so long as any such advantage is not accorded to any other country shall be excepted from the operation of this Agreement.

ARTICLE X.

The present Agreement shall be ratified and the instruments of ratification shall be exchanged at Guatemala as soon as possible. The Agreement shall come into force thirty days after the exchange of ratifications and shall remain in force for a period of three years. In case neither Government shall have given to the other Government at least six months before the expiration of the aforesaid period, notice of intention to terminate the Agreement, it 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 at Guatemala City, this twenty-eighth day of September nineteen hundred and thirty-seven, in duplicate in English and Spanish, both texts being equally authentic.

(L.S.) J. H. S. BIRCH

(L.S.) CARLOS SALAZAR

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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 Guatemala," being Chapter 19 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 fourteenth 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 fourteenth 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.