

GENERAL AGREEMENT ON TARIFFS AND TRADE

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CUBAN TARIFF REFORM

Preliminary report by the representative of Cuba on 5 November 1958

1. The Cuban delegation has the honour to make a preliminary report to the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade on the present state of the Cuban tariff reform and wishes at the same time to take this opportunity to put a number of questions which will need to be clarified before negotiations can be undertaken and carried on satisfactorily to reconcile the tariff obligations which the Republic of Cuba has contracted within the framework of GATT, with its new customs tariff.

2. Partial and interim promulgation of the new customs tariff

Since the decision and declaration of the CONTRACTING PARTIES of 30 November 1957, the Republic of Cuba has notified the GATT secretariat and the countries with which it has negotiated tariff concessions within the framework of the said Agreement, of Decree No. 227 of 28 January 1958 whereby the new customs tariff was promulgated, and has sent them copies of the new Decree, of the tariff with its new table of rates and of Volume I of the cross-reference between the nomenclature of the old tariff and that of the new one.

The text of the new customs tariff came into force on 24 February of this year and on that date replaced the one hitherto in force as to the form, structure, text, terms and conditions of its rules or provisions and nomenclature, but the general tariff, with its rates and notes of application, which only applies to countries not covered by conventions, did not come into force until 17 March 1958.

Despite the promulgation of the new customs tariff, the Government of Cuba, mindful of its international obligations, has suspended the application of the new conventional tariff, including the preferential rates of the United States of America, until the Executive declares that negotiations have been concluded with the countries with which Cuba has contracted trade or tariff obligations which have to be reconciled with the new customs tariff.

Consequently, the tariff rates applicable to products and goods from countries covered by conventions, among which are included the CONTRACTING PARTIES to GATT, will continue in force until the conventional tariff and the definitive text of the customs tariff are promulgated, once the above-mentioned negotiations have been concluded and final adjustments made.

3. Prevention, supervision and control of abnormal imports

The CONTRACTING PARTIES at the twenty-second meeting of the Twelfth Session, held on 30 November 1957, decided

"pursuant to the provisions of paragraph 5 of Article XXV, that the application to Cuba of the provisions of Article XI shall be suspended to the extent necessary to enable Cuba, from the entry into force of the new tariff until the thirtieth day after the conclusion of the negotiations, to take action to prevent abnormal imports of products listed in Schedule IX and affected by the negotiations, designed to forestall the effect of the increased rates of duty provided for in the revised Cuban tariff", subject to certain conditions specified in the Decision.

The Cuban Government, in accordance with the terms of the above-quoted Decision, promulgated Decree No. 228 of 28 January 1958, and on 22 February of the same year the Ministerial Commission for Tariff Reform issued the relevant regulations and instructions concerning the procedure for the prevention, supervision and control of abnormal imports, and those provisions were duly communicated to the Executive Secretary and the contracting parties concerned.

Experience, however, has shown that up to the present time it has not been necessary to take advantage of the faculty granted to the Cuban Government by the CONTRACTING PARTIES in the above Decision of 30 November 1957 and consequently no quantitative restriction has been applied to imports of the products enumerated in GATT List IX.

4. Opening of tariff negotiations to reconcile Cuba's international obligations under GATT with the new customs tariff

The Cuban Government duly informed the CONTRACTING PARTIES of its intention to enter into negotiations with regard to the possible modification or withdrawal of concessions consequent on the introduction of the new tariff, in conformity with the provisions of Article XXVIII, paragraphs 1 - 3 or, where applicable, in agreement with the provisions of Article XVIII, Section A, and it also took the opportunity to point out that, although it accepted that in such negotiations the principle of Article XVIII, paragraph 2 should be respected, it hoped that when it came to discussion of the compensation to be offered in accordance

with Article XXVIII, the contracting parties concerned would take due account of the special circumstances and the nature and purpose of the Cuban tariff reform, as defined in the statement by the Chairman of the Twelfth Session of the CONTRACTING PARTIES at the meeting of 30 November 1957 (GATT documents No. SR.12/22, 13 December 1957 and SR.11/22/Corr.1, 13 January 1958). It has not been possible to open such negotiations officially, however, for the reasons given below.

5. Difficulties in the way of tariff negotiations

(a) Public enquiries into the new tariff

Under its tariff legislation, the Cuban Government is obliged to hold a public hearing whenever changes are made in tariff rates, and accordingly the Ministerial Commission for Tariff Reform issued a general instruction dated 1 April 1958 on "Adjustments to the Customs Tariff", in order to provide an opportunity for parties affected by the general tariff and the other tariff provisions already in force, to submit their views regarding the probable effect on Cuban agricultural and industrial production, foreign trade or economic development; and although, in accordance with the provisions of Article 7 of that instruction, it was decided that the Ministerial Commission for Tariff Reform should submit, before 15 May of the present year, a report on the rectifications and modifications referred to in Article 1 of the above-mentioned instruction for the purpose of correcting any errors, omissions or inconsistencies which might come to light, this time-limit had to be extended at the request of the parties concerned and the last public hearing was held on 26 June 1958. As will be appreciated, until this process of revision and adjustment of the general tariff and of the other provisions of the new tariff already in force has been completed, in the light of its practical effect and the public hearings which have been carried out with the parties concerned, it is not possible to know what will be the definitive level of the conventional and preferential tariffs, because all must necessarily be interrelated, for the preparation of the notification lists and of the negotiations which have to be carried through with the contracting parties concerned.

(b) Doubtful questions to be resolved before embarking on negotiations

In preparing the documentation which has to be placed at the disposal of the Executive Secretary of GATT and the contracting parties concerned, the Cuban tariff authorities found themselves in difficulties as regards the exact procedure to be followed.

In conformity with the decision of the CONTRACTING PARTIES on 30 November 1957, the legal basis for reconciling the new Cuban Customs Tariff with the obligations contracted within the framework of the General Agreement on Tariffs and Trade is to be found in Articles XVIII and XXVIII of the said instrument. The Cuban Government was naturally anxious to comply with the

provisions of this decision but, in studying methods for its application, found itself confronted with a series of awkward problems due to the peculiar nature of the case, involving the introduction of a new customs tariff with a nomenclature, rate system, rules of application and other technical features very different from those of the tariff formerly in force; and it consequently came to the conclusion that, in accordance with the provisions of the above-mentioned Articles XVIII and XXVIII and the rules and procedures laid down for negotiations under these Articles, these doubts would have to be cleared up before embarking on negotiations, in order to avoid the possibility of consequent complications and difficulties.

6. Consultation of the secretariat

Mindful of the traditional co-operation which the Executive Secretary has always afforded to all the contracting parties to GATT in the performance of his duties, the Cuban Government applied to him on 19 August 1958 and after explaining the above-mentioned difficulties asked for his interpretation of the existing procedure.

For it is not a question, as we have said before, of a simple modification or withdrawal of a few tariff concessions from a list but of the introduction of an entire tariff schedule with a nomenclature, rate system, rules of application and other technical features very different from those of the current schedule - although in practice the impact on the concessions granted is relatively slight - and it is what makes it essential to have previous clarification of the concepts and procedures before embarking on formal negotiations.

The Cuban Government also suggested the desirability of setting up a technical working party, composed of representatives of the contracting parties with which Cuba had originally negotiated concessions within the General Agreement, as was done in the case of Brazil and other countries, in order to smooth the way for the appropriate negotiations.

The GATT secretariat dealt with these various points on 15 September last in a manner which demonstrates once more its skill in such matters and its zeal to promote the aims of the Organization, and although many of the points raised had been clarified, there still remain others which, in the opinion of the Cuban delegation, require further clarification.

7. Establishment of a committee for Cuban tariff negotiations

For the above reasons the Cuban delegation considers that the Thirteenth Session of the CONTRACTING PARTIES should endeavour to set up a committee for Cuban tariff negotiations as mentioned above, so that in the course of the Session the committee could take cognizance of and resolve various questions and doubts which have arisen, thus making perfectly clear what are the appropriate concepts and negotiation procedures so as to be able to open formal negotiations as from 1 January 1959, and that this committee should remain in being as a consultative body until the negotiations are concluded.

8. Formal notification to initiate the negotiations under Article XXVIII of the General Agreement

The Government of Cuba, in communications to the Executive Secretary and to the contracting parties with whom the concessions were initially negotiated under List IX, is addressing notification of its decision to enter into formal negotiations under the provisions of paragraphs 1 - 3 of Article XXVIII, in conformity with the stipulations contained in Document L/635 dated 31 May 1958. Included in the notification is the preliminary list of items and sub-items of Schedule IX which will be subject to such negotiations, accompanied by the Cuban import statistics, by country of origin, for the years 1954 to 1956; the statistics for 1957 will be sent in the near future.

The Government of Cuba has also submitted to the Executive Secretary three copies, in the Spanish language, of the "Exposición de los Antecedentes y Efectos de la Reforma Arancelaria". As soon as the English translation of this document has been completed, sufficient copies will be sent to the Executive Secretary and the contracting parties concerned. In addition, the Government of Cuba intends to submit to the Executive Secretary and the interested contracting parties copies, in the English language, of the new Cuban tariff, as well as the cross-reference between the old and the new tariff immediately after the translation into that language is completed.

The Cuban delegation wishes to place on record its gratitude to the Executive Secretary for his co-operation and is at the disposal of the CONTRACTING PARTIES for any further information they may consider relevant.