

Statement by the United States  
Delegation regarding the application of the Geneva  
Agreement by the Government of Cuba

Mr. Chairman: I have been instructed by my Government to lay before the CONTRACTING PARTIES a matter arising under the nullification and impairment provisions of Article XXIII of the General Agreement and to seek appropriate redress.

The situation to which I refer is the following: On July 10 of this year, the Government of Cuba, by means of Resolution No. 530 of the Ministry of Commerce of Cuba, established a regulation governing the importation into Cuba of textiles. The main features of this regulation are as follows:

1. A registry of textile manufacturers and importers is created, and imports of textiles may not be entered into Cuba by persons which have not registered. Registration is not permitted by persons who have not been customarily and regularly engaged in the importation of textiles.
2. Textile manufacturers and importers are required among other things to file with the Government a complete and detailed inventory of their stocks of textiles of all kinds, together with detailed information as to selling prices.
3. Imports of textiles by duly registered persons may not be entered unless a separate permit for each importation for every single item of the manifest has been issued by the Import and Export Division of the Ministry of Commerce. In order to obtain such permits, it is necessary for an importer to comply with elaborate requirements, including the submission of a detailed description of the goods involved, samples of such goods, and current export prices.
4. A copy of the permit together with a sample must accompany the consular document presented to the Cuban consul in the exporting country and made a part of such document. Another copy and sample must go to the custom house through which the importation will take place. If through error a sample is attached to a permit which is not precisely the same as the article presented for importation the import permit is automatically cancelled and importation of the article is prohibited.

In order that the CONTRACTING PARTIES may examine these regulations in detail, there is being circulated a copy of the text of Resolution 530.

In the view of my Government, the control imposed pursuant to Resolution No. 530 is in conflict with the provisions of Article XI of the General Agreement on Tariffs and Trade, prohibiting the application of quantitative restrictions on imports. But whether or not it is in conflict with the letter of these provisions, there can be no question, in the view of my Government, that this measure is a clear nullification of the benefits which the General Agreement seeks to provide. Since the resolution was put into effect, imports of textiles into Cuba, including all of the important items on which tariff concessions were granted

by Cuba in Schedule IX of the Agreement, have ceased completely, this being due to the inability or unwillingness of importers to comply with the requirements demanded for the issuance of an import license.

Acting in accordance with the provisions of paragraph 1 of Article XXIII, my Government approached the Government of Cuba, through the usual diplomatic channels, on July 26, stating in writing its view that the regulation constituted a nullification of the provisions of the General Agreement, and requesting that it be removed. Since that time my Government has been unable to obtain from the Cuban Government any assurance that the situation will be remedied.

In the meanwhile, textiles have been piling up in Cuban warehouses, sales have been prevented from being consummated, and the interests of exporters in the United States are being damaged. The tariff concessions on textile items in Schedule IX of the Agreement, which concessions make up a very important part of the total concessions received from Cuba by the United States and no doubt by other interested contracting parties, are without any effect whatsoever so long as this regulation is maintained. Under the terms of the regulation, it will be maintained until the end of this year, a period of several months, and there is no assurance that it will not be extended thereafter.

No doubt arguments will be presented tending to show that the purpose of the measure is beneficent - for example it may be alleged that the measure is merely designed to assure assessment of duties on textile imports under the proper classifications. We do not wish to argue about the underlying motives. Our concern is with the effect of the regulation, and that effect is, as we have said, a clear and serious nullification of the provisions of the Agreement.

Mr. Chairman, in the light of these facts we ask the  
CONTRACTING PARTIES

First, to find that the effect of Resolution No. 530 is such as to nullify the provisions of the General Agreement on Tariffs and Trade;

Second, to recommend to the Government of Cuba that the Resolution be withdrawn; and

Third, pending compliance by the Government of Cuba with such recommendation, to authorize the affected contracting parties to withhold compensatory concessions from the trade of Cuba.

TEXT OF REGULATION IMPOSED BY THE GOVERNMENT  
OF CUBA ON THE IMPORTATION OF TEXTILES

MINISTRY OF COMMERCE

Resolution No. 530

WHEREAS the exceptional conditions prevailing in the textile trade make it advisable to adopt measures which, like those contained in this Resolution, are temporarily resorted to in order that the imports of the articles involved be thereafter affected in accordance with the system thereby provided,

NOW, THEREFORE: In pursuance of the powers vested in me, I hereby,

RESOLVE:

FIRST: Hereafter all imports of textile articles assessable under all the sub-sections (letters) of Sections (Items) 112 to 150, both inclusive, of the current Customs Tariff, must be effected by natural or artificial persons regularly engaged in the sale or subsequent conversion thereof, who operate regular stores or factories under current Municipal and General Licenses, and who are duly registered in the Importers Register of this Ministry, and in the Register of Textile Manufacturers and Importers hereby created, which shall be attached to its Import and Export Division, provided that such importers show proof of being regularly and habitually engaged in such trade.

SECOND: A Register of Textile Manufacturers and Importers is hereby established, attached to the Import and Export Division of this Ministry. And to such end a period of thirty days, counted from the day following the promulgation hereof in the Official Gazette of the Republic, is allowed to such natural and artificial persons as may be proprietors or operators under any arrangement, of textile plants or factories, and to the regularly established importers of the articles to which the preceding Section hereof refers, to secure their registration in said Register, for which each of them must file an application containing the following particulars:

- a) Name and address of the natural or artificial person owning or operating the industry or business involved.
- b) Number of the Municipal and General Licenses (Patente Unica).
- c) Registration entry number of the Mercantile Registry and, if a corporation, also of the Corporations Registry.

d) Number and classification of the concern's registration in the Importers Register of this Ministry.

e) Proof of being customarily and regularly engaged in the importation of said articles, which shall be evidenced by producing certifications to such effect, issued by the Custom-houses of the Republic.

f) National manufacturers shall attach to their applications, under the proper affidavits, representative samples of their products, specifying classes, types, varieties, qualities and brands.

THIRD: National manufacturers shall file with the Import and Export Division, within the period specified in the preceding Section, itemized statements showing their stocks on hand as of June 30 of this year, and specifying classes, types, weights, varieties, qualities, brands (or marks), unit production costs; also the average selling price per unit for the domestic market of each of the articles produced by them during the six months immediately preceding the promulgation of this Resolution. In addition they shall list their usual sources of supply of raw materials, likewise specifying classes, types, varieties, qualities, quantities, weights, brands and prices paid to the exporter thereof during the six month period immediately preceding the promulgation hereof.

FOURTH: National importers shall file with the Import and Export Division, in affidavit form, an itemized inventory of their stocks of fabrics of all kinds, including the "trimmings" or "waste" and "remnants", specifying the type, class, quality, variety, weight, brand (or mark), country of origin, name of the exporter, purchase price at place of origin and domestic market selling price thereof, on any date within thirty days following the promulgation of this Resolution.

FIFTH: Upon due examination of said applications and the documents thereto attached the Import and Export Division shall, provided that the importer or manufacturer involved shall have duly filed the affidavits referred to in the two Sections above preceding, either grant or deny the registration applied for, in accordance with the undersigned's directions in each case.

SIXTH: The Collectors of Customs of the Republic shall not permit the clearance for consumption and subsequent removal of the articles covered by this Resolution if the importer involved does not show proof that he or it is duly registered in the Textile Manufacturers and Importers Register of the Import and Export Division of this Ministry, and that he or it has been granted the proper import permit issued by this Ministry for the particular importation involved.

SEVENTH: The natural or artificial persons referred to in the first Section hereof may effect importations of the articles covered by this Resolution provided that they shall file with the Import and Export Division an application for each proposed importation, which must include a sworn declaration to the effect that the permit under which such proposed

importation is to be made will cover a single item of the manifest, and containing, in addition, the following particulars:

a) Name and address of the importer or manufacturer concerned and his or its registration numbers in the Registers of Importers and of Textile Manufacturers and Importers of this Ministry.

b) Name and address of the exporter, explaining whether such exporter is a manufacturer of the articles involved or a regular export merchant dealing in the same; also registration number of such exporter in the Register of Exporters of the Cuban Consulate through which the consular invoice covering the shipment will be cleared.

c) Class of fabric, weight, threads, ends, mixtures, surface (area), color, whether dyed or printed, and number of threads per each six square millimeters, indicating the Customs Tariff section (number) and sub-section (letter) under which the article involved will be declared in the application for Customs clearance for consumption.

d) Certificate issued by the Cuban Consul attesting to the current export price of the article in question for all buyers thereof on the date of its issuance.

e) Port of exportation and of arrival in the national territory, and Cuban Consular Office collecting the consular fees.

f) In addition, five samples measuring not less than ten centimeters each way, of the article the importation thereof is desired, shall be attached to the application. The importer in each case shall be held responsible for the correspondence of such samples with the articles actually imported thereunder. If the applicant should in any case be unable to comply with the requirements set forth in sub-section d) of this section, such applicant may request the Import and Export Division of this Ministry to secure the required certificate from the Consul with jurisdiction to issue it.

**EIGHTH:** After hearing the opinion of the Advisory Committee of this Ministry, and upon recommendation and approval of the undersigned, the Import and Export Division shall issue the import permits if and when the applicant concerned shall have complied with all the requirements set forth in this Resolution.

Once the import permit shall have been granted, the Import and Export Division shall forward one copy thereof, together with a sample of the article whereof the importation is proposed, to the Customhouse of the Republic through which the importation will be cleared, so that the Customs authorities may verify whether the class of article imported thereunder coincides with that whose importation may have been approved and authorized. Another copy of said permit, together with another sample of the article involved, shall be forwarded to the General Division of Customs of the Republic, in order that it may take due

note of the particulars set forth therein, and may again compare such sample with the article actually imported thereunder.

The Import and Export Division shall also issue and deliver to the applicant in each case two copies of the import permit, together with two samples of the article in question, one of each of which shall be forwarded or delivered, as may best suit such applicant, to the Consul of the Republic at the place where the consular documents covering the shipment will be cleared, to be attached thereto and made part thereof upon being duly sealed and legalized by such Consul; and the remaining copy shall be forwarded to the Customhouse of the Republic through which the actual importation will be cleared, for the purposes of the clearance thereof for consumption and subsequent removal of the goods from Customs jurisdiction.

NINTH: In the event that at the time of the Customs appraisal of any authorized importation it should be observed that the sample attached to the respective permit, as issued by the Import and Export Division, is of a class different from that of the actually imported fabrics, such circumstance shall produce the immediate cancellation of such permit, for which no further processing shall be required, and the clearance of the goods for consumption shall be prohibited.

TENTH: No permits shall be issued to cover importations of fabric lots declared under generic names, which because of their natural structure, manufacture or processing ought to be classified and assessed under different Customs Tariff sections.

ELEVENTH: Importations of jute bags and cloths, and of cotton bags used as packing for agricultural and industrial products are excluded from the provisions of this Resolution.

TWELFTH: The sale, assignment or exchange of the import permits issued to Cuban importers by the Import and Export Division, as well as the substitution or addition of exporters, are hereby strictly prohibited.

THIRTEENTH: The Import and Export Division is hereby empowered to conduct whatever investigations and demand whatever information it may deem necessary from any public or private organizations for the enforcement of the rules contained in this Resolution, and to recommend to the undersigned whatever supplementary measures or provisions may be deemed expedient or desirable to such end.

FOURTEENTH: The provisions hereof shall not be applicable to such imports covered by duly certified consular invoices, as may have left their foreign port of origin before or on the date of the promulgation of this Resolution, provided that the orders therefor shall have been placed prior to such promulgation in the Official Gazette.

FIFTEENTH: This Resolution shall become operative from the date of its promulgation in the Official Gazette of the Republic, and shall remain in force until December 31 of the current year.

SIXTEENTH: The Director of the Import and Export Division of this Ministry is hereby directed to attend to the enforcement of the provisions of this Resolution.

SEVENTEENTH: Let this Resolution be notified to the Ministers of the Treasury and of State, forwarding each of them a copy thereof for all pertinent purposes. And let it be published in the Official Gazette for all legal purposes and general knowledge and guidance.

DONE in Havana, Ministry of Commerce, this ninth day of July, 1948.

ROLANDO ACOSTA MARCOS  
Minister of Commerce

(Official Gazette No. 159, July 10, 1948)