

N° 4489.

ÉTATS-UNIS D'AMÉRIQUE
ET ÉQUATEUR

Accord commercial, avec annexes.
Signé à Quito, le 6 août 1938.

UNITED STATES OF AMERICA
AND ECUADOR

Trade Agreement, with Annexes.
Signed at Quito, August 6th, 1938.

No. 4489. — TRADE AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF ECUADOR. SIGNED AT QUITO, AUGUST 6TH, 1938.

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 December 14th, 1938.

THE PRESIDENT OF THE UNITED STATES OF AMERICA and THE SUPREME CHIEF OF THE REPUBLIC OF ECUADOR, 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 Ecuador, 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 Ecuador in force on the day of the signature of this Agreement.

Article II.

Articles the growth, produce or manufacture of the Republic of Ecuador, 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 and provided for 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 United States of America in force on the day of the signature of this Agreement.

Article III.

The provisions of Articles I and II 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

¹ The Agreement was proclaimed by the Supreme Chief of the Republic of Ecuador on August 6th, 1938, and by the President of the United States of America on September 23rd, 1938.
Came into force October 23rd, 1938.

to an internal tax imposed in respect of a like domestic product or in respect of a commodity from which the imported product has been manufactured or produced in whole or in part.

Article IV.

The United States of America and the Republic of Ecuador agree that the notes included in Schedules I and II are hereby given force and effect as integral parts of this Agreement.

Article V.

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

In respect of articles the growth, produce or manufacture of the United States of America or the Republic of Ecuador, 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 Ecuador and the United States of America, respectively, in force on the day of the signature of this Agreement.

Article VII.

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 Ecuador 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, or by the United States of America on the importation or sale of any article the growth, produce or manufacture of the Republic of Ecuador enumerated and described in Schedule II, except as otherwise specifically provided for in the said Schedules.

The foregoing provision shall not apply to quantitative restrictions in whatever form imposed by the United States of America or the Republic of Ecuador 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, or imposed in order to maintain the exchange value of the currency of the country. Whenever the Government of either country proposes to establish or change any restriction authorized by this paragraph, 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 proposed 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.

Article VIII.

1. If the Government of the United States of America or the Government of the Republic of Ecuador 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 any action shall :

(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 Ecuador 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 IX.

In the event that the Government of the United States of America or the Government of the Republic of Ecuador 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 X.

In the event that the Government of the United States of America or the Government of the Republic of Ecuador establishes or maintains, directly or indirectly, any form of control of the means of international payment, it shall, in the administration of such control :

(a) Impose no prohibition, restriction, nor delay on the transfer of payment for imported articles the growth, produce, or manufacture of the other country, or of payments necessary for and incidental to the importation of such articles ;

(b) Accord unconditionally, with respect to rates of exchange and taxes or surcharges on exchange transactions in connection with payments for or payments necessary and incidental to the importation of articles the growth, produce, or manufacture of the other country, treatment no less favorable than that accorded in connection with the importation of any article whatsoever the growth, produce, or manufacture of any third country ; and

(c) Accord unconditionally, with respect to all rules and formalities applying to exchange transactions in connection with payments for or payments necessary and incidental to the importation of articles the growth, produce, or manufacture of the other country, treatment no less favorable than that accorded in connection with the importation of the like articles the growth, produce, or manufacture of any third country.

In the event that the Government of either country shall make representations concerning the application by the Government of the other country of the provisions of this Article, the Government of such other country shall give sympathetic consideration to such representations, 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 Agreement on thirty days' written notice.

Article XI.

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, taxation 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 Ecuador 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 Ecuador or the United States of America, respectively.

Article XII.

Laws, regulations of administrative authorities and decisions of administrative or judicial authorities of the United States of America or the Republic of Ecuador, 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 the Republic of Ecuador 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 official manner. The provisions of this paragraph do not apply to administrative orders imposing anti-dumping 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 XIII.

In the event that the rate of exchange between the currencies of the United States of America and the Republic of Ecuador 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 or to terminate this Agreement in its entirety on thirty days' written notice.

Article XIV.

Greater than nominal penalties will not be imposed in the United States of America or in the Republic of Ecuador 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, and the application of sanitary laws and regulations for the protection of human, animal, or plant life or health.

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.

Article XV.

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 and the Republic of Ecuador, 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 this Agreement regarding most-favored-nation treatment shall apply to articles the growth, produce or manufacture of any territory under the sovereignty or authority of the United States of America or the Republic of Ecuador, 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 Ecuador 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 Ecuador may become a party so long as such advantages are not extended to any other country, 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 one another, irrespective of any change in the political status of any of the territories or possessions of the United States of America.

Article XVI.

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, and without prejudice to the provisions of the second and third paragraphs of Article XIV, 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 or health; (3) relating to prison-made goods; (4) relating to the enforcement of police or revenue laws.

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 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.

Article XVII.

In the event that the Government of the United States of America or the Government of the Republic of Ecuador 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.

Article XVIII.

The present Agreement shall, from the date on which it comes into force, supplant the *Modus Vivendi*¹ between the United States of America and the Republic of Ecuador, effected by exchange of notes signed on June 12th, 1936.

Article XIX.

The present Agreement shall come into full force on the thirtieth day following proclamation thereof by the President of the United States of America and the Supreme Chief of the Republic of Ecuador, 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, subject to the provisions of Article VII, Article X, or Article XIII, shall remain in force and effect until six months from the day on which either Government shall give notice of its intention to terminate it. The Government of each country shall notify the Government of the other country of the date of its proclamation.

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 Quito this sixth day of the month of August of the year one thousand nine hundred and thirty-eight.

For the President of the United States of America :

(Seal) Boaz LONG.

For the Supreme Chief of the Republic of Ecuador :

(Seal) Luis BOSSANO.

¹ Vol. CLXX, page 377, of this Series.

SCHEDULE I.

Ecuadoran Tariff Item Number	Description of Articles	Maximum Rates of Duty Specific Rates in Ecuadoran Suces
	<p><i>Note</i> : The provisions of this Schedule will be interpreted as though they had been included in the current Ecuadoran tariff law by an amendment to that law.</p> <p style="text-align: center;"><i>Abbreviations :</i></p> <p style="text-align: center;">G. K. = Gross Kilo L. K. = Legal Kilo</p>	
9	Milk :	
	(b) Milk in powder or skimmed milk, evaporated milk or cream or any kind of milk, with or without sugar, conserved or concentrated, in any container, except milk sugar	L. K. 0.45
Ex 13	Hog lard :	
	(a) Hog lard	G. K. 0.25
30	Preserved sardines, in any form or preparation	L. K. 0.49
43	Prunes in general	L. K. 0.315
77	Oats :	
	(c) Elaborated, prepared or crushed for human food, in containers of metal, paper board or similars	L. K. 0.245
87	Pure wheat flour, in any container	G. K. 0.075
154	Lubricating oils for machinery and vehicles in general, including greases of any origin, composition or mixture, not otherwise shown	G. K. 0.315
Ex 277	All prepared liquid paints, not otherwise provided for, including those called enamels and lacquers, not provided for in section 6	G. K. 0.60
	<p>Note VI which reads " No articles classified under item 277 will pay a duty of less than 30 percent <i>ad valorem</i> " is hereby deleted.</p>	
292	Paste, powder, soap, waters and liquid preparations in general and others not specified, for dental cleanliness and hygiene, perfumed or not	L. K. 2.765
374	Pharmaceutical specialties and preparations such as :	
	(c) Syrups, elixirs, emulsion, comprimés, tablets, ampoules, capsules and similar	L. K. 1.20
	<p>Note XVII in so far as it refers to subitem (c) of item 374 is hereby deleted.</p> <p><i>Note</i> : The importation of pharmaceutical specialties and patent medicines remains subject to the provisions that the National Department of Hygiene of Ecuador may dictate. It is understood, however, that the public health authorities of Ecuador will not impose any certification requirement or any formality for the importation, registration, licensing and sale of pharmaceutical specialties and patent medicines, which will be impossible of fulfillment in the United States of America because of the lack of a duly authorized Federal agency.</p>	

Ecuadoran Tariff Item Number	Description of Articles	Maximum Rates of Duty Specific Rates in Ecuadoran Sucres
524	Tools and instruments of all kinds for artisans (excepting those intended for and those suitable for automobiles), not mentioned elsewhere, such as drills, reamers, anvils, carpenters' planes, those for cleaning boiler tubes, jack or long planes, bellows, scythes, files, fixed wrenches and monkey wrenches, hammers, crow bars, punches, handsaws, saws, small or hand bits, pipe stocks, turnpikes, small or hand lathes, heel knives, anvils (tall type), diamonds mounted for cutting glass, wire stretchers and fencing pliers for cattle fences, boiler tube expanders, saw setters, plumbs, marking gauges and levels for carpenters and masons, stonemasons' steel tools, lifting jacks for lifting weights up to two tons; all these of iron, cast iron, steel or wood . . .	10% <i>ad valorem</i>
526	Instruments and utensils, such as spades or hoes, agricultural machetes (without sheaths), shovels, rakes, pitch forks, winnowing forks for potatoes, picks, pick-axes, pruners and hand trowels, all with or without handles; root pruners and similar utensils which are employed in agriculture and the preparation of land for agriculture	3½% <i>ad valorem</i>
608	Steam boilers and steam engines of all kinds, including engines and tenders; traction engines and portable engines; machinery for the construction of roads and irrigation canals; hydraulic motors, motors run by hot air, compressed air, petroleum, gasoline and naphtha, excepting motors intended for passenger automobiles; complete air compressor and all apparatus operated by compressed air, such as hammers, drills, chisels, etc.; hand or power cranes; turn tables, elevators, machinery for rock and well drilling; excavating machinery; stone crushers, cutters and polishers; concrete mixers, rammers, power hammers, windlasses, dredges, winches; ore crushers; machines for making tiles and cement tubes, and machinery in general for the manufacture of clay bricks, run by motive power	Free
644	Mechanical specie counters; cash registers; calculating machines; accounting machines; spare parts for all such machines . . .	20% <i>ad valorem</i>
648	Hand sewing machines, with or without covers, for seamstresses and tailors Each	10.00
649	Sewing machines, operated by human power not specially provided for, also all parts and tools for sewing machines, of every kind, except needles	10% <i>ad valorem</i>
650	Sewing machines, in general, with or without covers, called table or cabinet machines, for seamstresses and tailors Each	25.00
652	Typewriters, covers for the same and spare parts for them Plus	5% <i>ad valorem</i> 20% <i>ad valorem</i>
667	Storage batteries, and parts or elements for the same, even those for automobiles, radio-telephony installations or for other uses	25% <i>ad valorem</i>
Ex 677	Electric and other automatic refrigerators of any type, with or without motors, and accessories and parts therefor	20% <i>ad valorem</i>

Ecuadoran Tariff Item Number	Description of Articles	Maximum Rates of Duty Specific Rates in Ecuadoran Suces
679	Electric batteries in general and elements for the same, of metal, carbon or any other material Note VIII which says " No article classified under item 679 shall pay a duty of less than 30% " is hereby deleted.	L. K. 0.70
687	(a) Automobiles up to 600 dollars in value (b) From 601 to 900 dollars, for the excess (c) 901 dollars and above, for the excess (d) Omnibuses and similar vehicles for passengers (e) Parts, spare and repair parts for automobiles, omnibuses and trucks ; coach work and chassis for automobiles and coach work for omnibuses, excepting chassis for automobile trucks for the transportation of freight and omnibuses	30% <i>ad valorem</i> 40% <i>ad valorem</i> 80% <i>ad valorem</i> 30% <i>ad valorem</i> 20% <i>ad valorem</i>
691	Inner tubes for tires or pneumatic casings of motor powered vehicles	L. K. 1.995
692	(a) Automobile trucks and light delivery trucks for the transportation of freight, with explosion, internal combustion or electric motors, imported with coach work and chassis of all of these, including chassis for omnibuses	10% <i>ad valorem</i>
706	Tires, that is covers, for automobile wheels, solid, hollow or pneumatic, smooth or of the nonskid type, including all other pneumatic tires for vehicles, and leather covers, reinforced or not with metal.	L. K. 2.10
900	Oilcloth with a base of cotton or other vegetable fibres, and imitation leather, for furniture, vehicles and tapestry, including table covers	L. K. 1.96
1086	Knitted and crocheted textiles, of silk or artificial silk, with or without handwork : (b) Stockings and socks, for men and women, per dozen pairs	8.66 Plus 7% <i>ad valorem</i>
1089	Hides and skins, tanned, dressed or dyed, without hair or wool : (a) Of calf, varnished, whole, divided, split, excarnated or crusts Ex (n) Patent upper leather	L. K. 8.50 L. K. 8.50

SCHEDULE II.

United States Tariff Act of 1930 Paragraph	Description of Articles	Maximum Rates of Duty. Specific Rates in United States Dollars
<p><i>Note</i> : The provisions of this Schedule shall be construed and given the same effect, and the application of collateral provisions of the Customs laws of the United States to the provisions of this Schedule shall be determined, in so far as may be practicable, as if each provision of this Schedule appeared respectively in the paragraph of the Tariff Act of 1930 or the section of the Revenue Act of 1932 noted in the column at the left of the respective descriptions of articles.</p>		

United States Tariff Act of 1930 Paragraph	Description of Articles	Maximum Rates of Duty. Specific Rates in United States Dollars
752	Bananas, dried, desiccated or evaporated	17 ½ % <i>ad valorem</i>
806 (a)	Naranjilla (<i>solanum quitoense lam</i>) juice, not specially provided for, containing less than one half of one per centum of alcohol	0.35 per gallon
806 (b)	Concentrated naranjilla (<i>solanum quitoense lam</i>) juice, fit for beverage purposes	0.35 per gallon on the quan- tity of un- concentrated natural fruit juice contain- ed in such concentrated juice as shown by chemical analysis
1504 (b) (1)	Hats and hoods, composed wholly or in chief value of the fibre of the <i>carludovica palmata</i> , commercially known as toquilla fibre or straw : Not blocked or trimmed and not bleached, dyed, colored or stained	12 ½ % <i>ad valorem</i>
1609	Annatto, prepared or unprepared, and extracts thereof (not containing alcohol).	Free
1618	Bananas, green or ripe	Free
1618	Plantains, green or ripe	Free
1619	Barks, cinchona or other, from which quinine may be extracted . . .	Free
1653	Cocoa or cacao beans, and shells thereof	Free
1654	Coffee, except coffee imported into Puerto Rico and upon which a duty is imposed under the authority of section 319	Free
1684	Kapok, not dressed or manufactured in any manner	Free
1765	Reptile skins, raw	Free
1778	Tagua nuts	Free
1803 (1)	Sawed balsa lumber and timber, not further manufactured than planed, and tongued and grooved ; n. s. p. f.	Free
1803 (2)	Balsa wood in the log	Free
Revenue Act of 1932 Section		
601 (c) (6)	Balsa lumber, rough, or planed or dressed on one or more sides, provided that nothing in this Agreement shall be deemed to prevent the application of a tax at the rate provided for above to sawed balsa timber or to require a deduction on account of planing, tonguing or grooving in determining board measure for the purpose of assessing import taxes on balsa lumber and timber	1.50 per 1000 feet board measure

Certified to be a true and complete textual copy of the original Agreement, as amended, including two Schedules annexed thereto, in all the languages in which it was signed.

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

Edward Yardley,

Chief Clerk and Administrative Assistant.