

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/947

28 November 1958

Limited Distribution

CONTRACTING PARTIES
Thirteenth Session

PERUVIAN IMPORT CHARGES

Decision of 21 November 1958

CONSIDERING that the Government of Peru notified the CONTRACTING PARTIES on 14 May 1958 that the balance-of-payments situation of Peru has deteriorated to such an extent that, in its view, it would be entitled to restrict imports in accordance with the provisions of Article XII of the General Agreement, and the International Monetary Fund confirmed that Peru was experiencing serious exchange difficulties and that its disposable foreign exchange reserves had been reduced to a very low level;

CONSIDERING that the Government of Peru adopted several internal measures to overcome these difficulties, but found that these and such other internal measures as would be practicable would not be sufficient to restore the equilibrium of Peru's balance of payments and that it was, for the time being, necessary for it to take additional measures in order to restrict imports and that, being convinced that the imposition of quantitative restrictions permissible under Article XII of the General Agreement would be more detrimental to trade than a temporary levy of surcharges on imports, the Government of Peru decided not to have recourse to the provisions of Article XII, but, instead, to introduce, as an emergency measure, surcharges on all tariff items, including the specific duties the rate of which had been bound under the General Agreement;

NOTING THAT, while the Government of Peru would have been entitled, in these circumstances, to restrict imports by measures authorized under Article XII of the General Agreement, the emergency action decided upon by the Government of Peru is not provided in Article XII and is inconsistent with the provisions of Article II of the General Agreement insofar as the surcharges are applied to products described in Schedule XXXV (Peru) and with those of Article I insofar as the non-application of the surcharges to products covered by existing bilateral agreements concluded with neighbouring countries involves an increase in the preferential margins permissible under the General Agreement;

CONSIDERING HOWEVER that the powers granted to the Government of Peru under the Law of 5 May 1958 to levy the surcharges expire on 8 June 1961 and that the Government of Peru has expressed its firm intention to reduce or eliminate these surcharges before that date if and as soon as the balance-of-payments situation of Peru improves and that it would not be unreasonable to expect that, in the present

case, the maintenance of these surcharges for a short period under the conditions laid down in this Decision would be less restrictive and less detrimental to the trade interests of the contracting parties than the measures permissible under Article XII of the General Agreement;

The CONTRACTING PARTIES pursuant to the provisions of Article XXV:5 of the General Agreement, and in accordance with the procedures adopted by them on 1 November 1956,

DECIDE to waive the provisions of paragraph 2 of Article I and of paragraph 1 of Article II to the extent necessary to allow the Government of Peru to maintain as an emergency measure designed to overcome the existing threat to its monetary reserves and to ensure the success of its stabilization programme, surcharges additional to the specific duties provided for in Schedule XXXV (Peru), and to exempt from these surcharges products originating in countries with which Peru is entitled to maintain preferential arrangements in accordance with paragraph 2(d) of Article I of the General Agreement.

This Decision is subject to the following terms and conditions:

1. The surcharges levied on the importation of the products described in Schedule XXXV shall not exceed the maxima laid down in the Peruvian Law of 5 May 1958.
2. They shall be progressively reduced or suppressed as the balance-of-payments position of Peru improves, and shall be maintained only to the extent that the circumstances having given rise to their imposition still justify their application. The Peruvian Government will endeavour to reduce and eliminate first the surcharges maintained on products described in Schedule XXXV. They shall be completely eliminated when the balance-of-payments situation of Peru would no longer justify their maintenance. All surcharges maintained under this Decision shall be eliminated before 8 June 1961.
3. In the application of the surcharges maintained under this Decision, the Government of Peru shall take appropriate measures to avoid unnecessary damage to the commercial or economic interests of other contracting parties and impairment to regular channels of trade.
4. The Government of Peru shall submit, before 15 September of each year, a report on the action taken to reduce or eliminate the surcharges maintained under this Decision and on the circumstances which, in its view, still justify the application of the surcharges not yet eliminated. It shall enter into consultation with the CONTRACTING PARTIES at the last session of each year as to the nature of its balance-of-payments difficulties, alternative corrective measures which may be available, and the possible effect of the surcharges on the economy of other contracting parties.

5. If any contracting party considers that the effect of the surcharges maintained under this Decision is unduly restrictive and that damage to its trade is caused or threatened thereby, it may make representations to the Government of Peru which shall accord sympathetic consideration to such representations and afford to that contracting party adequate opportunity for consultation.
6. If such consultation does not lead to satisfactory results, the contracting party concerned may request the CONTRACTING PARTIES to invite Peru to enter into consultation with them. If, as a result of these consultations with the CONTRACTING PARTIES, no agreement is reached and they determine that the effect of the surcharges is unduly restrictive and that serious damage to the trade of the contracting party initiating the procedure is caused or threatened thereby, the contracting party initiating the procedure will be released from its obligation to apply to the trade of Peru concessions initially negotiated with Peru to the extent that the CONTRACTING PARTIES determine to be appropriate in the circumstances.
7. When the CONTRACTING PARTIES are called upon to enter into consultation with the Government of Peru under this Decision, they shall consult fully with the International Monetary Fund to the extent provided in paragraph 2 of Article XV.
8. This Decision shall cease to have effect on the date on which all surcharges maintained under this Decision shall be eliminated, or on 8 June 1961, whichever date is the earlier. Should the Government of Peru, contrary to its present expectations, resort to quantitative restrictions on imports under the relevant provisions of the General Agreement, this Decision shall cease to be operative as from the day on which it takes such action.