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CUBAN TARIFF REFORM

Communication from the Government of Cuba

Addendum

ANNEX 4*

RECONCILIATION OF CUBA'S PROPOSED NEW TARIFF WITH CUBA'S INTERNATIONAL COMMITMENTS

Introduction

In 1947, at Geneva, Cuba joined twenty-two other countries in signing the General Agreement on Tariffs and Trade (GATT). In so doing she undertook new tariff commitments reducing, or binding against increase, the duties on scores of items in her already generally low tariff structure. Because of the need for greater diversification, of which most students of Cuba's economy had long since become convinced, Cuba signed the Geneva agreement with some reluctance. In signing, Cuba was activated by a spirit of co-operation in this common enterprise for the restoration and expansion of international trade.

Subsequent developments in the Cuban economy served further to justify certain misgivings which Cuba had originally entertained. In consequence, after earlier failures, at Geneva in 1947 and at Annecy in 1949, to make substantial headway in obtaining increased protection for selected industries, she succeeded in obtaining the approval of the GATT, at the Torquay meeting in 1950-51, of a policy of increased protection. As a result, in subsequent negotiations with the United States, she made substantial increases in her duties on textiles and a variety of other items, for which she granted compensating concessions on

* Annexes 1 - 3 will be issued presently as Addenda 1 - 3 to document L/737.

other items of interest to United States exporters.¹ These modifications in the Cuban tariff, while helpful, have not, however, sufficed to meet the requirements of Cuba's continuing and persistent need for a further diversification of her economy.

Before discussing the relationship of further upward readjustment of Cuba's tariffs to her existing international commitments, it is essential that the underlying circumstances which necessitate and justify such action be clearly understood. This involves a consideration of the theoretical and practical aspects of Cuba's problem of diversification, economic growth, and tariff protection.

The Need for Diversification of the Cuban Economy and for Increased Tariff Protection

The main essentials of Cuba's case for undertaking further to diversify her economy, and for according increased tariff protection to selected industries as a means of fostering diversification, may be set forth as follows:

Theoretical Aspects - To understand how Cuba's position fits into general theory regarding international trade and tariff policy, it is necessary to examine the theory itself. On the theoretical side the basic question in the premises is whether the historical arguments in favour of free trade are of universal applicability to all nations, at all times, and in all circumstances. If this is true, it is manifestly a principle which has always been more honoured in the breach than in the observance. In simple truth, it is not so. In the world in which we live - economically disordered, in widely contrasting stages of economic development, and in the political ferment of aspiring new nationalisms - it is an abstract theory that has, and can have, no universal validity. Few modern economists, if any, would challenge this statement.

Pertinent here are the following observations by Professor Raul Prebisch in the study by him and his associates entitled "The Economic Development of Latin America and its Principal Problems," for the United Nations, Economic Commission for Latin America (1951):

"One of the most conspicuous deficiencies of general economic theory from the point of view of the periphery" /i.e., the under-developed countries/, says Prebisch (op. cit., p.7) "is its false sense of universality." "It is not surprising," he continues (op. cit., p.2), "... that the studies published on the economy of the Latin American countries often reflect the points of view or the experience of the great centres of world economy. These studies cannot be expected to solve problems of direct concern to Latin America..."

¹ Investment in Cuba: Basic Information for United States Business Men, United States Department of Commerce, July 1956, page 138.

Both historical experience and rational considerations reinforce this conclusion. On the historical side, a single instance will suffice, namely that of the United States. As a rising young nation in the nineteenth century, the United States did not join the free trade movement led by Great Britain. On the contrary, she insisted upon following an independent policy of tariff protection. She did this for the avowed purpose of diversifying an unbalanced, agricultural economy.

In adopting this course, the United States was greatly influenced by the arguments of Alexander Hamilton in his famous "Report on Manufactures". These arguments rested on the major thesis that diversification of the American economy, through stimulation of the growth of manufacturing industry, would greatly increase its total productivity. Tariff protection, he believed, could properly be used as a method of attaining this objective. A key argument in Hamilton's famous exposition was the so-called "infant industry" argument. Industries which may eventually become well-established, with a reasonable prospect of being able ultimately to exist without continued tariff protection, may be initially prevented from being carried on by causes which are not necessarily of a permanent nature.² Once these initial obstacles, such as unfamiliarity with new undertakings, lack of capital, lack of a skilled labour force, and other temporary impediments are overcome and production rises to higher volume, unit costs will be reduced, perhaps to the point where protection will no longer be necessary. Such is the reasoning.

This was the main argument put forth by the protectionists during the period when protectionism first became established as an aid to early economic development in the United States. Its validity has generally been conceded by economists since the days of Hamilton. So confirmed a free trader as Professor Taussig states that the argument "has received generally the approval of economists, even those little disposed to acknowledge the validity of any reasoning not in accord with the theory of free exchange."³ Taussig further mentions two basic conditions under which the argument becomes especially applicable. The one which is pertinent here is that in which "there is a natural change from exclusive devotion to the extractive industries toward greater attention to those industries classed as manufactures. The transition from a purely agricultural state to a more diversified system of industry", he continues, "may be retarded, in the absence of other occupations than agriculture, beyond the time when it might advantageously take place."⁴

² For Hamilton's statement concerning this, see his Report on Manufactures as quoted in Taussig, F.W., Selected Readings in International Trade and Tariff Problems, 1921, pages 465-67.

³ Taussig, F.W., Tariff History of the United States, Eighth Edition, page 1.

⁴ Op. cit., page 5. Although Taussig subsequently concludes that tariff protection was far less responsible for the early development and growth of manufacturing in the United States than protectionists have claimed, he does not challenge, as to principle, the validity of the "infant industry" argument as applied to the United States in the earlier period of its history.

Further theoretical support for the conclusion that the free trade doctrine is not one of universal validity emerges from studies made by eminent scholars and writers in recent years of the problems of economic development in the economically underdeveloped (i.e., insufficiently developed or "growth") countries. One of the most penetrating of these is contained in the recent book by the eminent Swedish economist, Gunnar Myrdal, entitled An International Economy (1955). A central theme of this book is the author's contention that world economic integration cannot be attained until there is first national economic integration; that in the economically underdeveloped countries nothing like national economic integration has yet been attained; and that - free trade doctrine to the contrary notwithstanding - tariff protection may in appropriate circumstances be employed as one means to that end.⁵

Myrdal analyzes in detail (see Chapter 13), with citations of numerous authoritative sources, the major considerations that arise in the determination of commercial policy for economically underdeveloped countries. It must suffice here to make only brief mention of some of the main points:

1. Underdeveloped countries, with unbalanced, agricultural economies usually have a high foreign trade ratio, but this is more in the nature of evidence of their underdeveloped status itself (in terms of total production and income) than it is evidence of a fruitful exploitation of the advantage of an international division of labour. Indigenous workers in the major export industries are usually paid low wages; and the country concerned is dependent on imports not only for capital goods but also for most manufactured goods and often for part of its food.⁶ The solution for such countries does not, it is true, lie exclusively in industrialization. "Industrial revolution" in such countries includes, in its broader connotations, improvements in agriculture and transport as well. But "the successful exploitation of a more favourable relation between population and natural resources requires mostly the growth of manufacturing industry."⁷

2. There is a good prima facie case for maximizing exports, if only to increase capacity to import the capital goods needed for industrialization. But success in such endeavour is seriously compromised by two factors: (a) a tendency for the long-term trend in the terms of trade to run against countries that export mainly primary commodities; and (b) large short-term fluctuations in the export prices of the primary products.⁸

⁵ Op. cit., especially Chapters 1 and 13.

⁶ Op. cit., page 226.

⁷ Op. cit., page 226.

⁸ Op. cit., pages 229-34. A 10 per cent increase in the terms of trade would, it is estimated, increase the capacity of the underdeveloped countries to import by as much as 1500 million dollars a year. Op. cit., page 234. Estimate cited from United Nations, Economic Affairs Department, "Relative Prices of Exports and Imports of Under-Developed Countries", page 17.

3. The wide fluctuations of proceeds from exports arise chiefly from the low elasticities of both demand for and supply of most primary products. This is borne out by systematic studies, such as those made by the United Nations.⁹ Countries which are dependent in large degree upon imports of consumer goods, including substantial importations of foodstuffs, are compelled, when proceeds from exports decline, to cut down greatly any imports of capital goods that might otherwise have occurred.

4. The great instability in export earnings makes extremely difficult any orderly planning of programmes for stabilization and expansion of the economies of the underdeveloped countries. This, in turn, makes them uncertain and constricted markets for imports, especially of capital goods, from the industrialized countries. International co-operation in measures for price stabilization would be in the general interest of both underdeveloped and maturely developed countries, but opinion in the latter does not countenance effective action in this field.¹⁰

5. Underdeveloped countries have a vital interest in high exports in order to enable them to raise their necessary imports of capital goods for economic development. But it may not be in their interest to press for increases in their traditional exports. Efforts should be directed toward increasing exports by developing those of commodities "with rising demand trends and with high income and price elasticities",¹¹ Although development of manufactures may be thought of as being entirely for the home market, export of manufactured goods is not precluded from such a programme of export diversification. Total export volume should not be permitted to decline.

6. Even underdeveloped countries that are not normally confronted with the serious problem of preserving the foreign exchange balance may have sound reasons for resorting to tariff protection as a means of promoting a sound development of their national economies. First, the natural growth of their economies may fail, or be much too slow, toward creating the necessary demand for the products of a potential or incipient domestic manufacturing industry; the shelter afforded by tariff protection tends to overcome this. Second, by establishing an industrial basis for economic development, and with it improved productivity of labour and a favourable climate for new enterprise, protection can be a means of increasing total national productivity and income. Third, protection of

⁹ United Nations, Economic Affairs Department, "Instability in Export Markets for Underdeveloped Countries." Myrdal, op. cit., page 239.

¹⁰ Myrdal, page 250.

¹¹ Myrdal, page 254.

new industries can help to take up the large labour slack that prevails in most underdeveloped, monocultural countries. This may involve little or no diversion of labour from the traditional export economy of the country and hence be a net gain in the total productivity of its labour force. Finally, the structure of internal costs and prices in an underdeveloped country tends to be lopsided as between industry and agriculture in a way that hampers industrialization, unless action is taken by the government to redress the balance (e.g., tariff protection of manufacturing). The basic reason for this is the existence of surplus labour in agriculture.¹²

Myrdal is but one of many whose studies of the problem of promoting the economic growth of the underdeveloped countries have led to broadly similar conclusions. For example, in a recent book entitled The Political Economy of American Foreign Policy by a group of American scholars, considerable space is given to a discussion of this matter.¹³ After stressing their view that in most such countries agricultural reform and development must have priority, these authors go on to point out that "some regions have already reached a stage of labour redundancy where industrialization becomes urgent".¹⁴

They then proceed to challenge the claim of the industrial countries that "industrialization should be undertaken only to the extent that it contributes to maximizing the output of the international economy as a whole, and that this consideration requires the use of resources in the underdeveloped countries in accordance with the doctrine of comparative costs". This doctrine, they point out, neglects the adverse effects of the unstable character of raw material prices on the stability of incomes in the primary producing countries. Furthermore, the doctrine of comparative costs, they say, is applied on the basis of existing comparative costs, treating existing levels as normative. But the existing distribution of income and the related pattern of comparative costs in the Western World are, they say, historical facts and not norms; they exist only because Western Europe and the United States were the first to industrialize. Hence the rigid, unqualified application of the doctrine of comparative costs amounts to a denial to the agricultural countries of the "right to alter a pattern of distribution of world income and of opportunities for economic growth given by history".¹⁵

¹² For a more complete discussion of these points, see Myrdal, op.cit. pages 275-79.

¹³ The Political Economy of American Foreign Policy (1955), Report of a Study Group sponsored by the Woodrow Wilson Foundation and the National Planning Association". See Chapters 4 and 5.

¹⁴ Op.cit., page 184

¹⁵ Op.cit., pages 184-86.

These authors, however, warn against industrialization programmes that go beyond the dictates of social need or economic efficiency. The underdeveloped countries should, they assert, make the most economical and efficient use of what they have. In general, they think that the industries to be encouraged should be those with relatively modest capital requirements, demanding a not too high proportion of technically skilled labour, and producing goods directly suitable for consumption.¹⁶ A recommendation to this end is included in their subsequent summarization of policies and measures for fostering needed economic and social changes in the underdeveloped countries; but they do not specify the means by which this is to be accomplished.¹⁷

One more example may be cited. In March, 1957, a Special Committee of the United States Senate To Study the Foreign Aid Programme of the United States published, as one of a series of studies sponsored by it, "The Role of Foreign Aid in the Development of Other Countries". It was prepared by the Research Centre in Economic Development and Cultural Changes, of the University of Chicago. This study does not deal with specific methods of fostering economic diversification in the underdeveloped countries but does recognize the key importance of industrialization. The study points out (page 1) that a preponderance of the labour force in agriculture and a low level of capital formation are characteristic of underdeveloped countries; and that the major problem of economic growth consists in their being placed in a position of improving the quality of their human resources and the quantity of capital, especially "social overhead" capital.

But the differences among such countries are wide. Compared with an average gross national product per capita in 1955 of \$ 2,343 for the United States and around \$ 1,000 for many Western European countries, the average for the more prosperous Latin American countries was around \$ 300 to \$ 500 per year (Cuba, \$ 347).¹⁸ In most Asian and African countries it was less than \$ 250. (Op.cit., pages 2, 3 and 81). The authors characterize an underdeveloped country as, broadly, in the category below \$ 250; an economically advanced one as in the category about \$ 1,000. Between these extremes is a small group of countries (including Cuba) which show some characteristics of both. "Basically they [the intermediate group] still have a large proportion of their population in agriculture, but at the same time they have a large, modern technologically efficient industry. Levels of gross capital formation vary somewhat but are, on the whole, rather high. Per capita gross national product in 1955 amounted roughly to somewhere between \$ 300 and \$ 750." (Op.cit., page 6).

¹⁶ Op.cit., pages 186-7

¹⁷ Op.cit., page 195

¹⁸ "Cuba is not an underdeveloped country in the sense usually associated with that term. The industrial segment of the sugar industry is a highly mechanized and efficient operation, national networks of railways and highways blanket the country, and numerous well-equipped ports provide easy access and egress to a flourishing foreign trade. On the other hand, few countries carry

The conclusions of these authors with respect to the role of industrialization are especially pertinent here. They point out that the growth of industry is an important factor in improving the rate of savings of an economy. Without going into the detailed reasons, they emphasize that this is a matter of experience. "Once industrialization and urbanization take hold of a country, the rural population - peasants as well as landlords - tends to adopt some of the values and behaviour patterns, together with some of the technology and forms of economic organization, of industry and to begin to accumulate capital on a relatively sizeable scale." Moreover, industry tends to have a higher productivity, usually employing modern imported machinery and using more advanced methods of production. Savings of the working class family can therefore be larger than in agriculture. Broadly speaking, the state of economic development tends to be associated with the percentage of the labour force in agriculture. In Asia, Africa, and the Near East, between 70 and 80 per cent of the labour force are in agriculture; in Latin America, about 60 per cent; in Western Europe, about 30 per cent; and in the United States and Canada, about 15 per cent.

Such are some of the main theoretical considerations that refute the proposition that the universal adoption of free trade is in the interest of all countries, at all times, and in all circumstances. Clearly, such a dogmatic principle has no application to the conditions in which most of the economically underdeveloped countries now find themselves. It remains, however, to consider more specifically the situation of Cuba herself. What is the source and nature of per problem of economic diversification and what is the potential role of tariff protection in that connection?

Cuba and Tariff Protection for Economic Development

The economy of Cuba has long been based primarily on the growing and processing of sugar cane. This remains true notwithstanding efforts during the past three decades toward diversification of the Cuban economy. In 1954 (the latest year for which data are available) the growing and processing of sugar cane accounted directly for 25 per cent of the national income. But if economic activities dependent upon the sugar industry be included, it is estimated that some two-thirds of Cuba's national income is directly or indirectly derived from the sugar industry.¹⁹ Sugar and its by-products are overwhelmingly predominant in Cuba's export trade. In the period 1946-54 they accounted for 86 per cent of the value of Cuba's exports.²⁰ Sugar plays an even greater role in Cuba's exports now than in the past. Cuba has long been the largest sugar producing and exporting country in the world. In short, sugar "dominates the Cuban economy both physically and psychologically".²¹

¹⁹ Basic Data on the Economy of Cuba. World Trade Information Source, United States Department of Commerce, Part I, No. 57-15, March 1957, pages 3, 4.

²⁰ Op.cit., page 6

²¹ Investment in Cuba, United States Department of Commerce, 1956, page 3.

The result of this one-sided development of the Cuban economy is that it is "dangerously vulnerable to the vagaries of foreign demand for the commodity that has become its single major source of income".²² It is singularly dependent upon fluctuations in world sugar prices. When sugar prices are good the sugar industry and trade are by far the most rewarding for investors. When they are not good, other activities in Cuba also suffer. In consequence, many Cuban investors are reluctant to invest in other enterprises, on the theory that sugar pays best in good times and other activities do almost as badly in bad times. A "vicious circle" is thus set up; greater diversification is required in order to reduce Cuba's dependence on sugar, but the dominance of sugar discourages diversification.²³

This is the impasse which Cuba now seeks to break through her programme of diversification. So great dependence upon a single crop creates a basically unsound and unstable situation. Sugar is precisely one of those commodities having a high degree of inelasticity of both demand and supply to which reference was made earlier. The market for it is particularly sensitive to wars, rumours of war, and international tensions. These result in great booms in the demand, followed by reverse reactions when these disturbing factors subside. More recently, the international situation has favoured large financial returns from Cuban exports. But such conditions are basically impermanent. When conditions become less favourable, competition from other sugar producing countries will be increasingly felt. To meet it, Cuba will need to reduce her costs. This will presumably call for more intensive cultivation and more mechanization. And this, in turn, may involve displacement of labour, in an industry in which there is already a redundancy of the labour force, especially in the off-season for sugar production, which lasts for many months.²⁴

²² Op. cit., page 3.

²³ Report on Cuba. International Bank for Reconstruction and Development, 1951, page 7. This dilemma, the report continues, has many profound consequences. It inclines potential investors to keep a large part of their assets in liquid form. It enhances the desire for quick, if precarious, profits, rather than smaller and steadier ones. It "encourages a static tendency among all groups to concentrate on the distribution of existing wealth and employment rather than to create new wealth and more work, since neither can be increased without investment and exposure to the underlying risk of sugar". All this conduces to the maintenance of a static, rather than a dynamic, economy.

²⁴ "In 1953 the sugar industry employed 474,053 workers, or 23 per cent of the labour force. The zafra averaged ninety-four days for the Republic... Individual mills reported a minimum season of seventy days in 1953 and a maximum of 124 days. Most of the workers were employed only during the zafra..." Investment in Cuba. United States Department of Commerce, pages 23, 24.

The case for diversification turns chiefly upon the problem of unemployment and underemployment of Cuba's redundant labour force. A high percentage of her workers are, on an annual average, unemployed; and her labour supply rises each year with the large annual increase in her population. The great preponderance of sugar in the Cuba economy militates against the interests of the Cuban labour force in two respects. Most importantly, it furnishes employment for the sugar workers for only two or three months of the year, in good times or bad. (In addition, the sugar workers, along with others dependent upon the sugar industry, are disadvantaged by the instability of the sugar market). Even at the height of the sugar season some 8 or 9 per cent of the labour force in Cuba are unemployed, and this figure rises to perhaps over 20 per cent in the "dead season". The situation is alleviated by the fact that most sugar workers have small plots of land for growing their own food, and in some degree by odd jobs which some find in the off-season.²⁵ But the unemployment problem, with a rapidly increasing population further aggravating it, is nevertheless serious.

Does diversification of the Cuban economy, however, really point the way to a solution of this problem? Is it not possible, on the contrary, that the gains from expansion of other industries will be offset by losses in the sugar industry? In theory this is possible. But in practice it seems certain that any well-planned and administered programme of diversification need not have this result. For it can assuredly be so managed as to result in expansion, not contraction, of the Cuban economy as a whole, and thus improvement in the employment situation. (It is not necessary here, in support of this statement to go into the details of a programme of diversification. This is a subject to which the Cuban Government has been giving close attention and it is amply prepared to sustain, in detail, the foregoing conclusion).

First of all, it should be emphasized that, even were the programme of diversification to result in a reduction of Cuba's sugar exports, it does not necessarily follow that the ultimate effect upon the Cuban economy would be adverse. It is well that this is so, for there are indications that Cuba will probably have to depend less upon sugar for the livelihood of her people in the future than in the past.²⁶ In the first place, a decline in

²⁵ Concerning employment see especially the discussion in Investment in Cuba, pages 23, 24

²⁶ "The National Bank of Cuba has pointed out that the sugar crop of 1965 would have to reach 9,395,000 short tons, valued at 793 million pesos, to give the population the living standards enjoyed by the 1947 population". Quoted from Investment in Cuba, United States Department of Commerce, page 7.

sugar exports would not necessarily be accompanied by a decline in total exports, since there might well be off-setting increases in exports of other items. If, however, there were a large decline in Cuba's total imports of all goods in consequence of increased tariff protection, this would undoubtedly tend to bring about a reduction in total exports. Even so, it does not necessarily follow that the Cuban economy would be worse off. The argument stressed by Alexander Hamilton in his Report on Manufactures applies here, namely, that diversification of a nation's economy, by widening the range of occupations available to its people and affording greater opportunities for their varying talents, increases its total productivity. Even as to foreign trade, the probable ultimate outcome would be a higher, not a lower, level of foreign trade.

The foregoing statements are based on the assumption of a decline in Cuba's sugar production and exports. However, diversification of the Cuban economy does not necessarily imply a decline in her sugar industry. With the increasing pressure of population, ways must assuredly be found for increasing the range of employment opportunities now available to the labour force. But this does not necessarily involve any curtailment of sugar operations. Manpower for expansion of other industries is available from the annual increment to Cuba's population. Still more could, if necessary, be made available from the sugar industry through improved technology, without any decline in sugar production. Moreover, it should be possible increasingly to introduce types of industrial activity that would provide more employment for the sugar workers themselves during the off-season months, without causing any shortage of workers in the sugar season.

Some of the increase in employment would arise from further diversification of agriculture. For this there are excellent possibilities and some progress is already being made in this direction. On the industrial side, processing of agricultural (and perhaps other extractive) products for export offers further possibilities both of increasing employment and of increasing Cuba's income from exports.

In substantial part, however, diversification for Cuba involves measures to promote the establishment or expansion of manufacturing of goods for sale in the home market.²⁷ Here, as in diversification of agricultural production and exports, there are opportunities which the Cuban Government has already begun to exploit but which for their further success require, inter alia, increased tariff protection. There are, it is true, import limitations and difficulties in this sphere. The Cuban Government is fully aware of these difficulties. But the following brief discussion of the more important difficulties will suffice to show that they are not insuperable in terms of the kind of programme of diversification that Cuba is undertaking.

²⁷ Some of these activities might eventually be expanded to the point where Cuba would produce also for export.

One handicap, frequently stressed, is that Cuba's home market is too small for the development of manufactures on an efficient scale. While this is a limiting factor, it can easily be overstressed. On the basis of national income the Cuban market is two-fifths the size of the Netherlands or Mexican markets, three-fourths the size of the Colombian market, and larger than the markets of Norway, New Zealand, or Chile. If the possibilities of introducing or expanding various lines of manufacture were wholly dependent upon the establishment and maintenance of types of manufacturing requiring production on a vast scale for economical operation, this objection would be more serious than it actually is.

A second handicap, also frequently stressed, is the lack, or alleged lack, of adequate natural resources for successful economic expansion and diversification, whether in manufacturing or otherwise. Actually, this difficulty can also be greatly overestimated. As to agricultural resources, Cuba's advantages are outstanding. She possesses more good land per capita - fertile and level, for maximum use of agricultural machinery - than most countries. It can be used for growing not only more foodstuffs but also more raw materials for industry. In mining she has important or substantial potentials in nickel, iron, copper, manganese, and chrome. Some indications of petroleum have been found. Some of the mineral resources promise a further expansion of "manufacturing" in the sense of direct processing, in varying degrees, of the raw products themselves. Cuba's agricultural and mineral resources offer the possibility of making Cuba less dependent on imports of raw materials for her manufactures and of foodstuffs for her population. But in any case, it should not be assumed that Cuba's programme of diversification will be carried out in such manner that she will have insufficient income from her exports of goods and services to pay for the quantities of imported raw materials required for her manufactures, plus necessary imports of foodstuffs. Other countries, no better situated, have done this: there is no inherent reason why Cuba cannot.

On the resource side the most serious handicap is undoubtedly lack of power. Cuba is conspicuously lacking in native power resources. Coal is lacking; domestic petroleum production is insignificant, its future potential uncertain; bagasse (a residue from sugar cane) furnishes fuel for the sugar mills but is not a source of power for manufacturing industry; and water power for hydroelectric development is very limited. For transportation and industry, the chief sources are imported petroleum and its products (fuel oil and diesel oil). Here, as in the case of some of the raw materials, Cuba must for the present and visible future look to imports to meet her requirements. For an

overambitious and ill-planned programme of industrialization, this could well be the "Achilles heel." For a carefully planned programme, adapted to the basic facts of Cuba's economy, it need not be. It may be, moreover, that developments in the realm of atomic power will eventually change the entire complexion of this problem.²⁸

In general, the logical lines of diversification, as related to tariff protection would seem to call for efforts to produce at home larger quantities of foodstuffs and certain raw materials, and light consumer goods of various kinds for which there are genuine opportunities for expanded production. Conditions are not favourable, in general, for the production of capital goods. Insofar as needed, they would have to be supplied through importation, as in the case of the marginal requirements of foodstuffs and raw materials, not available from home production.

One further comment may be ventured. This has to do with a fair appraisal of what Cuba is attempting to do. This effort cannot be lightly dismissed by unfavourable comparisons of Cuba's status and potentialities with those of much larger, industrially-advanced countries. There is no unawareness on the part of the Cuban Government and people that Cuba, being far smaller in population and resources than, say, the United States, possesses nothing like the same possibilities for industrial development which vast resources and an enormous home market have conferred upon the latter. But this is not an argument against Cuba's undertaking to improve her economic condition in such ways as are open to her. To this end, a carefully-formulated and well-administered programme for diversification of her economy, which must necessarily be realistic to be successful, is justified. And this justification holds irrespective of any assumptions to the contrary based on the alleged universality of the principle of international free trade.

In conclusion, it seems especially fitting to quote the following passage from the Report on Cuba (1951) by the International Bank for Reconstruction and Development (page 13):

"The choice before the Cuban people is clear cut. They may take advantage of their present opportunity to start to substitute a growing, dynamic and diversified economy for their present static one, with its single crop dependence. This may be a long and arduous task. It will involve great effort and some sacrifice of tradition and comfort. But it can diminish present risks and instabilities and it can prepare the economy to meet a reduced demand and price for sugar and increased competition in its production."

²⁸ Other difficulties, often cited, have to do with problems of long standing in the field of labor relations; and lack of proper production standards and of adequate industrial research, agricultural extension, and education in trades, technology, and business. In respect of these difficulties, however, conditions have more recently been improving. Since they are in the field of humanics, and are not inherently permanent in character, they are not to be regarded as in any sense decisive in relation to a well-ordered plan of further industrialization.

The Conflict of Cuban Tariff Revision with
International Commitments, and Methods of
Resolving it

Tariff rates on a vast range of items in the Cuban tariff are bound at existing levels in tariff agreements with other countries. These commitments are contained in the GATT (multilateral) and in bilateral agreements with several non-GATT, and also certain GATT, countries. Any revision of the Cuban tariff involving upward tariff revision for a broad range of products is therefore certain, ab initio, to conflict with existing tariff commitments. The wider the range of such products the broader is likely to be the area of conflict. In point of fact, it seems likely that in the contemplated tariff reorganization and revision, this area will prove to be quite extensive. This will be the situation irrespective of the nature of the proposed revision, i.e., whether the tariff increases are to be small or large. The steepness of the proposed revisions may well be a matter of vital importance in any negotiations growing out of Cuba's tariff proposals, but it does not affect the antecedent question of conflict with existing commitments.

It will simplify and assist the discussion of this conflict with existing obligations if attention is focused first and primarily on the commitments in the GATT and on the machinery which the GATT provides for coping with the kind of situation posed by Cuba's tariff proposals.

In Part I, Article II of the GATT are found the provisions which incorporate, as a legal and integral part of the Agreement, the concessions (i.e., reductions or bindings of tariff duties) set forth in the schedules annexed to the Agreement. Article II provides in general that the products listed in the schedules will not be subject to duties higher than those specified in the schedules. Nor shall they be subject to any supplementary charges on importation higher than those in force at the time the concessions were negotiated, or required to be reimposed thereafter by laws in force at that time. The tariff schedules annexed to the Agreement are, by paragraph 7, made an integral part of Part I of the Agreement.

It is thus Article II that covers basic tariff commitments of Cuba to other members of the GATT. Cuba's initial tariff commitments of a non-preferential character to other members of the GATT at Geneva (1947) are included in Part I of the Schedule relating to Cuba. Her schedule of preferential tariff commitments to the United States is included in Part II of the Schedule relating to Cuba. Changes in her tariff schedule arising from subsequent negotiations (i.e., since 1947) with other members of the GATT are incorporated in Part I or Part II of the Cuban Schedule, as the case may be.²⁹

²⁹These schedules include those annexed to the Geneva Agreement (1947), the Annecy Protocol (1949), the Torquay Protocol (1951), the Protocol of the Terms of Accession of Japan (1955) and the Sixth Protocol of Supplementary Concessions (1956).

What procedures are available to Cuba within the framework of the GATT for securing a waiver of existing tariff commitments insofar as they conflict with her programme of tariff revision? The GATT contains several general provisions under which waivers for tariff increases may be secured. They will be taken up here, seriatim.

Article XVIII deals directly with the problems of countries with underdeveloped economies. It specifically contemplates the possible use, for economic development, of tariffs or quotas otherwise forbidden by the GATT, provided that prior approval of the contracting parties is obtained. A procedure is set up under subsection A of this article for negotiating with the contracting party with which the concession was first negotiated, and with other interested parties, with a view to arriving at agreement. It is recognized that the interested parties may wish to take compensatory action for the tariff modifications for which their approval is sought.

Since the main objective of Cuba's contemplated tariff increase is for economic development, it might be initially assumed that her request for a waiver of existing commitments forbidding such increases could most appropriately be brought up under Article XVIII. As a practical matter, however, Article XVIII does not fit the situation. It appears on its face to have been contrived to cover requests for waivers only on an individual industry basis and on a limited scale. In actual application that is the only way in which it has thus far been used. Authority has been given by the CONTRACTING PARTIES for the temporary maintenance or imposition of a few measures for economic development, e.g., by Ceylon, Cuba, Haiti, and India. But that is far different from approval of a complete overhauling of a country's tariff involving upward revision of the duties on a broad range of items. Nor, in view of the highly complex and laboured provisions of Article XVIII, with the numerous strictures which circumscribe its effective use, is it difficult to understand why it has not been more frequently invoked. ³⁰

³⁰ In the proposed revisions of the general provisions of the GATT for which approval is now pending, this article is completely revised, for the most part in a manner which would encourage its greater use. In general the revised version places more emphasis on the establishment of new industries and less emphasis on the development or reconstruction of existing industries. If negotiations with the interested contracting parties fail to bring agreement a country invoking this article can still go ahead with its tariff increases provided that it can satisfy the GATT that it has offered adequate compensation. Moreover, on items on which tariff concessions have not previously been granted, such country can, subject to compensatory withdrawals of which the GATT approves, increase its quantitative import restrictions without the prior approval of the other parties to the Agreement. Under the present GATT, it cannot do so without such approval. Unless and until this revision of Article XVIII is finally approved by the GATT, however, it cannot be utilized. Should it be approved before or at the next meeting of the GATT, its provisions could, of course, be invoked. But it is doubtful whether, even as revised, Article XVIII would adequately meet the requirements of this case.

Article XIX is the so-called "Escape clause" provision whereby emergency action can be taken with respect to particular products. It permits withdrawal or modification of a tariff concession if, as a result of unforeseen developments and of the concession, there is such an increase in imports as to cause or threaten serious injury to domestic producers of like or directly competitive products. Such withdrawal or modification must, however, be only to the extent and for such time as may be necessary to prevent or remedy the injury, and there must be consultation with the other affected countries with a view to reaching agreement. If agreement is not reached, the parties affected are authorized to withdraw equivalent concessions. This article does not appear to fit the present case. It is limited to emergency action arising out of concessions already made on particular commodities. It is not adapted to the situation arising from proposals to increase tariff rates on a broad range of items.

There remain two articles of the general provisions of the GATT under which Cuba might seek approval of its proposed tariff increases. One of these is Article XXVIII. Article XXVIII covers the matter of modification of tariff schedules upon the expiration of the period for which the tariff rates in the GATT are bound. As matters now stand this period expires on 1 January 1958. Under this Article any contracting party is free to modify any of the tariff concessions in its schedule, provided agreement can be reached with the contracting party with which they were initially negotiated and with other countries substantially interested. If agreement cannot be reached, the modification can nevertheless be made, but the other interested parties can withdraw equivalent concessions. However, at the 1955 meeting of the GATT Cuba undertook along with the other members not to invoke this article prior to 1 January 1958, thus prolonging the assured life of her tariff commitments to that date so far as concerns possible resort to Article XXVIII.

Cuba is under no obligation, however, to renew this commitment at the expiration of the present period. With the expiration of her existing commitment, she is free to withhold, for any or all of the items in her Schedule II, a guarantee on her part not to invoke Article XXVIII for another three years. Meanwhile, there is still another Article under which action may appropriately be initiated, namely Article XXV. This article deals with joint action by the CONTRACTING PARTIES in meetings from time to time that involve joint action, in order to facilitate the operation of the Agreement. Paragraph 5 (a) of Article XXV provides that in exceptional circumstances not elsewhere provided for in the Agreement the CONTRACTING PARTIES may, by a two-thirds majority vote, waive an obligation imposed upon a contracting party by the Agreement.

In 1953, at the Eighth Session of the CONTRACTING PARTIES, the groundwork was laid for a policy of leniency toward reasonable requests by member countries for waivers releasing them from tariff commitments before the termination of the period for which they were bound. Although this action was not confined to any single Article under which a waiver might be sought,

its practical effect was to open the way to a wider use of Article XXV for such purposes. The "open-end" character of Article XXV especially adapts it to such use.

What happened, in brief, was as follows: In the course of the general discussions of the operation of the Agreement, of the amendment of the General Provisions, and of the project for the establishment of an Organization for Trade Cooperation to administer the GATT, the CONTRACTING PARTIES took up the question of prolonging the assured life of the tariff concessions. A Working Party was set up to examine this question. In commenting on this matter the Working Party stated that "there is no reason to believe that the contracting parties will be less ready in the future than they have been in the past to consider requests of this kind and to join in granting authority for the necessary negotiations, and the approval of this report would in itself be confirmation that the CONTRACTING PARTIES would give sympathetic consideration to such requests. It appears, therefore, that there is sufficient flexibility in the policies of the CONTRACTING PARTIES to deal with this sort of problem...". The phrase "in the past" referred to successful efforts by Pakistan and Brazil in 1948 and 1949 to obtain approval of their plans to modify concessions in the interest of higher protection and economic development, before the expiration of the period of their commitments. The report was approved. Since the eighth Session this policy of "sympathetic consideration", drawn from the foregoing context, has been increasingly invoked in support of decisions by the CONTRACTING PARTIES involving a flexible attitude toward the application of the particular article under which a waiver is sought.

There is ample precedent for Cuba's claim to "sympathetic consideration" of her request. Several such precedents may be cited here.

The treatment accorded Brazil since the inception of the GATT is perhaps the best example. Even before Brazil joined the GATT but while negotiations were in progress in Geneva in 1947, great leniency was shown toward her in the matter of approving her announced intention of sharply increasing the rates of duty in her tariff (in which the rates were specific). A year earlier, at the London meeting of the Preparatory Committee for establishment of an International Trade Organization, Brazil had given notice of her intention to revise her tariff.

At Geneva she agreed to conduct her trade negotiations on the basis of the old rates, but at the same time let it be understood that the rates tentatively agreed to would not be finally approved by her unless she were authorized to increase them by an amount designed to take account of rapidly increasing prices in Brazil and the resulting decline in the ad valorem equivalent of the specific rates of duty in her tariff. This was agreed to by the Tariff Negotiations Committee of the Conference, and Brazil was authorized to increase the duties on all negotiated items by 40 per cent. The consummation of the multilateral negotiations at this conference, culminating in the birth of the GATT, thus carried with it the "pre-natal" approval by the CONTRACTING PARTIES of this comprehensive and sharp upward revision of the Brazilian tariff.

It is, however, the more recent developments with respect to Brazil's relationship to the GATT that give particular aptness to this citation of the Brazilian precedent. At the Tenth Session of the GATT, in 1955, Brazil advised the CONTRACTING PARTIES that it intended to submit a draft of a new customs tariff to the Brazilian Congress. It was stated that the old tariff did not provide sufficient revenue or protection; in addition its nomenclature was confusing and obsolete. Hence, Brazil had been compelled to impose quantitative restrictions on imports and to adopt exchange controls. The effect of this proposed new tariff on Brazil's obligations under Article II was discussed at this Session. The Brazilian representative stated that, although exchange controls would still be necessary for Brazil's economic development, the new tariff would result in no change in the volume or composition of imports. Because of the stated emergency and exceptional nature of the circumstances of its case, Brazil requested the CONTRACTING PARTIES to grant it a waiver under Article XXV rather than under XXVIII, which is applicable to complete tariff revision.

The CONTRACTING PARTIES granted the waiver under Article XXV. By their action Brazil is relieved of the obligation to re-negotiate existing trade concessions before making effective the higher rates of the new tariff. However, Brazil must conduct such negotiations within one year from the time the new tariff enters into force. A Tariff Negotiations Committee was set up by the GATT to arrange for these comprehensive new negotiations.³¹

This Brazilian case would be significant as a precedent if only in the general sense of illustrating the broadly lenient attitude of the GATT in such matters. Actually, however, there is a closer parallel between the current Brazilian case and the Cuban case here under discussion than appears on the surface. In the first place, it may be questioned whether the pending Brazilian tariff revision will in fact be such as to "result in no change in the volume or composition of imports." It may reasonably be conjectured that, in the final outcome, many increases in the actual

³¹In April 1957, Mr. Hans Franks, an economist for the Sao Paulo Federation of Industry, said:

"This concession granted to Brazil is unprecedented under GATT. It is of great importance to the national economy, because the CONTRACTING PARTIES waived all compensation to which they had a right under GATT when they authorized the substitution of the old customs tariff. The possibility of submitting the new Tariff as though Brazil were entering GATT for the first time was a great achievement of the national government. All of the preceding negotiations at Geneva, Annecy and Torquay, based on the old tariff, are considered null and void. Thus Brazil will have a more advantageous position and from a satisfactory point of departure, i.e., a modern selective tariff with reasonable rates that offer a sound base to arrive at agreements."

protective incidence of the duties will in fact have found their way into the general tariff revision. But apart from that, it is noteworthy that the Brazilian representative frankly stated that exchange controls would continue to be used for economic development. Thus Brazil, with the acquiescence of the GATT, will, by the joint use of exchange controls and increased tariffs, subject imports to a regime of trade control a major purpose of which is to promote her economic development. Cuba seeks the same objective, but only through tariff increases and not through quantitative restrictions on imports. Hence the difference between the two cases is more one of form than of substance.

There have been numerous other cases in which the GATT has shown a lenient attitude toward countries wishing to overhaul their tariff structure. Two more will be mentioned here.

The first is Turkey. At the Ninth Session of the GATT, in 1954-55, the CONTRACTING PARTIES agreed to consider Turkey's request for the conversion of its bound rates from a specific to an ad valorem basis, her tariff then being based on specific duties. Turkey had already informed the CONTRACTING PARTIES in June 1954 that it had enacted a new tariff law, employing the nomenclature and definition of customs value laid down in the Brussels Convention, and that she had already made the new law effective except as to rates bound in the GATT or other agreements. This, be it noted, was three years after she joined the GATT. Turkey's request was approved under the "sympathetic consideration" procedure referred to above. She was thus authorized to enter into negotiations with the interested contracting parties. These negotiations were ultimately successful, and the entire new Turkish tariff accordingly came into operation.³²

The other instance is that of France. It goes back to the original GATT conference in Geneva in 1947. Unlike Brazil, France did not wait to increase her rates until after the conference. The prewar French tariff was largely specific and, in addition, many items were subject to quota limitations. Prior to the Geneva Conference the French formulated a new tariff, on an ad valorem basis and without quotas for protective purposes. The new ad valorem rates were supposed to represent substantially the ad valorem equivalent of the old specific rates in the period 1936-38, but with increases in the quota items to take account of the removal of the protective quotas. France, along with other countries at the conference, had promised not to "pad" her tariff rates in advance of the negotiations. Whether this upward revision did in fact involve padding is perhaps a matter for argument, depending partly on how one defines padding. Certainly it is true that the Tariff Negotiating Committee at the conference approved of France's action, and that her revised tariff became the basis from which she entered into the negotiations.

³²Regarding Turkish case, see United States Tariff Commission, Operation of the Trade Agreements Program. Ninth Report (multilith edition), pages 168-69.

The cases here cited are typical of others that might be mentioned. They are not necessarily strictly analogous cases to that of Cuba, Rather, they illustrate the general point that the machinery and the policies of the GATT are sufficiently flexible to take account of Cuba's just claims and to permit her to readjust her tariff structure on terms which should be acceptable to the GATT.

The strength of the Cuban case does not, however, in reality depend upon precedent. It rests primarily upon two basic circumstances: The first is the fact that the general provisions of the GATT explicitly contemplate that tariff increases may be justified for the purpose of promoting economic development in the underdeveloped countries. The inclusion of Article XVIII is itself evidence of this. What is significant is not the precise language of this Article but the recognition, by its mere insertion, that economically underdeveloped countries may have special claims for tariff protection, or increased protection, as a means of promoting their economic growth. The other circumstance is that set forth at considerable length in the first part of this document, namely (a) that Cuba does emphatically stand in need of further diversification for her sound economic development and for the best interests of the Cuban people; and (b) that tariff protection, discriminatingly and selectively applied, is one important means by which diversification can be fostered.

It remains to take account of Cuba's bilateral commitments. Although less important than her multilateral commitments, they are by no means unimportant. Insofar as her contemplated tariff increases conflict with such commitments, the same basic problems, at least in kind, are involved as in the case of her GATT commitments. The chief difference is a purely pro forma one, namely the absence of any need for clearance with the GATT.

Cuba is presently a party to bilateral agreements with the following countries: Argentina, Austria, Chile, Germany, Italy, Iceland, Spain, Switzerland, the United Kingdom. In three of these agreements, the rates of duty on a specified list of items are definitely bound; in the others they are not. Since it is only where the duties are bound that there can be conflict between Cuba's tariff proposals and her existing commitments, it is these particular agreements that assume chief importance here.

Chief among these is the bilateral agreement with the United Kingdom. The United Kingdom is one of the nine countries (counting Benelux as one) with which Cuba did not conclude direct tariff negotiations under the GATT at Geneva in 1947.³³

³³At the 1947 meeting at Geneva, Cuba concluded tariff negotiations with Australia, Brazil, Canada, Chile, China, Czechslovakia, Norway, Union of South Africa, and the United States. No negotiations were concluded with Benelux, (Belgium, Netherlands, Luxemburg), Burma, Ceylon, France, India, Syria-Lebanon, New Zealand, Pakistan and the United Kingdom. Any concession benefits accruing to this latter group were therefore indirect via the general provisions of the GATT; there were no direct concessions in the commodity schedule.

Hence her obligations to the United Kingdom were only those that arose indirectly from the general provisions of the GATT. But in August 1951 a bilateral agreement was concluded between the two countries, entirely outside the mechanism of the GATT, in which was included, inter alia, an extensive schedule of items on which Cuba bound tariff rates to the United Kingdom. This agreement, covering about eighty tariff items, ran only to 31 December 1953. There have been three subsequent extensions, with various modifications. The present one runs until 31 December 1957. These extensions have left Cuba still committed to bound rates on substantially the original list of articles.

Another country with which Cuba's bilateral agreement commits her to bound rates of duty on a substantial list of items is Spain. Cuba has had a bilateral commercial treaty with Spain, a non-member of GATT, since 1927. The latest extension of the agreement expires on 18 August 1957. The commodity list includes some thirty-seven tariff items. These are mainly products for which Spain has long been the chief source of Cuban imports, most of them products that appear unlikely to be subjected to increased tariff duties for protective purposes.

With Chile, Cuba has a bilateral agreement containing bindings of rates of duty on some fifteen or twenty items. This agreement, signed 31 March 1952, was originally for two years, but is subject to tacit extension for one-year periods. The items on which the duties are presently bound are typical Chilean export products, such as copper, saltpeter (sodium nitrate), garlic, beans, onions, wines, various fish or other sea-food products, etc.

With Germany, Cuba concluded a bilateral agreement in September 1951, containing bindings on a number of items, but it was soon thereafter denounced. A new agreement in May 1953 included bound rates on a large number of items (about a hundred in all) and contained an additional guarantee that in no case would the rate charged by Cuba be in excess of that levied against the United States. In February 1956, the agreement was extended for one year. But in March 1957, a new protocol extending the agreement for three years eliminated the commitment with respect to actual bindings of the rates. Hence, the present commitment provides only that the duties on this long list of items shall be no higher than those paid by the United States. Thus no question of conflict with existing commitments can arise with respect to Germany. Should rates higher (or lower) than the existing rates on the specified products, as paid by the United States, be incorporated in Cuba's revised tariff, Germany will be automatically subject to the same rates. And since Germany was not an original member of the GATT, Cuba has no direct obligation to her under the GATT.

Other bilateral agreements are with Argentina, Austria, Italy, Switzerland and Iceland. These agreements contain the usual most-favoured-nation pledge and other features, but none of them contains definite commitments with respect to bound rates of duty on specified goods.

