

GENERAL AGREEMENT ON TARIFFS AND TRADE

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CONTRACTING PARTIES
Twenty-Second Session

SCHEDULE XXXV - PERU

Report of the Working Party

1. At their twenty-first session the CONTRACTING PARTIES considered a request from the Government of Peru for a waiver from the obligations under Article II to authorize the maintenance, as an emergency measure, of a 10 per cent surcharge on imports of items specified in the Peruvian Schedule. At the same time Peru requested authority to enter into negotiations for the establishment of a new GATT schedule.

The two requests were referred to a working party which recommended the granting of a waiver for the maintenance of the surcharges, but considered that the request concerning the establishment of a new schedule should be left until a draft of the new Peruvian tariff would be available. The draft was submitted to the secretariat on 1 September 1964. For various reasons the consideration of the second of the two requests was repeatedly postponed and in the meantime the Peruvian Government put the new tariff into force on 1 October 1964.

2. The Peruvian delegation besides submitting to the Working Party notes containing descriptive and statistical information described the tariff reform against the background of the economic, social and political conditions of Peru.

3. It was explained to the Working Party that the old tariff dated back to 1948 and used the 1935 League of Nations Nomenclature which had become so encumbered by supplementary regulations, and a multitude of legal charges and levies as to make customs clearances an extremely complicated operation. This administrative complexity gave the tariff a restrictive character which ran counter to Peru's traditionally liberal import policy - Peru had neither quantitative restrictions, nor prior deposits, nor non-tariff barriers - but provided no stimulus to the

developmental needs of the country. Furthermore, Peru, as a member of the Latin American Free Trade Association, was under an obligation to adopt the common tariff nomenclature of that area which was based on the 1955 Brussels Nomenclature.

4. The Delegation of Peru admitted that their country did not appear to have immediate balance-of-payments difficulties: exports in 1964 increased enough to pay for increasing imports and even to compensate for a strong deficit in invisibles. Nonetheless reserves remained at a very low level in relation to Peru's external trade and foreign indebtedness. The flight of capital which followed the Agrarian Reform Law was a severe trial for Peru's financial system but the Government refrained from imposing barriers to trade, although it was obliged to negotiate a new "stand-by" agreement with the International Monetary Fund. At the root of their difficulties stood the extreme poverty of the population, more than half of which lived at a subsistence level. It was this fact that prevented a more rapid increase on imports. The efforts which Peru was making to raise the standard of living would therefore be beneficial to foreign trade. The aim of Peruvian commercial policy was to accelerate the rate of development without affecting the interests of friendly nations.

5. Peru was making considerable efforts in the field of development. Productive investments by the State had tripled in the last two years. In the field of social progress, the agrarian reform mainly directed towards improving the lot of the peasantry and the aim at eliminating illiteracy in ten years, were examples of the efforts they were making. The rate of increase of the gross national product in real terms exceeded 7 per cent in 1964. The increase in public expenditure was small if compared with the needs of the population, but was very great - too great in the view of some - if compared with available resources. Inflationary tendencies were making themselves felt (the cost of living index rose 11 per cent in 1964) and it seemed inevitable that from 1965 imports would increase more rapidly than exports and threatened the balance of payments. It was furthermore clear that Peru's development needs would require a change in the pattern of her imports in favour of essential goods and to the exclusion of consumer goods. Such a change would cause no prejudice to world trade provided - as was the case for Peru - the level of imports was not

reduced, and, in the long run, by promoting internal development would operate in favour of increased trade.

6. The representative of Peru also pointed out that the increase in the weighted average of the new tariff was not excessive; the Peruvian tariff was certainly one of the lowest among developing countries. Furthermore, in considering the level of their tariff, account had to be taken of the very numerous exemptions or concession relating to foodstuffs, or deriving from the Law for Industrial Development, the Mining Code, the Law of the Electrical Industry, the Law on Pharmaceutical Products and the various laws granting customs advantages or total exemption to the under-developed zones of the national territory and in general to imports for industrial requirements. All this was being done without departing from their traditional adherence to the principles of free trade.

7. The Peruvian delegation, in reply to questions put to it by members of the Working Party, indicated that according to their calculations the average weighted incidence of the new tariff was some 7 per cent higher than that of the old tariff. A member of the Working Party pointed out that the increase of 7 percentage points (from 36.9 per cent to 43.9 per cent) in the global incidence of the tariff represented a 19 per cent increase in the average incidence of the old tariff, which included the surcharges formerly levied in addition to the customs duty. No surcharges were now payable beyond the ordinary customs duty. To those representatives who expressed concern for their exports to Peru under the new tariff, the representative of Peru referred to the prospects of a steadily growing demand, and cited the most recent statistics which showed an actual increase of imports since the enactment of the new tariff.

8. Concern was also expressed that the increases in customs duties might have inflationary effects on the Peruvian economy unless accompanied by other administrative measures. The representative of Peru replied that the question whether the Peruvian inflation was structural or monetary was one on which there was a wide area of disagreement among economists. As regards the possible effects of the tariff barriers, these had to be judged in conjunction with the numerous exemptions and concessions referred to in paragraph 6 above.

9. As regards the Latin American Free Trade Area, the Peruvian representative confirmed that the new tariff would generally apply to imports from that area but that obligations incurred under the Montevideo Treaty would be maintained in so far as lower duties than those appearing in the new tariff had been negotiated thereunder. One member of the Working Party referred to a note circulated by the Peruvian Delegation according to which one of the objectives of the tariff reform had been "to establish duty levels in accordance with the average levels for the Latin American Free Trade Association countries". He recognized that Peru might feel that it was at a disadvantage in Latin American Free-Trade Association negotiations because of the higher tariffs of her partners but, while reaffirming that his country had always strongly supported the Latin American Free Trade Association and continued to do so, it could not support the raising of duties for negotiating purposes whether the negotiations were on a regional basis or not.
10. One Delegation noted that Peru - a country which so far had scrupulously adhered to the General Agreement - had put its new tariff into force without previously discussing the matter with the CONTRACTING PARTIES. With the rest of the Working Party, that Delegation agreed, however, that the Peruvian request should be accepted. The Working Party accordingly recommends that the CONTRACTING PARTIES suspend the application of the provisions of Article II of the General Agreement to the extent necessary to enable the Government of Peru to maintain in effect the increased rates of duty provided in its new tariff pending completion of negotiations under Article XXVIII of increased rates of duty bound in Schedule XXXV.
11. The Peruvian delegation was prepared to comply with the procedures of Article XXVIII on the understanding that the negotiations be conducted in the spirit of Part IV of the General Agreement, which the Peruvian Government as well as those of a number of contracting parties interested in such negotiations had agreed to apply de facto. In particular the Peruvian Delegation wished to refer to the Note to paragraph 8 of Article XXXVI which reads:

"It is understood that the phrase 'do not expect reciprocity' means, in accordance with the objectives of this Article, that the less-developed contracting parties should not be expected, in the course of trade negotiations, to make contributions which are inconsistent with their individual development, financial and trade needs, taking into consideration past trade developments.

"This paragraph would apply in the event of action under Section A of Article XVIII, Article XXVIII, Article XXVIII bis (Article XXIX after the amendment set forth in Section A of paragraph 1 of the Protocol Amending Part I and Articles XXIX and XXX shall have become effective), Article XXXIII, or any other procedure under this Agreement."

12. One representative asked whether in negotiations involving compensation the Peruvian delegation would be in a position to offer reductions of duties contained in the new tariff, if necessary. The Peruvian representative replied affirmatively.
13. The Working Party agreed to recommend to the CONTRACTING PARTIES that they accept the Peruvian request on the terms and conditions set out in the attached draft Decision.
14. If the Decision to authorize negotiations under Article XXVIII is adopted Peru will submit to the secretariat for distribution to contracting parties an adequate number of copies of:
 - (1) Peruvian import statistics for the last two or three years for which they are available;
 - (2) a comparative table between the items bound in the present Schedule XXXV and the corresponding items in the new tariffit being understood that, as is customary, any further information would be supplied on request in the course of the negotiations.

ANNEX

Draft Decision

Considering that the Government of Peru has carried out a reform of its customs tariff involving the adoption of the Brussels Nomenclature and the incorporation in the customs duty of the surcharges previously applied on importation;

Considering that the entry into force of the new tariff has involved the increase of a number of the rates of duty negotiated by Peru and incorporated in Schedule XXXV;

Noting that one of the main purposes of the tariff reform is to promote economic development by means of the customs tariff without recourse to quantitative restrictions or other non-tariff barriers, and without causing a decline in revenue,

The CONTRACTING PARTIES, acting pursuant to the provisions of Article XXV:5 of the General Agreement,

Decide, in view of the exceptional circumstances, to suspend the application of the provisions of Article II of the General Agreement to the extent necessary to enable the Government of Peru to maintain in effect the increased rates of duty provided in its new tariff pending completion of negotiations for the modification or withdrawal of concessions in Schedule XXXV on items to which the new rates apply, subject to the following conditions:

1. The Government of Peru will promptly enter into negotiations or consultations with interested contracting parties pursuant to paragraphs 1-3 of Article XXVIII.

2. The Declaration of de facto application of Part IV of the General Agreement, including Article XXXVI:8 is applicable to the negotiations between contracting parties which have accepted the Declaration, and other contracting parties negotiating with Peru likewise accept the principle enunciated in Article XXXVI:8 as applicable to the negotiations.

3. The negotiations and consultations mentioned above shall be related to the concessions to be offered by the Government of Peru as compensation for the modifications and withdrawals and to any requests made by interested contracting parties for other or additional compensation with a view to reaching a satisfactory adjustment consistent with the requirements of paragraph 2 of Article XXVIII and to the establishment of a new Schedule XXXV.

4. The negotiations or consultations mentioned above shall be completed before the end of the twenty-third session of the CONTRACTING PARTIES but in any case not later than 31 March 1966.

5. Pending the entry into force of the results of the negotiations or consultations mentioned above, the other contracting parties will be free to suspend concessions initially negotiated with Peru to the extent that they consider that adequate compensation, bearing in mind the provisions of paragraph 2 of this Decision, is not offered within a reasonable time by the Government of Peru (subject to the right of any third contracting party having a principal supplying interest or a substantial interest therein to withdraw substantially equivalent concessions initially negotiated with such other contracting parties).

6. Except as may be otherwise provided in this Decision, the negotiations or consultations mentioned above shall be conducted in conformity with the relevant provisions of Article XXVIII.