GENERAL AGREEMENT ON TARIFFS AND TRADE
CONTRACTING PARTIES
SECOND SESSION

RESTRICTED
LIMITED C

GATT/CP.2/W.14
10 September 1948

ORIGINAL: ENGLISH

STATEMENT BY THE CUBAN DELEGATION IN CONNECTION WITH RESOLUTION 530 OF THE MINISTRY OF COMMERCE

We have said at the very beginning of our discussions on this matter in the CONTRACTING PARTIES that the Cuban Delegation was not afraid to discuss Resolution 530 in the light of the provisions of GATT. We propose to do so now.

In the Statement presented by the U. S. Delegation and circulated on September 9, a summary is given of the main features of the Resolution in question.

As stated in No. 1 of that Statement, a registry of textile manufacturers and importers is created, and importations of textiles may not be effected into Cuba by any person who has not registered. We accept this brief resumé of Resolution 530.

Cuba was confronted by a very difficult situation regarding textiles, very complicated indeed, but the main features of which were the accumulation in the Cuban market of stock piles of textiles well over the Cuban requirements for a year. Among other elements which have contributed to this overflow of merchandise was the irregular combined action of exporters (jobbers) in the U. S. with Cuban importers without municipal or state licences, without mercantile domiciles, acting as free-lance importers, trading under the benefits arising from false declarations and contraband.

It is for this reason that Resolution 530 created the Registry of Textile Importers, so that only such persons as are regularly engaged in the trade and with full responsibility of their trade actions, because of their established good-will, will be entitled to effect textile imports into Cuba. With this measure the Cuban Government proposed to eliminate from the picture those importers who were more able to be the illegal ones.

In number 2 of the Statement of the U. S. Delegation, it is expressed that textile manufacturers and importers are required to file with the Government a complete and detailed inventory of their stocks of textiles of all kinds as well as a detailed information as to selling prices. We accept this resumé of the Resolution, also.

The Cuban Government was aware that changes in the market situation would ensue as a result of the application of Resolution 530, due to the fact that the free-lance importers were going to be thrown out of their illegal business and in order to check any profiteering of the traders, the above-mentioned requirement was established. This is entirely a measure to give the Government a clear picture of how to control, if necessary, internal prices.

In No. 3 the U. S. Delegation statement makes a

summary of the requirements that are imposed on import textiles. We accept this summary also.

If you look through it, you will readily realize that it constitutes the only way out to give the Cuban Government a full assurance that the assessment of duties on textile imports were going to be effected under the proper classification of the Cuban Tariff System.

In number 4 the U. S. Delegation statement refers to the requirements to be complied with regarding consular invoices. Those, too, are necessary requirements that tend to the same goal of achieving the proper tariff assessment under the proper classification. I may addtthat if through an error an importer is mixed up with the regulations, he has to guarantee his rights the use of the usual procedures available to taxpayers under our liberal administrative procedure.

Under those four numbers the U.S. Delegation has made a full summary of Resolution 530. It does not say in that summary -- because Resolution 530 does not it either -- that textile imports are restricted with any quantitative measures.

After giving the summary of Resolution 530, the statement of the U. S. Delegation expresses that the Resolution is in conflict with the provisions of Article XI of the GATT, and I wonder why.

When the U. S. first presented this case to the Cuban Government in July 26, 1948 they thought at the time that Resolution 530 was in conflict with Article VIII. We were prepared to present our case in the light of this Article VIII and felt sure that we had a good case in our hands. Probably the U. S. Delegation had the same feeling. Now the U. S. Delegation is presenting the case, not under Article VIII, but as conflicting with Article XI.

Article XI provides that "no prohibition or restriction shall be imposed on imports or exports." No prohibitions or restrictions are imposed under Resolution 530. It does not limit the amount of merchandise to be imported into Cuba. It only established administrative channels to carry imports so that the Government may have a full assurance of the proper tariff assessment.

It seems that the U. S. Delegation agrees with us in this respect also, because very safely the statement of the U. S. says: at the beginning of the second sentence of the last paragraph on page 1:

"...But whether or not it is in conflict with the letter of these provisions"; clearly indicating the weak position of presenting Resolution 530 as a violation of Article XI of GATT.

When import licences are mentioned in paragraph 1 of Article XI, they are referred to in connection with prohibitions or restrictions. That is if the prohibitions or restrictions are imposed through a system of import

licences, but nothing in the General Agreement nor in the Havana Charter prohibits any Government from establishing a system of licences that in no way prohibit or restrict the importation of merchandise into a country.

It is true that since Resolution 530 was put into effect in July 10 of this year, imports of textiles into Cuba have been reduced, and in this case we also agree with the statement of the U. S. Delegation.

> "...this being due to the inability or unwillingness of importers to comply with the requirements demanded for the issuance of an import licence."

and I may add that in this case we take the term "inability" as meaning lack of understanding of the measure and not as a lack of proper means to deal with such requirements.

After Resolution 530 was issued in July 10, certain U. S. exporters started a terrific newspaper campaign against it, even threatening the Cuban Government to ask for retaliating measures against Cuban sugar, thus giving the impression to Cuban importers that the Resolution would be short-lived.

Certain Cuban importers did not comply with the requirements of the Resolution and so a decrease in the amount of imports was evident, because they were simply sabotaging a measure issued by the Minister of Commerce of the Government of Cuba, in the exercise of his full authority as a member of the Executive branch of an independent country.

The statement of the U. S. Delegation very clearly states that Resolution 530 is to be maintained until the end of this year, i.e., less than four months from now. It is a transitory measure and one that in the end will benefit not only the Cuban manufacturer but also the honest trader in the field. No harm will come to those manufacturers of other countries who have permanent agents in Cuba and who traditionally have been doing business, complying with all internal laws of our Republic.

The CONTRACTING PARTIES are in no position to prejudge the effect of a measure that has been in force exactly two months. Any new measure established by any Government in relation to anything creates at the very beginning certain difficulties to the people concerned. This is the case of Resolution 530, especially if, as stated by the U. S. Delegation, it has been an unwillingness of the Cuban importers to comply with the requirements set forth in that Resolution.

In the light of these considerations and facts, we ask the CONTRACTING PARTIES:

First. To find that Resolution 530 in no way is in conflict or nullifies the provisions of the General Agreement on Tariffs and Trade.

Second. To recommend to the Government of the U. S. that the claim against the Cuban Government on account of such Resolution be withdrawn.

Third. That direct negotiations between the two parties concerned should be resumed as soon as possible with a view to finding a mutually acceptable understanding.

Geneva, September 10, 1948