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CUBAN TARIFF REFORM

Communication from the Government of Cuba

Addendum

ANNEX 1

MEMORANDUM ON THE REASONS OF A TECHNICAL TARIFF CHARACTER JUSTIFYING THE ADOPTION OF A NEW CUSTOMS TARIFF IN CUBA

1. The Cuban Tariff Reform relates - from the technical point of view - to five basic aspects:

- (a) the present Cuban Customs Tariff structure;
- (b) the obsolete character of the present Cuban Tariff;
- (c) the Tariff Nomenclature;
- (d) the nature of the customs duties, and
- (e) the tariff policy defined by the general provisions.

(a) The present Cuban Customs Tariff structure

2. Although Article 3 of the General Provisions stipulates that the existing tariff has only two columns - the general maximum tariff and the minimum tariff (the latter being increased, in certain cases, by a surtax of 25 per cent) - the Cuban Customs Tariff in practice contains five different columns:

- (1) the General Maximum Tariff;
- (2) the Minimum Tariff with a surtax of 25 per cent;
- (3) the Minimum Tariff without surtax;
- (4) the Most-Favoured-Nation Tariff, and
- (5) the Preferential Tariff.

Tariffs 1, 2 and 3 apply to countries with which Cuba has not concluded trade agreements; they are applied according to the percentage of Cuban products which the countries purchase, taking as a basis the total value of what Cuba purchases from them annually. When those countries buy at least 50 per cent of the value of the products which Cuba imports from them, they get the benefit of the Minimum Tariff which, in numerous cases, is similar to the Most-Favoured-Nation Tariff.

When they buy less than 50 per cent of that value, but more than 25 per cent, they get the benefit of the Minimum Tariff with a surtax of 25 per cent. When they buy less than 25 per cent, the General Maximum Tariff is applied to them.

The Most-Favoured-Nation Tariff applies to the countries with which Cuba has concluded an agreement; and the Preferential Tariff applies to the United States of America, in return for the similarly preferential advantages granted to Cuban products within that territory.

3. It is obvious that this tariff structure suffers from basic defects. Besides the difficulties which may result from the application of so complex a system, this tariff régime allows countries which buy from Cuba only half what Cuba buys from them, in terms of value, to enjoy considerable advantages, such as those resulting from the application of the Minimum Tariff, which in certain cases, as we have already explained, is similar to the Most-Favoured-Nation rate. Consequently, this system allows several countries, the trade of which is controlled and subject to quantitative and exchange control restrictions, to maintain a trade balance unfavourable to Cuba to the detriment not only of our exports, but also of our currency position; and it allows those countries in spite of this unfair treatment, to continue to enjoy from the point of view of customs tariffs a position as advantageous - or almost as advantageous - as that enjoyed by countries with which Cuba has concluded an agreement and which grant Cuba special concessions, which is why they have the benefit of the Most-Favoured-Nation Tariff.

4. From a political point of view, this system is equally pointless, for it does not encourage countries interested in the Cuban market to conclude agreements with our Government, as it allows them to enjoy substantial tariff advantages without the necessity for them to undertake any kind of obligation. To sum up, we might say that the present structure of our customs tariff, with its complementary provisions for the application of the various tariffs, is found to be complex, out-of-date and incapable of adaptation to the present need of trade and customs policy. With a tariff structure of this kind, it is not possible to give adequate protection to the national economy, to the interests of Cuba as regards exports to other markets, or to the monetary position of the country.

5. It is claimed that by carrying out a tariff reform it will be possible to simplify the tariff structure in a specific manner, to simplify its system of columns and do away with items or provisions which have allowed other countries to apply to Cuba, in external trade, treatment which is unfair and without reciprocity. The new tariff will only have two columns, in addition to that relating to the special duties applied to the United States: the General Tariff, and that applying to countries which have concluded agreements with Cuba. The former will be higher than the second, and will apply without discrimination to countries which have not concluded a trade treaty with Cuba, without consideration of the amount of purchases made by those countries in our country. That means that there will be a departure from the provisions of Law No. 14 of 1935 and other similar laws relating to the customs tariff at present in force. The new system will, without any doubt, tend to bring about commercial exchanges more favourable to our Republic.

(b) The obsolete character of the present Cuban Tariff

6. The existing customs tariffs in Cuba are, in form, a faithful transcription of those established by Spain sixty-five years ago in her former colony; the tariffs of 1900 did not modify their structure, and later the 1927 tariffs retained the same form and the same structure, actually keeping the same number of sub-headings, simply establishing a certain number of sub-divisions and adding some letters.
7. The fact that the 1892 and 1900 tariffs were of the colonial and fiscal type, caused a lack of balance between the customs duties on raw materials and those on finished products - a lack of balance which persisted in the 1927 tariff, was more marked in the 1934 changes, and became extreme in the subsequent negotiations. The consequence of this lack of balance is that many manufactured products are subject to customs duties lower than those on the raw materials from which they are made. That is the case, for instance, with shoe-polish and oil-cloth.
8. The tariff of 1892, after having been amended in 1900, 1927 and 1934, does not of course take any account of the changes which have occurred since then and continue to occur in international trade. These changes are due to such causes as the following: rapidity of communications; technical progress; the appearance of new products (light metals, starting with aluminium and including a great variety of alloys - the results of the profound transformations in the chemical and related industries - and those of the revolution in the field of textiles after the development of artificial and synthetic fibres); the change represented by the development of plastics; developments in the field of paper and cardboard production; and changes in the timber industry resulting from the development of pressed-wood products, etc. etc.
9. The Cuban tariff includes approximately 1,275 tariff items, classified in a list dating back twenty-five years, and which does not include more than 11,000 articles (see Appendix I). As an example, it could be pointed out that the United States tariff contains over 3,500 tariff items, and Schedules A and B include some 50,000 products. Thus, with three times as many tariff items as Cuba, the United States have a classification including four times as many articles and products as the Cuban tariff.
10. The tariff in force in Cuba is based on that of 1891; that is to say it goes back sixty-six years. A commentator on customs matters discussing the case of the unchanging nature of Spanish tariffs, observed that "... the mere fact that a customs tariff has been in existence for thirty-four years, in itself reveals much more than eloquent speeches, particularly if a parallel is drawn with the extraordinary development of industry over the same period" (Francisco Navarro, "Unificación de la Nomenclatura y del Valor en la Aduana", Madrid, 1956).

If this comment, coming from one of the greatest Spanish authorities on customs matters, is valid for a tariff thirty-four years old, what can one say of the case of Cuba, where the interval is not one of thirty-four years, but of almost twice that length of time?

(c) The Tariff Nomenclature

11. In view of the facts mentioned in paragraph 9, Cuba is obliged, when negotiating, to offer a large number of articles which are not specifically classified, or which, when they are, are grouped in the same sub-divisions with other articles of a different character and value (often of no interest to the country with which the negotiation is being conducted), for a single product.

12. In the customs tariffs of certain countries (the tariff of the United States is an example, as are those of Germany, France, Italy, Brazil, Turkey, Belgium and some other countries), one hundred sub-items may be found for the chemical products which Cuba has grouped in sub-items 98-A and B only. For minerals, Cuba has only one sub-item; for metals there is practically no classification; for earths and stones, more importance is given to marbles and alabaster than to other products which are essential for the maintenance and development of any industrial economy; for foodstuffs, the classification takes into account the necessities imposed on Cuba by the colonial régime and is not based on the needs of the population of Cuba for its production or its trade. There is no adequate classification starting with raw materials or primary products and passing through successive stages until it comes to finished products. It is therefore no exaggeration to state definitely that our customs tariff is inadequate and obsolete in its structure, its classification, its customs duties and its standards of application.

13. In view of the need to adapt the tariff classification of goods to the requirements of international trade, the imperative need to be in a position of negotiating on an equal footing, and the vital and urgent necessity of possessing an adequate instrument for her economic development, Cuba has decided to adopt the Brussels Nomenclature (based on the principle of progressive classification, which consists of including in the same chapter the raw material, the finished product and the articles obtained from the said raw materials), drawn up by the Customs Co-operation Council. This Council was established in consideration of the fact that it was "advisable to secure the highest degree of harmony and uniformity in customs systems and especially to study the problems inherent in the development and improvement of customs technique and customs legislation in connexion therewith".

The advantages of an international customs nomenclature are obvious. Bulletin No. I of the Customs Co-operation Council says:

"Customs Nomenclatures in use for tariff purposes show marked and fundamental differences as between one country and another. The items or headings they contain are rarely in the same order, the contents of these items hardly ever coincide, and even the definitions of products frequently differ. In the words of the League of Nations¹: 'It is not surprising, therefore, that the consultation of the tariffs should lead to perpetual misunderstanding and uncertainty'.

¹ League of Nations, Draft Customs Nomenclature, Geneva 1937, Vol. I, Preface.

"The conditions requisite for the removal of these disadvantages are that there should be a systematic and logical classification of all goods which enter into international trade; that each product should be suitably and uniformly classified in the tariffs of all the contracting countries; that the Nomenclature should be worded simply and precisely, customs terms and phrases being unified to render them readily comprehensible to experts and public alike; and finally, that the task of importers and exporters, and of all those who have to compare two or more tariffs in order to prepare detailed statistics or negotiate bilateral or multilateral agreements, should be facilitated."

14. The integration of the European Common Market has been possible because the Six countries composing it adopted the Brussels Nomenclature. Various countries in our continent have carried out, or are in the process of carrying out, their tariff reform on the basis of the Brussels Nomenclature, and some other countries, such as Spain, are in the course of changing their customs nomenclature on the basis of that of the Customs Co-operation Council. The Convention setting up the Council has been signed by the United Kingdom of Great Britain and Northern Ireland.

15. The European Common Market is the first step towards the integration of the various economic areas. In order to be able to negotiate with those areas on an equal footing, it is essential to have a nomenclature established on the same basis. Cuba will endeavour to negotiate with the European Common Market and with other regional integration organizations which are important consumers of sugar, tobacco and other Cuban produce. For that purpose, Cuba must aim at having a common instrument of negotiation.

(d) The Nature of Customs Duties

16. Cuba, like all other countries, in its trade negotiations, is endeavouring to establish a tariff level, and not specific duties whose incidence varies in relation to prices. No country can tolerate a situation in which the economic bases of its production are dependent on price fluctuations. Up to 1934, Cuba was able to counter tariff deterioration because its obligations to the United States were limited to maintaining preferential margins; but owing to consolidation of those margins and, what was more serious, to the consolidation of the specific duties resulting from the preferential tariff, the productive economy of Cuba found itself at the mercy of prices current in external markets - prices over which Cuba has no control. As a result, the average level of our tariff, during the period from 1935-39, fell from 22.8 per cent to 12.47 per cent in 1956.

17. In 1947, Cuba wished to negotiate on the basis of the 1946 prices. Some of the contracting parties negotiating with Cuba did not accept that criterion, claiming that the 1946 prices were inflation prices, and the period 1935-39 was taken as a basis. The facts fully justified the Cuban standpoint, which still holds good, because prices increased by 42.3 per cent from 1946 to 1955, as can be seen on page 320 of The Statistical Abstract of the United States, 1956. In 1946, the level of the consolidated sub-divisions was 17.1 per cent; after the negotiations, it was reduced to 8.17 per cent in relation to the 1948 prices. That level of 17.1 per cent, reduced by 42.3 per cent, today amounts to approximately 9.9 per cent.

Such a tariff level requires no comment. It shows the absolute necessity of replacing specific duties by ad valorem duties, to prevent price movements cancelling the tariff levels negotiated.

18. In confirmation of what was stated in paragraphs 10 and 11, we should point out that the purchasing power of the dollar fell from 191.2 in the period 1935-39 to 90.3 in 1955 (The Statistical Abstract of the United States, 1956, p.323), which means that prices rose in inverse proportion, namely by 111.7 per cent. If we consider the wholesale price indices (p.320), it will be found that between the period 1935-39 and 1955 prices increased by 115.78 per cent. These figures confirm our statement, namely that the tariff levels negotiated in 1934 fell to 54.69 per cent of their value, taking as a basis the wholesale prices in the United States - a country with which we do nearly 80 per cent of our international trade.

19. That means that Cuban production, on which is based the food, employment and income of the Cuban people, is practically defenceless against foreign competition and imports, and no country can survive or progress under such conditions. No national activity in the field of agriculture, stock-raising or industry, can survive when faced with an influx of foreign produce resulting from large-scale rationalized production and supported by a magnificent commercial organization. Such products enter Cuban territory practically without any customs barrier, when one considers that 52 per cent of the duties represent a charge on imported goods of less than 12 per cent ad valorem, and that approximately two-thirds of the duties on such goods are less than 16 per cent ad valorem.

(See in Appendix II the distribution of the Customs Duty frequencies, established by taking as a basis only imports from the United States which paid the corresponding duties during the years 1955-56, and consequently without taking into account duty-free imports.)

On studying the table in Appendix II, it will be found that about 50 per cent of imports according to value, pay less than 20 per cent actual tariff duties. This amount of course also includes the value of raw materials, fuels and capital goods imported; there is, nevertheless, no question but that about one-third of the total value of imports represents goods which are not essential for the national economy or those of which the domestic production could be immediately expanded if there were adequate tariff protection.

20. To ensure stability for production and guarantees for economic development, the new tariff of Cuba, like those of most other countries, should be established on the basis of ad valorem or alternative duties. The establishment of ad valorem duties for a determined period does not present a danger for any economy, as the protective levels are maintained in spite of price variations. That is not the case when the tariff is based solely on specific duties, because then the levels remain subject to price variations.

21. The Cuban tariff refers to a tare system more than sixty years old. During those sixty years, the speed of communications and of the transport of goods, and technical and industrial progress, have entirely changed the nature of packages. Heavy wooden packing-cases, capable of enduring crossings which lasted

for months, have been replaced by corrugated cardboard; glass flasks and wooden casks have largely been replaced by fibre cases and tin containers. The Cuban tariff, nevertheless, continues to refer to inadequate and out-of-date forms of packing.

22. Technically, the necessity of Cuban tariff reform is, in our view, more than justified for the following reasons: (a) the great reduction in costs in real terms (since 1925) of competing foreign industries, a reduction which has practically annulled the protective function of specific duties; (b) the urgent need to establish a detailed customs nomenclature in order suitably to adapt to each type of goods the duties which are appropriate; (c) the advisability of establishing alternative duties for the subdivisions corresponding to the Cuban products which have to be protected, in order to prevent price fluctuations and to avoid insofar as possible an under-assessment of duties on competitive goods; (d) the obligation to correct maladjustments resulting from technical progress, by establishing new price levels for manufactured goods bearing a relationship to those of the raw materials and semi-finished products; (e) the obvious need to include in the tariff, as a result of an organic criterion, all the goods which technical progress and changes in taste have contributed to mankind in the course of the last thirty years.

(e) The Tariff Policy of the General Provisions

23. Finally, the system of general provisions for the application of the tariff plays a large part as an instrument of commercial and tariff policy, but the general provisions at present in force suffer from great defects and limitations which must be corrected. Article 8 of the provisions stipulates, for instance, that tariff duties cannot be amended by decree, but only by a law. That is a procedure which appeared adequate twenty years ago, but which nowadays is not suited to the needs and possibilities of external trade policy.

In virtue of Decree-Laws Nos. 5 and 13, of 20 January and 5 February 1942, which gave the Executive certain special powers, customs duties were amended by decree, when the amendments were the result of tariff negotiations with other countries since 1947. However, those decree-laws were promulgated to deal with certain specific problems during the emergency situation arising from the war; they are therefore not suitable for dealing with such matters in a peacetime economy. It is therefore urgent to give the Executive, permanently and as a normal procedure, certain powers enabling it to adjust the level of customs duties with a certain amount of flexibility (as was done by Decree-Law No. 2080 of 27 January 1955) when such adjustments arise in connexion with international negotiations. Any other course would disregard the trade policy requirements of the present day.

24. Further, it is essential to include in the general provisions of the tariff certain rules necessary for the protection of the national economy and of our export trade, and to take account in those provisions of the results of recent experience regarding the rules relating to the weighing of goods, the determination of dutiable values, and other aspects of world customs practices.

25. In addition to the new system of columns to which we have already referred, the new tariff policy defined by the general provisions will include stipulations authorizing the Executive to amend customs duties by international conventions and agreements and bring these conventions and agreements into effect provisionally rendering account to Congress, to apply the highest general tariff when as a result of an international arrangement, prejudice has been or may be caused to some category of national produce, and to apply retaliatory measures in cases where discriminatory treatment is unjustifiably given to Cuban exports. With these and other complementary measures, the Government of Cuba will be able at any time to develop a more adequate policy for the defence of our economy and trade interests.

Geneva, 1957.

Appendix I

COMPARATIVE TABLE OF THE NUMBER OF DUTIABLE ITEMS
IN THE TARIFFS OF 1900, 1927 AND 1957

<u>1900 Tariff</u>	<u>1927 Tariff</u>	<u>1957 Tariff</u>
653	906	1,275

The above figures show that the 1927 tariff had only 253 dutiable items more than that of 1900, and that the 1957 tariff, with 1,275 items, has only 369 more than the 1927 tariff.

In the five years from 1952 to 1957, the Cuban tariff was increased by 622 dutiable subdivisions or letters.

According to the statistical tables of the Ministry of Finance, relating to all imports recorded in 1955, amounting to a value of 575,000,000 pesos, 4,450 import products were listed in the course of the year according to the statistical codes.

It may be observed that, if the tariff at present has 1,275 dutiable subdivisions or letters, and 4,450 distinct products were imported, there remain 3,175 products which have had to be classified by assimilation in subdivisions including goods of a distinct character; these goods are subject, according to their nature, to widely differing price levels; they therefore cannot be compared in such a way as to determine an ad valorem level as distinct from specific duties. The need for remedying this situation appears all the greater if account is taken of the fact that 64 per cent of the sub-items or letters in our tariff are subject to specific customs duties.

The tariff level of the average prices of 1935-39 of the sub-items for which customs duties were bound in the negotiations between Cuba and the United States of America in Geneva in 1947 was 17.1 per cent; this level was reduced to 8.93 per cent after those negotiations, as established on the basis of the prices of 1948, the first year in which the exclusive preferential Convention between Cuba and the United States was in force.

In point of fact it has become clear that prices, far from readjusting themselves, have continued to rise. The result has been an appreciable reduction in the general level of the Cuban customs tariff. 72.4 per cent of the whole of the sub-items or letters constituting the tariff have already been the subject of negotiations tending to bound customs duties, or concerning reduced or consolidated categories of duties.



Appendix II

DISTRIBUTION OF THE FREQUENCIES OF CUSTOMS DUTIES AD VALOREM
ON GOODS IMPORTED FROM THE UNITED STATES IN 1955 AND 1956

Category (percentage of duty)	Average (%)	Frequency	Relative Frequency (%)
From 0 to less than 4	2	973	22.4
" 4 " " " 8	6	738	17.0
" 8 " " " 12	10	574	13.2
" 12 " " " 16	14	464	10.7
" 16 " " " 20	18	280	6.4
" 20 " " " 24	22	248	5.7
" 24 " " " 28	26	222	5.1
" 28 " " " 32	30	171	3.9
" 32 " " " 36	34	146	3.4
" 36 " " " 40	38	93	2.1
" 40 " " " 44	42	101	2.3
" 44 " " " 48	46	69	1.6
" 48 " " " 52	50	57	1.3
" 52 " " " 56	54	37	0.9
" 56 " " " 60	58	21	0.5
" 60 " " " 64	62	30	0.7
" 64 " " " 68	66	13	0.3
" 68 " " " 72	70	10	0.2
" 72 " " " 76	74	13	0.3
" 76 " " " 80	78	8	0.2
" 80 " " " 84	82	6	0.1
" 84 " " " 88	86	6	0.1
" 88 " " " 92	90	6	0.1
" 92 " " " 96	94	5	0.1
" 96 " " " 100	98	5	0.1
" 100 " " " 104	102	2	0.7 (2)
" 104 " " " 108	106	3	
" 108 " " " 112	110	5	
" 112 " " " 116	114	5	
" 116 " " " 120	118	4	
" 120 " " " 124	122	2	
" 124 " " " 128	126	1	
" 128 " " " 132	130	-	
" 132 " " " 136	134	2	
" 136 " " " 140	138	-	
" 140 " " " 144	142	-	
" 144 " " " 148	146	2	
" 148 " " " 152	150	3	
" 152 " " " 156	154	1	
" 156 " " " 160	158	1	
160 or over (1)		25	0.6
		<u>4,352</u>	<u>100.0</u>

(1) Varies from 161.6% to 4,923.1%.

(2) Total of frequencies relating to categories from 100 to less than 160.

