

N° 2665.

CUBA ET FRANCE

Convention commerciale et protocole
de signature. Signés à Paris, le
6 novembre 1929.

CUBA AND FRANCE

Commercial Convention and Pro-
tocol of Signature. Signed at
Paris, November 6, 1929.

Ad Articles 6, 7, 8, 9.

Au cas où la présente convention viendrait à être dénoncée, les dispositions prévues aux articles 6, 7, 8 et 9 resteraient provisoirement en vigueur pour faire l'objet d'une négociation qui devrait être engagée deux ans au plus tard après l'expiration de ladite convention.

(*Signé*) A. BRIAND.
 (*Signé*) P. E. FLANDIN.
 (*Signé*) Carlos Manuel DE CÉSPEDES.

Ad Artículos 6, 7, 8, 9.

En el caso de que el presente Convenio llegare a ser denunciado, las disposiciones previstas en los artículos 6, 7, 8 y 9, quedarán provisionalmente en vigor, para ser materia de una negociación que deberá ser iniciada, a más tardar, dos años después de haber expirado este Convenio.

(*Signé*) Manuel DE CÉSPEDES.
 (*Signé*) A. BRIAND.

Copie certifiée conforme :
Le Ministre plénipotentiaire
Chef du Service du Protocole,
 P. de Fouquières.

¹ TRADUCTION. — TRANSLATION.

No. 2665. — COMMERCIAL CONVENTION BETWEEN THE REPUBLIC OF CUBA AND THE FRENCH REPUBLIC. SIGNED AT PARIS, NOVEMBER 6, 1929.

THE PRESIDENT OF THE FRENCH REPUBLIC and THE PRESIDENT OF THE REPUBLIC OF CUBA, being equally desirous of strengthening the ties of friendship between their two countries, have decided to sign a Commercial Convention with a view to placing economic relations between the two States on a satisfactory footing.

For this purpose they have appointed as their Plenipotentiaries :

THE PRESIDENT OF THE FRENCH REPUBLIC :

M. Aristide BRIAND, Minister for Foreign Affairs, and
 M. P.-E. FLANDIN, Minister for Commerce and Industry ;

THE PRESIDENT OF THE REPUBLIC OF CUBA :

M. Carlos-Manuel DE CÉSPEDES DE QUESADA, Cuban Minister in Paris ;

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions :

Article 1.

Natural or manufactured products originating in and coming from France, the French colonies and countries under French protectorate and mandate, shall on their importation into Cuba be accorded the benefit of the minimum tariff rates or the most favourable rates which the Cuban Government grants or may hereafter grant to any third Power in virtue of tariff measures or commercial conventions, as regards both import duties and any surtaxes, coefficients or increases which are or may hereafter be applied to the said duties.

The foregoing provision shall not, however, entitle France to claim the benefit of special concessions which the Cuban Government grants or may subsequently grant to the United States of America as preferential treatment on the basis of reciprocity.

Article 2.

The natural or manufactured products originating in and coming from Cuba enumerated in the annexed list shall, on their importation into France, the French colonies and countries under French protectorate and mandate, be accorded the benefit of the minimum tariff rates, that is to say, the lowest rates which France or its colonies, protectorates and mandated territories grant or may in future grant to any other Power in virtue of tariff measures or commercial agreements, as regards both the import duties at present established or those which France or its colonies, protectorates and mandated territories may hereafter substitute for them, and the surtaxes, coefficients or other temporary increases which they have established or may hereafter establish.

The granting of the minimum tariff rates to the products enumerated in the annexed list implies most-favoured-nation treatment.

The French Government is further prepared to grant the same privileges to Cuban products not included in the annexed list, whenever a request to that effect is officially submitted to it, and provided it has the right to claim a reasonable and equivalent offsetting advantage from the Cuban Government.

Most-favoured-nation treatment shall not apply to the preferential advantages which France grants or may hereafter grant in its Customs territory to its colonies, protectorates and mandated territories, or which its colonies or protectorates grant or may hereafter grant to France, the other colonies, protectorates and mandated territories.

Article 3.

The High Contracting Parties guarantee each other national treatment as regards consumption or octroi duties, and also as regards any charges levied in respect of the production, preparation, handling or sale of products.

They undertake in no case to establish any charges which, being levied specially on imported products, would increase the Customs duties to which those products are liable.

Article 4.

The High Contracting Parties agree that they will not establish import or export prohibitions which would enable either of them arbitrarily to protect its own products or to discriminate against the other Contracting Party.

Exceptions to this rule shall only be made :

- (a) For reasons of public safety or the defence of the territory ;
- (b) For reasons of health in order to protect human beings, animals or plants from disease ;
- (c) For the supervision of the traffic in arms, ammunition and war material, and all other military supplies ;
- (d) For the exercise of Government monopolies ;
- (e) To prevent any practices constituting unfair competition ;
- (f) In application of international conventions.

The foregoing provisions shall not, however, affect the right which every Contracting State possesses to adopt, in respect of importation or exportation, any measures which may be necessary to meet extraordinary and abnormal circumstances, or to protect the vital economic or financial interests of the country.

Any removal of an import prohibition granted even as a temporary measure by either of the High Contracting Parties in favour of the products of a third Power, shall apply immediately and unconditionally to the same or like products originating in and coming from the territory of the other Contracting Party.

Any removal of an export prohibition granted in favour of a third Power or of its nationals shall be applied in like manner to the other Party, except in the case of derogations, which are made contingent upon the replacement of the goods or an equivalent return.

Should the removal of the prohibitions referred to in the two preceding paragraphs be granted to a third Power in the form of quotas, each of the High Contracting Parties agrees to accord to the other quotas calculated on the same bases as those granted to that third Power.

Article 5.

Each of the High Contracting Parties agrees to take all necessary steps effectively to protect natural or manufactured products originating in the other country against unfair competition.

It agrees in particular to take within seven months from the date of signature of the present Convention any action which may be necessary to put down the use of false geographical appellations of origin, whatever the provenance of the products, provided that the said appellations are duly protected in the other country.

The importation, exportation, warehousing, manufacture, distribution, sale or offering for sale of leaf tobacco or manufactured tobacco, including cigars and cigarettes, and also of products of the wine industry, shall be punished by confiscation or prohibition or by other appropriate penalties, whenever any marks, devices or signs whatsoever constituting false indications of origin knowingly employed, appear on the boxes, packets, bands, chests, wrappings, casks or bottles containing those products.

Goods contravening this provision may be confiscated or other penalties imposed, either on the initiative of the Administration, or on the application of the Public Prosecutor or of an interested Party — whether an individual, association or union.

The clause prohibiting the use of a geographical appellation of origin for products other than those which are rightly entitled thereto shall be operative even when the real origin of the products is mentioned or when the false appellations are accompanied by qualifying words such as " sort ", " kind ", " type " or others.

No geographical appellation of origin, either of products of the wine industry or of leaf tobacco and manufactured tobacco, including cigars and cigarettes, if it is legally protected in the country of production may be regarded as a generic name. Delimitations and specifications referring to these appellations which have been duly notified to the other Party shall likewise be recognised.

The High Contracting Parties are prepared to extend the above provisions to all products deriving their specific qualities from the soil or climate.

Article 6.

Nationals of each of the two Contracting Parties shall enjoy in the territory of the other, most-favoured-nation treatment in respect of establishment, residence, the carrying on of trade, industry and any other occupation or profession, the right to own, acquire, occupy or lease any movable and immovable property and to dispose thereof in any manner whatsoever, and also the right to form companies of an economic character.

Subject to reciprocity, they may not be treated less favourably than nationals as regards measures of expropriation on grounds of public utility or of the general interest.

They shall be exempt from all personal military service and from all personal military contributions and all charges imposed in lieu of such service or contributions.

Article 7.

Civil, commercial, industrial, financial, insurance and other companies of an economic character constituted in either country in conformity with the laws of that country and having their seat therein shall be recognised by the other Contracting Party as being properly constituted.

The legality of their constitution and their right to appear in the courts shall be decided by reference to their articles of association and to the law of the country in which they were constituted.

Provided they observe the laws and regulations of the country, they may in the territory of the other Party engage in any activities permitted to the companies of any other State and set up branches and agencies therein; once they have been permitted to engage in any activity, they shall enjoy all the rights granted to natural persons under the previous Article and under any other agreements concluded between the two Parties.

Should either of the High Contracting Parties require a company of the other Party to obtain a previous and revocable licence before it is allowed to do business in its territory, the latter shall have the right to subject the companies of the former to the same treatment.

The High Contracting Parties agree:

(1) That they will not by means of this stipulation in regard to special licences hinder the establishment of companies carrying on business usually permitted to the companies of any other country.

(2) That they will not withdraw the licence once it has been given, except on account of infringements of the laws and regulations of the country.

The present Article shall not apply to industries which constitute a Government monopoly.

Article 8.

The nationals of either High Contracting Party in the territory of the other Party shall, provided they observe the laws of the country, have free access to the courts of justice of all degrees established by law, for the purpose of enforcing and defending their rights. They may in every court employ counsel and agents of any kind authorised by the laws of the country and shall enjoy in every respect the same rights and privileges as are, or may hereafter be, granted to nationals.

Companies fulfilling the conditions laid down in Article 7 shall enjoy in judicial matters the same rights and privileges as are, or may hereafter be, granted to nationals.

Companies fulfilling the conditions laid down in Article 7 shall enjoy in judicial matters the same rights as nationals.

Article 9.

Fiscal matters shall be governed to the exclusion of all other provisions, by the present Article.

Nationals of the respective High Contracting Parties and companies fulfilling the conditions laid down in Article 7 shall not be subject, in the territory of the other Party, to duties, charges or taxes or contributions of whatsoever description, no matter on whose behalf they are levied, other or higher than those imposed on the nationals or companies of the country in a like situation.

These provisions shall not preclude the collection, if necessary, either of so-called residence taxes or of charges connected with police formalities, provided that, as regards the rate of such charges, the nationals of either country shall enjoy the treatment granted to nationals of the most favoured nation.

As regards taxes assessed on capital, income or profits, the two High Contracting Parties agree that each will tax the companies of the other, according to the nature of the tax, only on the amount of the company's capital invested in its territory or the property which the company owns, its securities which circulate, its profits made or its business done in that territory.

Article 10.

The vessels of each of the High Contracting Parties, their passengers and cargo shall enjoy most-favoured-nation treatment in the ports of the other Contracting Party.

Article 11.

Any dispute concerning the interpretation or application of the present Convention which it has not been possible to settle between the High Contracting Parties through diplomatic channels shall be referred to the Permanent Court of International Justice.

Article 12.

The present Convention shall be concluded for a period of three years ; it shall be renewed by tacit consent for six-monthly periods unless it is denounced by either of the High Contracting Parties at least six months before the expiry of the first period of three years and three months before the expiry of each subsequent six-monthly period.

The Convention shall be ratified and the ratifications shall be exchanged in Paris. However, in virtue of the powers conferred upon them by their respective laws the two Governments agree provisionally to put into force, subject to reciprocity, one month after signature, any provisions which do not require the previous approval of the legislature.

In faith whereof the respective Plenipotentiaries, duly authorised for this purpose, have signed the present Agreement and have thereto affixed their seals.

Done in Paris, in duplicate, in French and Spanish, November the sixth, 1929.

(L. S.) (Signed) A. BRIAND.

(L. S.) (Signed) P. E. FLANDIN.

(L. S.) (Signed) Carlos Manuel DE CÉSPEDES.

LIST.

Number in French Tariff	Description of goods
16 B	Meat, frozen.
19	Meat, preserved.
21	Hides and skins raw.
22	Poultry, raw.
26	Feathers.
33	Wax.
ex 38	Honey, natural, pure.
47	Fish, preserved by pickling or otherwise prepared.
49	Lobster and sea crayfish.
51	Fish oils.
52	Spermaceti.
55	Dogfish skins and sealskins, rough.
59	Sponges of all kinds, rough.
60	Sponges of all kinds, prepared.
63	Tortoiseshell.
ex 72	Maize in the grain.
78	Exotic products containing fecula ; feculac.
78 bis	
80	Dry vegetables.
83	Potatoes.
84 A	Table or other fruits, fresh, not forced.
85	Table or other fruits, dried or drained.
86	Table or other fruits, candied or preserved.
88	Oleaginous fruits and seed.
91	Sugar from foreign countries.
ex 92	Molasses from foreign countries.
ex 93	Syrups and invert sugar from foreign countries.
ex 93 bis	Sugar confectionery: bonbons, <i>berlingots</i> , sugar almonds, pastilles, marshmallow, jujube, guaiava and like pastes; caramels, nougat, ices, etc., fruits, vegetable products candied or glacé with sugar, coming from foreign countries.
ex 95	Fruit jams, jellies, marmalades, compôtes, purées and similar products containing sugar (crystallisable or not) or honey, coming from foreign countries.
ex 96	Coffee in the bean and husk.
97	Cocoa.
98	Chocolate in lumps, slabs, plates, tablets, etc., liquid milk or other chocolate
107	Vanilla.
108	Tea.
109	Tobacco.
110 A	Fixed oils, pure.
110 B	Fixed oils, pure.
112	Volatile oils or essences.
128	Common woods, rough logs.
138	Fine woods and wood used for cabinet work (<i>bois des îles</i>).
139	Scented woods.
140	Dye woods.
ex 141	Cotton, not ginned and ginned (<i>en masse</i>)
144	Phormium tenax, abaca, aloes and other fibrous vegetables not mentioned.
152	Quercitron.
ex 156	Dividivi.
158	Vegetables.
172ter	Beer.

Number in French Tariff	Description of goods
174	Distilled beverages, alcohol and spirits.
179 <i>terB</i>	Stones and earths for arts and crafts, not otherwise mentioned.
185	Cement.
193 <i>bis</i>	Bitumen and asphalt.
204	Iron ore.
ex 221	Copper ore.
231	Manganese (ore).
298	Varnishes and paints assimilated to varnishes.
312	Soap, other than perfumed.
ex 314	Sauces and spices prepared, not specified, including "Picallily" type pickles.
319 <i>bis</i>	Tapioca.
367	Glazed yarns, twine, cordage, etc.
ex 381 <i>bisB</i>	Artificial silk fibres and waste, floss or in the mass (manufacturers, waste in its initial form, whether or not desulphurized).
394	Fabrics of pure jute, unbleached.
398 <i>bis</i>	Sacks imported full.
476A.B.C.	Hides and skins only tanned, not curried or dyed.
476 <i>bis</i>	Hides and skins, curried, <i>i. e.</i> dressed, or worked after tanning, including leathers assimilated thereto (chamois-dressed or parchment-dressed, undyed and oil-dressed (<i>hongroyées</i>)).
476 <i>ter</i>	Hides and skins, curried, other, treated with tallow or degreas, waxed, in natural colour, coloured, shagreened, goffered, grained, glossed, printed, moroccoed, dulled, blackened, painted, chequered, dyed, etc.
493	Peltries, prepared.
494	Peltries, made up.
ex 614 <i>ter</i>	Motor vehicles for carrying passengers.
ex 645	Bone buttons.
<i>ditto</i>	Buttons of wood, buffalo horn, hardened rubber, horn dyed or natural, moulded or turned, of horsehair or leather, for all purposes.
<i>ditto</i>	Corozo buttons.
<i>ditto</i>	Dum palm buttons.
<i>ditto</i>	Buttons of real or imitation jade or of black glass, dull, bright or with dull or bright parts coloured, stained in the mass, without decoration, gilding or silver-plating or rims.
<i>ditto</i>	Buttons of real or imitation jade, or of black or coloured glass with decoration, engraving, gilding or silver-plating.
646	Sandals of cotton, jute or linen, with soles of plaited hemp, or jute, or leather-board, dyed or undyed.

PROTOCOL OF SIGNATURE

On signing the Convention of this day's date, the Government of the French Republic and the Government of the Republic of Cuba have decided to define the conditions for its application in the present Protocol, which also includes the special provisions that could not be embodied in the Articles of the Convention.

Ad Article I.

As regards French products imported into Cuba, it is understood that :

(1) Champagne wines coming under No. 277 of the Cuban Customs tariff shall be entitled to the duty of 0\$85 per litre.

(2) Vermouth shall in every case pay duty at the rate specified in No. 278 of the Cuban Customs tariff.

Ad Article 2.

As regards Cuban products imported into France and the treatment applied to them, it is understood that :

(1) As an exception to the import prohibition, rum may be imported in quantities not exceeding 1,000 (one thousand) hectolitres of liquid, that is to say, 500 (five hundred) hectolitres of pure spirit.

(2) The French Government shall introduce a bill requesting Parliament to omit from No. 109 of the French Customs tariff the separate mention of Havana cigars, which are at present dutiable at a higher rate than those of any other origin, when they are imported into France for the personal use of the importers. The duty shall be unified for cigars of any origin and shall be between 320 francs and 520 francs.

Havana cigars, cigarettes and tobacco may be imported by parcel post without hindrance, either by private individuals or companies acting as intermediaries between the customer and the seller, subject to compliance with the existing regulations laid down by the Indirect Taxation Administration.

Further, the Department for the Industrial Exploitation of Tobacco shall consider the possibility of increasing its purchases from Havana of leaf tobacco for the manufacture of cigars in France ; prices and qualities being equal, the Department for the Industrial Exploitation of Tobacco shall give preference to Cuban leaf tobacco.

The Department for the Industrial Exploitation of Tobacco agrees to reduce by 2 francs the price of Cuban cigars at present sold in France for more than 10 francs.

It undertakes to reduce either by 0. fr. 50 or by 1 franc the price of certain Havana cigars which are at present sold for less than 5 francs.

These reductions are fixed in the following table :

Number of " vitolsa "	Present selling price per 1000 cigars	Reduced selling price
1	32,000	25,000
2	24,000	20,000
1	20,000	17,000
1	18,000	15,000
1	17,000	15,000
4	14,000	12,000
6	12,000	10,000
7	10,000	9,000
3	6,500	6,000
3	6,000	5,500
5	5,500	5,000
7	5,000	4,500
2	4,000	3,500
1	4,000	3,000
4	3,500	3,000
1	3,500	3,500

The French Administration, in Agreement with the Office National du Tourisme, will approach the hotel-keepers' associations, requesting them to see that head-waiters and restaurant-keepers who are at present allowed, as a tolerated practice, to re-sell to their own customers products supplied by the Régie, do not charge prices appreciably higher than the retailers' official selling prices.

As soon as the present Agreement comes into force, the Department for the Industrial Exploitation of Tobacco shall allow five new brands, chosen from among the so-called independent brands, to be introduced into the French market.

These brands shall be chosen according to their importance from a list drawn up by the French Legation at Havana, in agreement with the Cuban Government and on which the export figures recorded for the principal Cuban brands shall be indicated, whether they have or have not already been imported into the French market.

In view of the possible effect on purchase prices of the importation of the five new brands, the Department for the Industrial Exploitation of Tobacco may be obliged to reconsider selling prices, and it shall be recommended to restrict these as far as is compatible with safeguarding of the interests of the Treasury.

The Department for the Industrial Exploitation of Tobacco shall give the most favourable consideration to Cuban requests for a revision of the regulations concerning the admission into and sale in France of Havana cigars and cigarettes.

The Department considers it possible to increase forthwith from three to five years the trial period of the new brands. Further, the period of sixty days stipulated in Article 16 of the regulations for the removal of the products placed at the manufacturer's disposal for re-exportation, either under Article 5 or under Articles 14 and 15, shall be extended to one hundred and twenty days.

Ad Article 7.

1. Wherever it may not be possible actually to apply a duty, charge, tax or contribution to foreign companies, each Government shall retain the right to assess such tax on a conventional basis to have recourse to the method of composition in accordance with its legislation.

2. By fiscal charge shall be understood the tax alone, exclusive of securities for payment.

3. The provisions of Article 7 shall not apply to the exemptions granted to French companies under Articles 27, 28, 29 and 30 of the French law of July 31, 1920, and Article 25 of the law of August 19, 1925 (special exemptions accorded to French companies with French subsidiary companies affiliated to them, to certain French banking companies granting loans to French industrialists, to French companies holding foreign securities and exemptions concerning French amalgamated companies). The said provisions shall not exempt foreign companies from the application of Article 6 of the French law of August 12, 1919 (regarding the taking into account of property insured abroad for the purpose of assessing the rate of the additional tax on capital assets insured against fire).

Should Cuban legislation grant to national companies exemptions similar to those provided or by the laws referred to in the previous paragraph, French companies shall not be entitled to the benefit of those exceptions.

Ad Article 6, 7, 8, 9.

Should the present Convention be denounced, the provisions laid down in Articles 6, 7, 8 and 9 shall remain provisionally in force and shall form the subject of negotiations which shall be instituted not more than two years after the expiry of the said Convention.

(Signed) A. BRIAND.

(Signed) P. E. FLANDIN.

(Signed) Carlos Manuel DE CÉSPEDES.