

GENERAL AGREEMENT ON TARIFFS AND TRADE

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PERUVIAN IMPORT CHARGES

Statement by the Representative of Peru and the Provisions of the Law and Decree

By letter dated 14 May 1958 the Government of Peru notified the CONTRACTING PARTIES of its intention of introducing certain supplementary charges on imports. The matter was discussed by the Intersessional Committee on 3 and 4 June 1958 and the discussions were noted in IC/SR/39. Reproduced herein are the opening statement made by the Peruvian representative at that meeting and extracts from the relevant law and decree relating to the supplementary charges:

I. Statement by the Peruvian Representative

"By a note dated 14 May last and addressed to the Executive Secretary of GATT, my Government duly notified the CONTRACTING PARTIES of the measures which it had to introduce, as a matter of urgency, in order to remedy Peru's critical balance-of-payments situation and the consequent shortage of foreign exchange reserves which, in the period January 1957 to April 1958, declined from \$42 million to \$4 million, imminently threatening complete exhaustion of our reserves unless the government authorities took appropriate corrective measures immediately.

"This deficit situation has been expressly recognized by a group of experts of the International Monetary Fund, which recommended as an essential feature of the plan for economic and monetary stabilization a series of measures designed to remedy this difficult situation. While it is true that the text of the recommendation to which I have referred does not - and indeed could not - give express authorization to institute a general increase of customs duties including those bound under the GATT, nonetheless in our judgment, some of the measures suggested by the Fund imply the need to increase by a reasonable percentage our customs receipts, in order to check foreign currency spending on account of non-essentials which should be regarded as quite superfluous at the present time.

"Thus, instead of resorting to direct import restrictions which, as you know, would be contrary to Peru's economic policy, my country will continue to apply without any limitation the liberal exchange and trade system which it has followed for the past ten years and which is in conformity with the principles of the GATT.

"At the beginning of this statement I referred to Peru's balance-of-payments difficulties and the decline in her monetary reserves. What are the factors which have led to this situation?

"I should like, if I may, briefly to analyse the factors which have contributed to it.

"One of the main factors is the ten year old deficit in our trade balance which, in 1957, reached \$70 million out of a total foreign trade value of \$730 million, of which Peruvian imports accounted for \$400 million and exports for \$330 million.

"The fall in world prices of our principal export products such as sugar, cotton, and minerals (lead, zinc, copper, etc.) to mention only a few of our basic products has meant that, notwithstanding production increases, our foreign exchange receipts fall short of our requirements.

"This shortage of foreign exchange is also attributable to local circumstances such as the severe drought which in 1956 and 1957 seriously affected the southern region of Peru, thus making it necessary to increase imports of foodstuffs.

"As I said before, the Peruvian Government, in dealing with the situation, adopted a series of measures which had been recommended by the International Monetary Fund. In spite of these measures, however, my country remains in a difficult situation, which, of late, has been further aggravated by a fall in the rate of exchange of Peru's currency from 19 soles per dollar, which had been maintained for several years through the free interplay of supply and demand, to 23 soles per dollar, representing a decline of more than 20 per cent as from the previous rate.

"In view of the circumstances which I have described, it became necessary to ~~institute measures designed to restrict~~ the volume and the value of goods permitted to be imported, as sanctioned by Article XIII of the General Agreement.

"I should also point out here that Peru is one of the few countries in the world which have not established direct import prohibitions for certain goods, or controls, licences or exchange surcharges; Peru's foreign trade has developed in conditions of ~~full freedom being regulated~~ only by customs duties which are rather moderate.

"In examining the need to restrict the volume and value of imports the Peruvian Government has carefully considered the possible effects of a direct prohibition applicable to certain classes of goods, as well as the possible effects which would result from the institution of an administrative system for restricting imports indirectly by means of import quotas and licensing procedures. It is precisely to reaffirm the liberal policy in trade and exchange matters which my country has followed in the past, and considering that our present difficulties are of a temporary nature and

will disappear when world trade conditions improve, that is to say, when the prices of primary products reach their rightful level or when demand for such products increases - it is precisely with these considerations in mind that my Government has decided not to resort to direct or indirect controls for the restriction of imports, since experience has shown that it is difficult to do away with such measures afterwards.

"This attitude of the Peruvian Government has been expressly recognized in the report of the International Monetary Fund, which states that 'The Fund welcomes the determination of the Peruvian authorities not to revert to exchange and trade restrictions as a solution to the present payment difficulties'.

"Having discarded the possibility of establishing direct import prohibitions on any specific category of goods, or controls with a view to limiting such imports, by means of quotas and licences, the only alternative method before the Peruvian Government was the imposition on a provisional basis of special levies, to be collected by the customs authorities at the time of importation.

"I must point out that under the provisions of the General Agreement the Peruvian Government could have increased the rates of duty on items not included in Schedule XXXV annexed to the Agreement, without having to enter into prior consultations with the CONTRACTING PARTIES; this, however, would have involved discriminatory measures from the national point of view in that large sectors of import trade would have been exempted from a measure which is only temporary and is intended solely to improve the country's economic position in general, not to mention the fact that items on which duties have been bound under GATT account for more than 50 per cent of the total value of Peru's imports.

"Nor would it have been possible, in our judgment, to resort to the provisions of Article XXVIII of the Agreement, which only refers to the modification or withdrawal of a concession on a given product, to be negotiated with other contracting parties individually on the basis of granting new concessions. Also, in view of the urgency of the matter the Peruvian Government could not have waited until the session of the CONTRACTING PARTIES in October 1958 for a final decision in this respect.

"We know that there are different opinions concerning the interpretation of the Article of the General Agreement on which our request is based. We believe nonetheless that Article to be most relevant to the problems which have caused our present difficult situation, inasmuch as these problems derive from our balance-of-payments difficulties.

"With this brief statement of our reasons for taking this action, and considering that any total or partial restriction of imports would have very harmful effects on the normal development of international trade, we come here to ask the CONTRACTING PARTIES to recognize the severity of our problems and the need to co-operate with us in seeking a satisfactory solution, while demonstrating that Peru has at all times shown a spirit of good will and loyalty to the General Agreement."

II. Text of Operative Provisions of Law and Decree relating to the
Import Charges

(a) LAW NO. 12995 of 5 May 1958

Article 1. The Executive authority is empowered to increase import duties, with the exception of such additional duties as are specified by the Tariff in force (Law No. 11048), by fifty per cent (50%) in the case of products which are necessary but not indispensable, and by one hundred per cent (100%) in the case of all other products with the exception of those referred to in Article 2 of the present Law.

The Executive authority may increase by as much as 100 per cent the import duties on products on which the surcharge of 100 per cent referred to in paragraph 1 of this Article is levied.

The Executive authority may also prohibit imports of unnecessary, non-essential, or luxury products when it deems such action to be essential for the national economy.

Article 2. Staple foods; medicinal and pharmaceutical products to which the liberalization measures instituted by Law No. 11234 are applicable; essential materials for the dissemination of thought in printed form; and products which are admitted duty-free pursuant to existing legal provisions, shall not be affected by the surcharges authorized by the present Law.

Products to which existing bilateral agreements concluded with neighbouring countries are applicable shall also continue to be exempt from the surcharges instituted by this Law.

Article 3. The Executive authority shall determine which articles are to be included in each of the aforementioned categories and it shall indicate the relevant customs tariff items.

The Executive shall be authorized to transfer items from one category to another when it deems such action to be in the national interest.

The Executive authority shall effect increases, exemptions, prohibitions, or transfers of any items from one category to another by means of Supreme Decrees, with a supporting statement, which shall be enacted after due deliberation by the Council of Ministers acting in an advisory capacity.

Article 4. The increases or surcharges instituted by the present Law shall be collected separately from previously existing import duties, and the total proceeds from these levies shall be remitted directly to the Central Reserve Bank of Peru and shall be ear-marked for the sole purposes specified hereunder:

- (a) To make up the deficit of the 1956 budget; and
- (b) To finance additional appropriations and to make up any deficit resulting from ~~settlement~~ of the 1957 budget.

Article 5. Upon fulfilment of the purposes referred to in the foregoing Article, the proceeds of the surcharges instituted by the present Law shall be deposited with the Central Reserve Bank of Peru to constitute a special currency stabilization fund.

The Executive authority, after prior consultation with the Central Reserve Bank and the International Monetary Fund, shall submit to the Legislature proposed rules for administering the above-mentioned special currency stabilization fund.

Article 6. The provisions of the present Law shall take effect for a period of three years from the date on which it is promulgated and published.

Article 7. The new duties shall be applicable to goods imported by sea, taking into account the provisions of Articles 483 and 487 of the Peruvian Code of Customs Procedures; and, in the case of goods imported by air or by post, account shall be taken of the date of arrival or date of admission of such goods, so that the new duties shall not be applicable to goods which entered the country prior to the entry into force of the present Law.

Article 8. All provisions inconsistent with the present Law shall be suspended during the period of validity of the present Law.

Additional Article. The Executive authority, whenever it uses the powers conferred upon it by the present Law, shall immediately report to Congress.

The text of the present Law shall be transmitted to the Executive authority for promulgation purposes.

(b) SUPREME DECREE of 28 May 1958

Article 1. The surcharges instituted by Law No. 12995 shall not be applicable to: (a) staple foods included in the following customs tariff items of Law No. 11048: 1, 2, 14, 15, 16, 46, 47, 48, 49, 51, 52, 53, 54, 93, 95, 96, 99, 101, 106, 107, 108, 110, 180, 187, 188, 189, 190, 214, 217, 219, 362, 376, 378, 380, 385, 387, 388, 390, 817; (b) pharmaceutical specialities and medicines in general, included in items 824 to 839, 840 to 849, 850, 852 to 854, 874 to 895; (c) essential materials for the dissemination of thought in printed form, included in the following customs tariff items: 966, 967, 1260, 1261, 1269 and 2756; (d) special containers for milk (item 2223); (e) products admitted duty-free pursuant to existing liberalization measures; and (f) products admitted duty-free in accordance with the import tariff already in force.

Article 2. Products to which bilateral trade agreements with neighbouring countries are applicable shall also be exempt from the surcharges instituted by the said Law No. 12995.

Article 3. The necessary but non-essential products which shall be subject to the surcharge of 50 per cent in excess of the rate specified in the relevant item of the Customs Import Tariff (Law No. 11048) are those included in the following tariff items: 4, 6, 8, 10, 12, 13, 17, 45, 50, 65, 94, 97, 98, 100, 102 to 105, 109, 111, 112 to 116, 120, 121, 122, 123, 133 to 141, 191, 192, 208, 209, 213, 215, 216, 218, 220, 235 to 247, 329, 331 to 341, 343, 344, 346, 347 to 352, 353 to 361, 364 to 366, 369, 371 to 375, 377, 379, 381 to 384, 386, 389, 391 to 418, 419 to 742, 743 to 751, 754 to 778, 780, 783, 784, 788 to 805, 808 to 815, 896 to 934, 968 to 970, 1038 to 1050, 1051 to 1063, 1073 to 1095, 1098, 1101, 1102 to 1123, 1126, 1128 to 1136, 1137 to 1139, 1143 to 1145, 1147, 1165, 1156, 1178 to 1180, 1230 to 1245, 1280, 1282 to 1291, 1294, 1296 to 1299, 1303 to 1308, 1313, 1317, 1321, 1331, 1394, 1396, 1397, 1404 to 1407, 1420 to 1424, 1436, 1445, 1446, 1459, 1460, 1463 to 1492, 1659 to 1691, 1700 to 1714, 1793 to 1798, 1809, 1870, 2033 to 2035, 2075 to 2084, 2087, 2088, 2090 to 2107, 2109 to 2121, 2128 to 2136, 2137 to 2173, 2195 to 2198, 2200, 2202, 2203, 2221, 2234, 2235, 2241 to 2243, 2250, 2262, 2277 to 2284, 2289, 2332 to 2350, 2353 to 2479, 2484 to 2493, 2496 to 2508, 2513, 2515-2518, 2521, 2522, 2532, 2533, 2535 to 2537, 2540 to 2556, 2557, 2558, 2583, 2585, 2588 to 2608, 2634, 2639, 2640, 2644, 2645, 2693 to 2697, 2699 to 2702, 2704, 2705, 2711 to 2714-A, 2718 to 2735, 2738, 2742, 2747, 2759 to 2765, 2767 to 2772, 2774 to 2781, 2799 to 2800, 2802, 2803, 2811 to 2818, 2819 to 2851, 2852 to 2880, 2883 to 2885, 2891 to 2901, 2905, 2920 to 2924, 2928 to 2946, 2952 to 2957, 2965 to 2968, 2972 to 2976, 2978 to 2982, 2985, 2987, 2989, 2990, 2991, 2992, 2998 to 3003, 3006, 3010, 3020, 3035 to 3078, 3082 to 3084, 3086 to 3096, 3100, 3102, 3103, 3109 to 3147, 3149, 3150, 3162, 3246 to 3248, 3304 to 3310, 3345, 3363, 3364, 3397, 3403 to 3415, 3417, 3418, 3430, 3431, 3454 to 3462, 3472, 3479, 3502 to 3505.

Article 4. Such products as are included by customs tariff items which do not come under the preceding articles shall be subject to a surcharge of 100 per cent of the rate applicable to the relevant tariff item.

Article 5. The surcharges instituted by Law No. 12995 shall be liquidated separately from the import duties specified in the Tariff under Law No. 11048, and the total amount of such levies therefrom shall be credited to an account entitled "Revenue under Law No. 12995", until such time as the amount therein reaches the level required to fulfil the provisions of paragraphs (a) and (b) of Article 4 of the said Law No. 12995. The monies mentioned above shall be remitted by the Revenue Offices to the Central Reserve Bank of Peru for deposit in a special current account to the order of the Treasury.

Article 6. Upon fulfilment of the financial commitments referred to in paragraphs (a) and (b) of Article 4 of Law No. 12995 the proceeds of the levies resulting from the provisions of the said Law shall be paid into an account entitled "Special Currency Stabilization Fund (Law No. 12995)", the funds being deposited in a special account which shall be opened for this purpose in the Central Reserve Bank of Peru.

Article 7. The surcharges instituted pursuant to the present Decree shall be levied as from the date of the present Decree, subject to the provisions of Article 487 of the Peruvian Code of Customs Procedures. In the case of goods imported by air or by post, the Customs Administration and International Customs Offices shall levy the relevant surcharges only on such goods as are admitted after the date of the present Decree.

Article 8. Reports shall be made to the National Congress in conformity with the provisions of the Additional Article of Law No. 12995.