

AGREEMENT ON COMMERCE BETWEEN THE REPUBLIC OF CUBA AND JAPAN.

SIGNED AT TOKYO, ON 22 APRIL 1960

The Government of the Republic of Cuba and the Government of Japan,

Being desirous of improving and developing the commercial relations between the two countries,

Have agreed as follows:

Article I.

1. With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to the rules and formalities in connection with importation and exportation, and with respect to the application of internal taxes to exported goods, and with respect to all internal taxes or other internal charges of any kind imposed on or in connection with imported goods, and with respect to all laws, regulations and requirements affecting internal sale, offering for sale, purchase, distribution or use of imported goods, any advantages, favour, privilege or immunity which has been or may hereafter be granted by either Party to any product originating in or destined for any third country shall be accorded immediately and unconditionally to the like product originating in or destined for the territory of the other Party.

2. The provisions of paragraph 1 of this Article shall not entitle Japan to claim the benefit of preferences or advantages with respect to customs duties and charges which are or may hereafter be accorded by the Republic of Cuba — exclusively to products of the United States of America.

Article II.

1. Nationals and companies of either Party shall be accorded treatment no less favourable than that accorded to nationals and companies of any third country with respect to payments, remittances and transfers of funds or financial instruments between the territories of the two Parties as well as between the territories of the other Party and of any third country.

2. The provisions of paragraph 1 of this Article do not preclude either Party from imposing such exchange restrictions as are consistent with the rights and obligations that it has or may have as a contracting party to the Articles of Agreement of the International Monetary Fund. 1

3. Neither Party shall impose restrictions or prohibitions on the importation of any product of the other Party, or on the exportation of any product to the territory of the other Party, unless the importation of the like product of, or the exportation of the like product to, all third countries is similarly restricted or prohibited.

4. Notwithstanding the provisions of paragraph 3 of this Article, either Party may apply restrictions or controls on the importation and exportation of goods that have effect equivalent to exchange restrictions which the said Party may at that time apply under the provisions of paragraph 2 of this Article.

Article III.

1. Nationals of either Party shall be permitted to enter the territory of the other Party in accordance with the provisions of the laws and regulations of such other Party and shall be accorded treatment no less favourable than that accorded to nationals of any third country with respect to all matters relating to their entry.

2. Nationals of either Party shall be accorded treatment no less favourable than that accorded to nationals of any third country with respect to all matters relating to their sejour, travel, and residence within, and their departure from, the territory of the other Party.

3. Nationals and companies of either Party, within the territory of the other Party, shall be accorded treatment no less favourable than that accorded to nationals and companies of any third country with respect to all matters pertaining to the levying of taxes, access to the courts, rights to property, participation in juridical entities, and generally the conduct of all kind of business and professional activities.

Notwithstanding the above provisions, each Party reserves the right to accord special tax advantages on a basis of reciprocity or by virtue of agreements for the avoidance of double taxation or the prevention of fiscal evasion.

Article IV.

Property of nationals and companies of either party shall not be taken within the territory of the other party except for a public purpose, nor shall it be taken without just compensation. In all the matters dealt with in this Article, nationals and companies of either Party shall receive, within the territory of the other party, treatment no less favourable than that accorded to nationals and companies of any third country.

Article V.

1. Each Party undertakes that if it establishes or maintains a state enterprise or grants to any enterprise, formally or in effect, exclusive or special privileges, such enterprise shall, in its purchases or sales involving either imports or exports, act in a manner consistent with the general principles of non-discriminatory treatment prescribed in the present Agreement for governmental measures affecting imports or exports by private traders. To this end, having due regard to the other provisions of the present Agreement, such enterprise shall make any such purchases or sales solely in accordance with commercial considerations including price, quality, availability, marketability, transportation and other conditions of purchase or sale, and shall afford to the enterprises of the other Party adequate opportunity, in accordance with customary business practice, to compete for participation in such purchases or sales.

2. The provision of paragraph 1 of this Article shall not apply to imports of products for immediate or ultimate consumption in governmental use and not otherwise for resale or use in the production of goods for sale. With respect to such imports each Party shall accord to the trade of the other Party fair and equitable treatment.

Article VI.

1. Merchant vessels of either Party shall have liberty, on equal terms with merchant vessels of the other Party and of any third country, to come with their passengers and cargoes to all ports, places and waters of such other Party open to foreign commerce and navigation. Such vessels shall in all respect be accorded treatment no less favourable than that accorded to like vessels of such other Party and of any third country within the ports, places and waters of such other Party. 2

2. Merchant vessels of either Party shall be accorded treatment no less favourable than that accorded to like vessels of the other Party and of any third country with respect to the right to carry all goods and persons that may be carried by vessels to or from the territory of such other Party; and such goods and persons shall be accorded treatment no less favourable than that accorded to like goods and persons carried in merchant vessels of such other Party with respect to: (a) duties and charges of all kinds, (b) the administration of the customs, and (c) bounties, drawbacks and other privileges of this nature.

Article VII.

Nothing in the present Agreement shall affect the rights and obligations that either Party has or may have as a contracting Party to the General Agreement on Tariffs and Trade 1 or the Articles of Agreement of the International Monetary Fund or any multilateral agreement amendatory or supplementary thereto, so long as both Parties are contracting parties to the relevant agreement or agreements.

Article VIII.

The provisions of the present Agreement shall not be interpreted as precluding each Party from adopting or executing measures relating to:

(a) the public security or national defense or the maintenance of international peace and security;

(b) traffic in arms, ammunition and implements of war;

(c) the protection of public health and the protection of animals and vegetables against diseases, harmful insects and parasites; and

(d) trade in gold or silver.

Article IX.

The Government of each Party shall accord sympathetic consideration to representations made by the Government of the other Party in respect of any matter arising from or in connection with the implementation of the present Agreement and shall afford to the Government of the other Party adequate opportunity for consultation.

Article X.

1. The present Agreement shall be ratified and shall enter into force on the date of the exchange of instruments of ratification which shall take place as soon as possible at Havana.

2. The present Agreement shall remain in force for a period of three years from its entry into force and shall continue in force thereafter provided that it shall be terminated on the date of expiry of the above-mentioned three year period or thereafter if the Government of either Party has previously given to the Government of the other Party at least three months written notice of its intention to terminate the present Agreement.

In witness whereof the representatives of the two Governments, duly authorized for the purpose, have signed the present Agreement.

Done in duplicate, in the Spanish, Japanese and English languages, at Tokyo, this twenty-second day of April, one thousand nine hundred sixty. In case of any divergence of interpretation, the English text shall prevail.

For the Government of the Republic of Cuba:

(Signed) Raul Cepero Bonilla

For the Government of Japan:

(Signed) Aiichiro Fujiyama

PROTOCOL

At the time of signing the Agreement on Commerce between Japan and the Republic of Cuba 1 (hereinafter referred to as "the Agreement"), the undersigned representatives, duly authorized by their respective Governments, have further agreed on the following provisions, which shall be considered integral parts of the Agreement:

1. As used in the Agreement, the term "companies" means corporations, partnerships, companies and other associations, engaging in commercial, industrial, financial and other business activities for gain.

2. With reference to paragraph 1 of Article III, either Party may require that all matters relating to passports and visas shall be regulated by special agreements on a basis of reciprocity.

3. With reference to paragraph 3 of Article III, either Party may require that the treatment with respect to the enjoyment of rights on immovable property shall be dependent on reciprocity.

4. Nothing in the Agreement shall be construed so as to grant any right or impose any obligation in respect of copyright and industrial property right.

5. The provisions of Article IV shall apply to the property taken in the territory of either Party in which nationals and companies of the other Party have direct or indirect interests.

6. With reference to paragraph 2 of Article VI, each Party may reserve to its own vessels the right to engage in the coasting

trade. Merchant vessels of either Party may, nevertheless, proceed from one port to another within the territory of the other Party, either for the purpose of landing the whole or part of their passengers and cargoes brought from abroad, or of taking on board the whole or part of their passengers or cargoes for a foreign destination.

7. Nothing in the Agreement shall be construed so as to entitle the Republic of Cuba to claim the benefit of those rights and privileges which are or may hereafter be accorded by Japan to: (a) persons who originated in the territories to which all right, title and claim were renounced by Japan in accordance with the provisions of Article 2 of the Treaty of Peace with Japan signed at the city of San Francisco on September 8, 1951, 2 or (6) the native inhabitants and vessels of, and trade with, any area set forth in Article 3 of the said Treaty of Peace, so long as the situation set forth in the second sentence of the said Article continues with respect to the administration, legislation and jurisdiction over such area.

Done in duplicate, in the Japanese, Spanish and English languages, at Tokyo, this twenty-second day of April, one thousand nine hundred sixty. In case of any divergence of interpretation, the English text shall prevail.

For the Government of Japan: Aiichiro Fujiyama

For the Government of the Republic of Cuba: Radi Cepero Bonilla

EXCHANGE OF NOTES

I Tokyo, April 22, 1960

Excellency,

With reference to the Agreement on Commerce between Japan and the Republic of Cuba signed today, I have the honour to confirm on behalf of my Government the following arrangements which have been agreed upon between our two Governments:

(1) Pending the entry into force of the Agreement under reference, the two Governments shall give provisional effect, within the limits of their constitutional authority, to the provisions of Articles I and II of the Agreement as from June 1, 1960 on the understanding that such provisional effect may be terminated by either Government subject to three months prior notice in writing.

(2) The arrangement set forth in (1) above shall replace as from June 1, 1960 the Modus Vivendi concluded on December 29, 1959 between the two Governments.

I have further the honour to request Your Excellency to be good enough to confirm the foregoing arrangements on behalf of your Government.

I avail myself of this opportunity to extend to Your Excellency the assurances of my highest consideration.

Aiichiro Fujiyama Minister for Foreign Affairs of Japan

His Excellency Raul Cepero Bonilla Minister of Commerce

Ambassador Extraordinary and Plenipotentiary on Special Mission Republic of Cuba

Tokyo, April 22, 1960

II Excellency,

I have the honour to acknowledge receipt of Your Excellency's Note dated April 22, 1960 which reads as follows:

[See note above]

On behalf of the Government of the Republic of Cuba I have the honour to confirm the arrangements set forth in Your Excellency's Note.

I avail myself of this opportunity to extend to Your Excellency the assurances of my highest consideration.

Raul Cepero Bonilla Minister of Commerce Ambassador Extraordinary and Plenipotentiary on Special Mission Republic of Cuba

His Excellency Aiichiro Fujiyama Minister for Foreign Affairs of Japan

