

GENERAL AGREEMENT ON TARIFFS AND TRADE

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WORKING PARTY ON CENTRAL AMERICAN FREE TRADE AREA AND NICARAGUAN IMPORT DUTIES

Draft Report

1. The Working Party examined the problems raised by Nicaragua's participation in the process of economic integration of Central America. Nicaragua was represented by its Minister of Economy, Mr. Lugo Marengo, whose co-operation was very helpful to the Working Party.
2. The Working Party examined the Second Annual Report (L/1564) submitted by the Government of Nicaragua, in accordance with the Decision of the CONTRACTING PARTIES of 13 November 1956, and considered at the same time what progress had been made since the above-mentioned Decision was taken. The Working Party noted that the Multilateral Central American Free Trade and Economic Integration Treaty (L/891), a draft of which had been the basis for the 1956 Decision of the CONTRACTING PARTIES, had entered into force on 2 June 1959. In this short period the Treaty, as indicated by the Government of Nicaragua in its Second Annual Report, had had little effect. The Working Party also noted that the same parties had been able to put into force in June 1961 the General Treaty for Central American Economic Integration (L/1425 and Add.1) which, recognizing the need to accelerate the economic integration of Central America, reduced the period for the establishment of the free-trade area from 10 to 5 years. The Working Party was informed that for a substantial number of products internal free trade was achieved upon the entry into force of the Treaty. In respect of most other products, which could not immediately be freed, a time-table is established in each case for the gradual abolition of all barriers in a period of not more than five years.¹ There remains a small number of products, mainly agricultural, which are excepted from the free trade provisions of the Treaty.
3. The Working Party then proceeded to consider questions raised by the implementation by Nicaragua of provisions relating to the equalization of external customs duties. In the Central American Agreement on Equalization of Import Duties and Charges (L/1302/Add.1) the parties agree (Article I) "to equalize import

¹The schedules for these products are contained in an annex to the General Treaty. This seventy-page annex may be consulted at the secretariat offices.

duties within not more than five years from the date on which the present Agreement enters into force".¹ This undertaking is confirmed in the General Treaty (Article II). No schedule is laid down for the gradual completion of this process of equalization: the Governments concerned plan to align their duties on a product-by-product basis by negotiation amongst themselves as and when circumstances permit.

4. The representative of Nicaragua asked that his Government be authorized to increase where necessary duties bound in Schedule XXIX in order to give effect to the results of the negotiations which his Government is required to undertake in order to equalize external customs duties. He made it clear to the Working Party that the rates equalized under the Agreement would frequently have an experimental character since there was insufficient information available to enable the parties concerned to arrive at a generally satisfactory rate at the first attempt in every case. He added that he expected that the process of establishing the new equalized rates would take not longer than three years and that by the end of this period the new rates would have attained a more permanent character. It would therefore not be practicable for Nicaragua during the three-year period to comply fully with the procedures of Article XXVIII. His Government was, however, prepared to notify the CONTRACTING PARTIES of changes in bound rates, to consult with interested parties on request, and to carry out renegotiations on the schedule as a whole at the end of the three-year period.

5. The Working Party, in the light of the situation as set out in the preceding paragraphs, has prepared the annexed draft Decision which it submits to the CONTRACTING PARTIES for their approval.

6. The representative of Nicaragua informed the Working Party that his Government and those of Costa Rica and Panama had also signed on 2 August 1961 a ten-year agreement which by gradually reducing trade barriers between them constituted a first step towards the inclusion of Panama in the process of integration of Central America. The representative of Nicaragua undertook to make available the text of this agreement before the nineteenth session. The Working Party considered that the CONTRACTING PARTIES might wish to examine this agreement.

7. The terms of reference of the Working Party require that it shall examine the report submitted by the Government of Nicaragua (L/1565) under the Decision of 20 November 1959 relating to the application by Nicaragua of a temporary increase in certain customs duties. Having been informed that it was not possible for the International Monetary Fund to enter into the consultations foreseen in the Decision with respect to the balance-of-payments situation of Nicaragua until the nineteenth session, the Working Party agreed that the examination of this report be deferred until that time.

¹The Government of Nicaragua informed the secretariat on 3 September 1960 (L/1302) that the Agreement had been ratified by Guatemala, Nicaragua and El Salvador.

Draft Decision

Noting that the Government of Nicaragua, together with the other Governments of Central America, has decided to achieve economic integration in order to promote economic development within the area;

Noting that accordingly the Government of Nicaragua has entered into the Multilateral Central American Free Trade and Economic Integration Treaty of 10 June 1958 to set up a free-trade area, a draft of which was submitted to the CONTRACTING PARTIES and which was the object of the Decision taken by them on 13 November 1956;

Noting further that in order to achieve these objectives more rapidly the Governments of the Republics of Guatemala, Honduras, Nicaragua and El Salvador have further signed on 13 December 1960 the General Treaty for Central American Economic Integration, which provides that, in addition to forming a Central American Free Trade Area within a period of five years, the Governments shall adopt a uniform Central American tariff policy in accordance with the terms of the Central American Agreement on the Equalization of Import Duties and Charges of 1 September 1959;

Noting that the parties to these instruments are in an early stage of economic development and are closely linked by historical ties;

Noting that Nicaragua has ratified these instruments which have entered into force;

Considering that, in order to meet its obligations under these instruments, the Government of Nicaragua may be obliged in certain cases to increase rates of duty which will involve the modification of concessions negotiated by it and specified in Schedule XXIX;

Considering that, in the absence of a fixed schedule, the process of equalization of external rates of duty is being carried out in successive negotiations as circumstances permit; and further that the equalized rates of duty so established may have to be adjusted before the process of equalization is completed; and

Considering that in these circumstances it will not be practicable for the Government of Nicaragua to carry out negotiations in accordance with the relevant procedures of the General Agreement,

The CONTRACTING PARTIES, acting pursuant to the provisions of paragraph 5 of Article XXV of the General Agreement and in accordance with the procedures adopted by them on 1 November 1956¹;

¹BISD, 5th Supplement, page 25.

Decide that the provisions of Article II, paragraph 1, of the General Agreement are waived, for a period of three years from the date of this Decision, to the extent necessary to enable the Government of Nicaragua to increase rates of duty specified in Schedule XXIX for the purpose of applying the equalized rates of duty as and when agreed by the parties to the above-mentioned instruments, subject to the following conditions:

1. Before putting into force an increase in the duty on any item specified in Schedule XXIX the Government of Nicaragua shall notify the Executive Secretary who shall inform all contracting parties.
2. If the contracting party with which the concession affected was originally negotiated or if any contracting party which considers that it has a principal supplying interest or a substantial interest in that concession so requests, the Government of Nicaragua shall consult with that contracting party.
3. If no agreement is reached in such consultation, the Government of Nicaragua shall be free to maintain the notified rate of duty; and the other contracting party shall be free to suspend until the completion of the negotiations envisaged in paragraph 4 of this Decision substantially equivalent concessions initially negotiated with Nicaragua. In the case of a suspension of such concessions any third contracting party having a principal supplying interest or a substantial interest therein will retain the right to suspend substantially equivalent concessions initially negotiated with such other contracting party.
4. Before the expiry of this Decision or upon completion of the process of alignment of external customs duties, whichever is the earlier, the Government of Nicaragua shall negotiate under the procedures of Article XXVIII, paragraphs 1 to 3, the modifications it will have made in the original commitments contained in the present Schedule XXIX.