N° 3876.

ÉTATS-UNIS D'AMÉRIQUE ET HONDURAS

Accord commercial, avec annexes. Signé à Tégucigalpa, le 18 décembre 1935.

UNITED STATES OF AMERICA AND HONDURAS

Commercial Agreement, with Annexes. Signed at Tegucigalpa, December 18th, 1935.

No. 3876. — COMMERCIAL AGREEMENT 1 BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF HONDURAS. SIGNED AT TEGUCIGALPA, DECEMBER 18TH, 1935.

English and Spanish official texts communicated by the Envoy Extraordinary and Minister Plenipotentiary of the United States of America at Berne. The registration of this Agreement took place April 9th, 1936.

PREAMBLE.

THE PRESIDENT OF THE UNITED STATES OF AMERICA and THE PRESIDENT OF THE REPUBLIC OF HONDURAS, being desirous of strengthening the traditional bonds of friendship between the two countries by maintaining the principle of equality of treatment as the basis of commercial relations and by granting mutual and reciprocal concessions and advantages for the promotion of trade, have through their respective Plenipotentiaries arrived at the following Agreement:

Article I.

Articles the growth, produce or manufacture of the United States of America, enumerated and described in Schedule I annexed to this Agreement and made a part thereof, shall, on their importation into the Republic of Honduras, be exempt from ordinary Customs duties in excess of those set forth in the said Schedule. The said articles 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 Republic of Honduras in force on the day of the signature of this Agreement.

With respect to soaps and butter, enumerated and described in Schedule I, the Republic of Honduras agrees to exempt them from the taxes to which they are now subject as a result of the provisions of Decree No. 84 of the National Congress of Honduras, published on March 3rd, 1934, on and after the date on which this Agreement comes into force, but, in accordance with the provisions of Article III of this Agreement, they may be subject, together with all other articles the growth, produce or manufacture of the United States of America, whether or not enumerated in Schedule I, to the taxes which in accordance with law the municipalities may establish.

Article II.

Articles the growth, produce or manufacture of the Republic of Honduras, 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. The said articles shall also be exempt from all other duties,

¹ This Agreement was promulgated by the President of the United States of America and by the President of the Republic of Honduras, February 1st, 1936.

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 III.

Articles the growth, produce or manufacture of the United States of America or the Republic of Honduras 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.

Article IV.

In respect of articles the growth, produce or manufacture of the United States of America or the Republic of Honduras, enumerated and described in Schedules I and II, respectively, imported into the other country, on which ad valorem rates of duty, or duties based upon or regulated in any manner by value, are or may be assessed, it is understood and agreed that the bases and methods of determining dutiable value and of converting currencies shall be no less favorable to importers than the bases and methods prescribed under laws and regulations of the Republic of Honduras and the United States of America, respectively, in force on the day of the signature of this Agreement.

Article V.

- I. No prohibitions, import or Customs quotas, import licenses, or any other form of quantitative regulation, whether or not operated in connection with any agency of centralized control, shall be imposed by the Republic of Honduras on the importation or sale of any article the growth, produce or manufacture of the United States of America, enumerated and described in Schedule I, nor by the United States of America on the importation or sale of any article the growth, produce or manufacture of the Republic of Honduras, enumerated and described in Schedule II.
 - 2. The foregoing provision shall not apply to:
 - (a) 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;
 or (4) relating to the enforcement of police or revenue laws;
 - (b) Quantitative restrictions in whatever form, imposed by the United States of America or the Republic of Honduras 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 or tending to increase the labor costs of production of such articles. Whenever the Government of either country proposes to establish or change any restriction authorized by this subparagraph, it shall give notice thereof in writing to the other Government and shall afford such other Government an opportunity within thirty days after receipt of such notice to consult with it in respect of the proposed action; and if an agreement with respect thereto is not reached within thirty days following receipt of the aforesaid notice, 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 such action is taken to terminate this Agreement in its entirety on thirty days' written notice.
- 3. It is understood that the provisions of this Article do not affect the application of measures directed against misbranding, adulteration and other fraudulent practices, or the application of

measures directed against unfair practices in import trade, such as are provided for in laws of the United States of America or the Republic of Honduras.

Article VI.

- I. If the Government of the United States of America or of the Republic of Honduras establishes or maintains any form of quantitative restriction or control of the importation or sale of any article in which the other country has an interest, or imposes a lower import duty or charge on the importation or sale of a specified quantity of any such article than the duty or charge imposed on importations in excess of such quantity, the Government taking such action will:
 - (a) Give public notice of the total quantity, or any change therein, of any such article permitted to be imported or sold or permitted to be imported or sold at such lower duty or charge, during a specified period;
 - (b) Allot to the other country for such specified period a share of such total quantity as originally established or subsequently changed in any manner, equivalent to the proportion of the total importation of such article which such other country supplied during a previous representative period, unless it is mutually agreed to dispense with such allotment; and
 - (c) Give public notice of the allotments of such quantity among the several exporting countries, and at all times, upon request, advise the Government of the other country of the quantity of any such article the growth, produce or manufacture of each exporting country, which has been imported or sold or for which licenses or permits for importation or sale have been granted.
- 2. Neither the United States of America nor the Republic of Honduras shall regulate the total quantity of importations into its territory or sales therein of any article in which the other country has an interest by import licenses or permits issued to individuals or organizations, unless the total quantity of such article permitted to be imported or sold during a quota period of not less than three months shall have been established, and unless the regulations covering the issuance of such licenses or permits shall have been made public before such regulations are put into force.

Article VII.

In the event that the Government of the United States of America or the Government of the Republic of Honduras 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 favorable terms.

Article VIII.

The tariff advantages and other benefits provided for in this Agreement are granted by the United States of America and the Republic of Honduras 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 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 will give sympathetic consideration to any representations which the other Government may make in respect of the application of the provisions of this Article, and if, within thirty days after the receipt of such representations, a satisfactory adjustment has not been made or an agreement has not been reached with respect to such representations, the Government making them may, within fifteen days after the expiration of the aforesaid period of thirty days, terminate this Article or this Agreement in its entirety on thirty days' written notice.

Article IX.

With respect to Customs duties or charges of any kind imposed on or in connection with importation or exportation, and with respect to the method of levying such duties or charges, and with respect to all rules and formalities in connection with importation or exportation, and with respect to all laws or regulations affecting the sale or use of imported goods within the country, any advantage, favor, privilege or immunity which has been or may hereafter be granted by the United States of America or the Republic of Honduras to any article originating in or destined for any third country, shall be accorded immediately and unconditionally to the like article originating in or destined for the Republic of Honduras or the United States of America, respectively.

Article X.

Laws, regulations of administrative authorities and decisions of administrative or judicial authorities of the United States of America or the Republic of Honduras, 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. Such laws, regulations and decisions shall be applied uniformly at all ports of the respective country, except as otherwise specifically provided in statutes of the United States of America relating to articles imported into Puerto Rico.

No administrative ruling by the United States of America or by the Republic of Honduras effecting advances in rates of duties or in charges applicable under an established and uniform practice to imports originating in 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 offical manner. The provisions of this paragraph do not apply to administrative orders imposing antidumping duties, or relating to regulations for the protection of human, animal, or plant life, or relating to public safety, or giving effect to judicial decisions.

Article XI.

In the event that a wide variation occurs in the rate of exchange between the currencies of the United States of America and the Republic of Honduras, the Government of either country, if it considers the variation so substantial as to prejudice the industries or commerce of the country, shall be free to propose negotiations for the modification of this Agreement or to terminate this Agreement in its entirety on thirty days' written notice.

Article XII.

Greater than nominal penalties will not be imposed in the United States of America or in the Republic of Honduras upon importations of articles the growth, produce or manufacture of the other country because of errors in documentation obviously clerical in origin or where good faith can be established.

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, or 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 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 XIII.

Except as otherwise provided in the second paragraph of this Article, the provisions of this Agreement relating to the treatment to be accorded by the United States of America or by the Republic of Honduras, respectively, to the commerce of the other country, shall not apply to the Philippine Islands, the Virgin Islands, American Samoa, the Island of Guam, or to the Panama Canal Zone.

Subject to the reservations set forth in the third and fourth paragraphs of this Article, the provisions of Article IX shall apply to articles the growth, produce or manufacture of any territory under the sovereignty or authority of the United States of America or of the Republic of Honduras, imported from or exported to any territory under the sovereignty or authority of the other country. It is understood, however, that the provisions of this paragraph do not apply to the Panama Canal Zone.

The advantages now accorded or which may hereafter be accorded by the United States of America or the Republic of Honduras to adjacent countries in order to facilitate frontier traffic and advantages resulting from a Customs union to which either the United States of America or the Republic of Honduras may become a party shall be excepted from the operation of this Agreement.

The 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 shall be excepted from the operation of this Agreement. The provisions of this paragraph shall continue to apply in respect of any advantages now or hereafter accorded by the United States of America, its territories or possessions or the Panama Canal Zone to the Philippine Islands irrespective of any change that may take place in the political status of the Philippine Islands.

The advantages now accorded or which may hereafter be accorded by the Republic of Honduras to the commerce of Costa Rica, El Salvador, Guatemala, 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.

Unless otherwise specifically provided in this Agreement, the provisions thereof shall not be construed to apply to police or sanitary regulations; and nothing in this Agreement shall be construed to prevent the adoption of measures prohibiting or restricting the exportation of gold or silver, or to prevent the adoption of such measures as the United States of America or the Republic of Honduras, respectively, may see fit with respect to the control of the export or sale for export of arms, munitions, or implements of war, and, in exceptional circumstances, of all other military supplies.

Article XIV.

In the event that the United States of America or the Republic of Honduras 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 of the country which has adopted any such measure shall consider such representations and proposals as the Government of the other country may make with a view to effecting a mutually satisfactory adjustment of the matter.

Article XV.

As long as the present Agreement remains in force, it shall replace any provisions of the Treaty of Friendship, Commerce and Consular Rights between the United States of America and the Republic of Honduras, signed at Tegucigalpa on December 7th, 1927, which may be inconsistent with this Agreement. However, upon the expiration of this Agreement, the provisions of the aforesaid Treaty which have been temporarily suspended shall automatically resume operation and shall continue in full force and effect subject to termination as provided in that Treaty.

Article XVI.

The present Agreement shall come into force on the thirtieth day following proclamation thereof by the President of the United States of America and the President of the Republic of Honduras, or should the proclamations be issued on different days, on the thirtieth day following the date of the later in time of such proclamations, and shall remain in force for the term of one year thereafter, unless terminated pursuant to the provisions of Article V, Article VIII or Article XI. The Government of each country shall notify the Government of the other country of the date of its proclamation.

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, subject to termination under the provisions of Article V, Article VIII or Article XI, until six months from such time as the Government of either country shall have given notice to the other Government.

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

Done in duplicate, in the English and Spanish languages, both authentic, at the City of Tegucigalpa, this eighteenth day of December, nineteen hundred and thirty-five.

For the President of the United States of America: (Seal) Leo J. KEENA.

For the President of the Republic of Honduras: (Seal) Armando Flores Fiallos.

SCHEDULE I.

The articles described below which, on the effective date of the present Agreement, have been in Customs warehouses intended for domestic consumption and which have arrived within a period of sixty days prior to the effective date of this Agreement, shall enjoy the benefits thereof on their importation without prejudice to the regulations established for the use of national warehouses by the Customs laws.

Abbreviations:

G. K.—Gross Kilo C. M.—Cubic Meter

Numbers in parentheses refer to items of the Honduran tariff.

Description of Articles		Maximum Rates of Duty in Honduran Lempiras
Passenger automobiles, trucks and buses of all kinds (229)		Free
2201, 2308, 2364 and 2528)	G. K.	0.10
(349, 470 and 928)		Free
Cotton hosiery, not embroidered (503)	G. K.	0.72
Cotton hosiery, clocked or embroidered (504)	G. K.	1.12
Mercerised cotton hosiery, not embroidered (505)	G. K.	0.72
Mercerised cotton hosiery, embroidered (506)	G. K.	1.12
Cotton Lisle socks and stockings (512)	G. K.	1.62
Cotton shirts, with or without collars to match (531)	G. K.	2,50
nams, sausages and other kinds of meat, preserved or packed in containers of tin, earthenware or glass, except salt beef and corned beef (602, 1564)		Ŭ
and 2287)	G. K.	0.27
and 2287)	G. K.	0.20
Ordinary empty sacks or bags of hemp, jute, or cotton, for packing coffee.	G. K.	0.10
sugar and other products (860, 2280 and 2281)		Free
Apples, pears, plums, grapes, cherries, strawberries, fresh, (1287)	G. K.	0.05
Canned fruits (1288)	G. K.	0.14
Dried fruits of all kinds (1289, 1290 and 1292)	G. K.	0.08
Biscuits and crackers, not sweetened or flavored (1314)	G. K.	0.16
Biscuits and crackers, sweetened or flavored (1314)	G. K.	0.32
Tomatoes (including tomato paste), corn, peas, and asparagus, canned,	G 17	
(1390, 1648, 1737, 2017 and 2057)	G. K.	11.0
Flour, wheat (1402)	G. K.	0.12
Bath and toilet soaps of all kinds (except medicinal soaps), perfumed or not, wrapped or unwrapped, packaged in any form (1555, 1556 and 1557)	G. K.	0.50
Hams, shoulders, bacon and sausages, smoked, in unspecified containers		
(1563, 2286, 2501)	G. K.	0.00
Condensed milk (1644)	G. K. G. K.	0.22
Evaporated milk (1644)	G. K.	0.20
Dried skimmed milk (1645)	G. K.	0.15
Dried whole milk (1645)	G. K.	0.22
Tire casings of all kinds for passenger cars, trucks and buses (1711)	· 11.	Free

Description of Articles	Maximum Rates of Duty in Honduran Lempiras	
Lumber, sawed, planed, including tongued and grooved, rough, in boards,		:
planks or other forms (1730)	С. М.	0.85
Butter (1765)	G. K.	0.42
Canned sardines, prepared or preserved in tomato, mustard or other sauces		
and canned salmon, prepared or preserved in any form (2053 and 2205).	G. K.	0.14
Denim such as is used for overalls and uniforms (2403)	G. K.	0.32
Patent medicines and pharmaceutical specialties:	0.17	
(Category I: 3117 to 3127)	G. K.	0.20
	G. K.	0.30
	G. K.	0.60
do do do (Category IV: 3200 to 3247)	G. K.	1.00
do do do (Category V: 3248 to 3271)	G. K.	1.00
do do do (Category VI: 3272 to 3472)	G. K.	1.00
	1	

It is agreed that the Government of Honduras will not impose any certification requirement or any formality for the importation, registration, licensing or sale of pharmaceutical specialties and patent medicines which is impossible of fulfillment in the United States of America because of the lack of a duly authorized federal agency.

This clause does not affect the obligations assumed by Honduras in multilateral treaties and especially those relating to the manufacture and traffic in narcotic drugs, *i. e.*, Convention and Protocols for the suppression of the abuse of opium and other drugs, signed at The Hague, January 23rd, 1912; international opium Convention, signed at Geneva, February 19th, 1925², and the Convention and Protocol for limiting the manufacture and regulating the distribution of narcotic drugs, signed at Geneva, July 13th, 1931³.

¹ Vol. VIII, pages 187, 236 and following; Vol. XI, page 415; Vol. XV, page 311; Vol. XIX, page 283; Vol. XXIV, page 163; Vol. XXXI, page 245; Vol. XXXV, page 299; Vol. XXXIX, page 167; Vol. LIX, page 346; Vol. CIV, page 495; Vol. CVII, page 461; Vol. CXVII, page 48; and Vol. CXXXVIII, page 416, of this Series.

² Vol. LXXXI, page 317; Vol. LXXXVIII, page 390; Vol. XCII, page 409; Vol. XCVI, page 204; Vol. C, page 249; Vol. CIV, page 516; Vol. CVII, page 525; Vol. CXI, page 411; Vol. CXVII, page 290; Vol. CXXII, page 355; Vol. CXXXIV, page 407; Vol. CLVI, page 205; and Vol. CLX, page 348, of this Series.

³ Vol. CXXXIX, page 301; Vol. CXLVII, page 361; Vol. CLII, page 344; Vol. CLVI, pages 268 and 269; and Vol. CLX, page 419, of this Series.

SCHEDULE II.

United States Tariff Act of 1930 Paragraph	Description of Articles	Maximum Rates of Duty. Specific Rates in United States Dollars
	Note: The provisions of this Schedule shall be construed and given the same effect, and the application of collateral provisions of the tariff laws of the United States to the provisions of this Schedule shall be determined, insofar as may be practicable, as if each provision of this Schedule appeared respectively in the paragraph of the Tariff Act of 1930 noted in the column at the left of the respective descriptions of articles.	
10	Balsams, not specially provided for, natural and uncompounded,	5% ad valorem
747	and not containing alcohol. Pineapples: In crates	0.35 per crate of
	In bulk	2.45 cubic feet 0.009 each
752	Guavas prepared or preserved, and not specially provided for	17 1/2% ad valorem
752	Mango pastes and pulps, and guava pastes and pulps	28% ad valorem
1618	Bananas, green or ripe	Free
1618	Plantains, green or ripe	Free
1653	Cocoa or cacao beans, and shells thereof	Free
1654	Coffee, except coffee imported into Puerto Rico and upon which	Free
1728	a duty is imposed under the authority of Section 379 Sarsaparilla root	Free
1765	Deerskins, raw	Free

Certified to be a true and complete textual copy of the original Trade Agreement in all the languages in which it was signed.

For the Secretary of State of the United States of America :

C. E. MacEachran,

Chief Clerk and Administrative Assistant.

¹ TRADUCTION. — TRANSLATION.

Nº 3876. — ACCORD COMMERCIAL ENTRE LES ÉTATS-UNIS D'AMÉRIQUE ET LA RÉPUBLIQUE DU HONDURAS. SIGNÉ A TÉGUCIGALPA, LE 18 DÉCEMBRE 1935.

PRÉAMBULE

LE Président des Etats-Unis d'Amérique et le Président de la République du Honduras, désireux de renforcer les liens traditionnels d'amitié qui unissent les deux pays en maintenant le principe de l'égalité de traitement comme base des relations commerciales et en s'accordant des concessions et avantages mutuels et réciproques en vue de développer le commerce, sont convenus, par l'intermédiaire de leurs plénipotentiaires respectifs, de l'accord ci-après :

Article premier.

Les articles, récoltés, produits ou manufacturés aux Etats-Unis d'Amérique, qui sont énumérés et désignés dans la liste I annexée au présent accord et faisant partie intégrante de celui-ci, seront exemptés à leur importation dans la République du Honduras, des droits de douane ordinaires dépassant ceux qui sont indiqués dans ladite liste. Ces articles seront également exemptés de tous autres droits, impôts, taxes, charges ou redevances, frappant l'importation ou perçus à l'occasion de cette importation, pour autant qu'ils dépassent ceux qui sont imposés ou prévus par les lois de la République du Honduras en vigueur à la date de la signature du présent accord.

En ce qui concerne les savons et le beurre énumérés et désignés dans la liste I, il est convenu que la République du Honduras les exonérera des impôts auxquels ils sont assujettis actuellement en vertu des dispositions du décret Nº 84 du Congrès national du Honduras, promulgué le 3 mars 1934, à partir de la date d'entrée en vigueur du présent accord; toutefois, conformément aux dispositions de l'article III du présent accord, ces produits, de même que tous autres articles récoltés, produits ou manufacturés aux Etats-Unis d'Amérique, qu'ils soient énumérés ou non dans la liste I, pourront être assujettis aux impôts que les municipalités peuvent légalement instituer.

Article II.

Les articles récoltés, produits ou manufacturés dans la République du Honduras, qui sont énumérés et désignés dans la liste II annexée au présent accord et faisant partie intégrante de ce dernier, seront exemptés, à leur importation aux Etats-Unis d'Amérique, des droits de douanc ordinaires dépassant ceux qui sont indiqués dans ladite liste. Ces articles seront également exemptés de tous autres droits, impôts, taxes, charges ou redevances, frappant l'importation ou perçus à l'occasion de cette importation, pour autant qu'ils dépassent ceux qui sont imposés ou prévus par les lois des Etats-Unis d'Amérique en vigueur à la date de la signature du présent accord.

Article III.

Les articles récoltés, produits ou manufacturés aux Etats-Unis d'Amérique ou dans la République du Honduras seront exemptés, après leur importation dans l'autre pays, de toutes

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.