

REPORT OF WORKING PARTY 8 ON CUBAN TEXTILES¹
GATT/CP.3/82

1. In accordance with its terms of reference, the Working Party examined the question of the Cuban textile industry. In support of its case, the Cuban Delegation supplemented the statement contained in GATT/C.,3/23 by additional statements, factual information and statistical material on the textile problem. Individual members of the Working Party asked the Cuban representatives to answer specific questions on the structure of the Cuban industry, the type of articles produced and the volume of production broken down by categories, the number of workers employed, the import figures for the types of textiles produced in Cuba, the cost structure of the Cuban textile industry and the efforts made to reduce the cost of production, and to provide information on other similar points, including statements of sales and profits and losses of the Cuban textile mills and other information of a highly confidential nature. The Cuban representatives submitted to the Working Party detailed replies in writing on all those questions, except in those cases where the information was not available either in Annecy or in Cuba. The Working Party also received statements from the United States Delegation which contained detailed factual information on the question of Cuban textiles.

2. At an early stage in the discussions, the Cuban Delegation indicated that, in its view, the difficulties encountered by the Cuban textile industry could best be solved if the Cuban Government were allowed to increase the rates on the following tariff items which have been bound as a result of the Geneva negotiations in 1947: 114 to 117, 119 to 122, 127, 132 to 135, 137, 138, 141, 1942 and 147. The Cuban Delegation also indicated that it was the intention of the Cuban Government that the rates on those tariff items be bound at a level consistent with the legitimate requirements of the domestic textile industry, if such action were approved by the CONTRACTING PARTIES.

3. The Working Party gave careful consideration to the statements submitted by the Cuban and United States representatives. It considered that before examining the applicability of any provision of the General Agreement to the Cuban case, it had to draw conclusions as to the facts of the situation and the causes of the difficulties pointed out by the Cuban Delegation. The Chairman asked the members of the Working Party other than the United States and Cuban representatives to attempt to draw conclusions on those questions on the basis of a questionnaire drawn up by him in consultation with the two delegations principally concerned. However, these members expressed the feeling that the evidence presented by the Cuban and United States Delegations was, in part, conflicting, that it would be necessary to elucidate important points of fact in the light of adequate information, and that the matter under consideration presented certain technical aspects in which these members were not versed. In consequence they considered that, in spite of all the information supplied, they were unable to reach a definitive conclusion.

¹The Cuban representative took part in the first stages of the drafting of the Report but, as the Cuban Delegation had decided to withdraw from the Third Session before the Report was considered by the Working Party, the Cuban representatives were not present in the final stages of drafting or when the Report was approved by the Working Party.

4. On 6 July, after having held eight meetings, the Working Party decided to suspend its meetings and, at its suggestion, the Cuban and United States Delegations agreed to enter into exploratory conversations with a view to finding whether there existed a satisfactory basis for negotiations looking towards a revision of some tariff items on textile products contained in Schedule IX of the General Agreement against adequate compensation for the United States and, simultaneously, whether the two delegations could agree on a limited waiver of obligations which the CONTRACTING PARTIES might grant to Cuba under Article XXV 5(a), also against adequate compensation for the United States. This waiver would be operative pending the outcome of an independent technical enquiry which would be made on the situation of the Cuban textile industry with a view to elucidating a number of points of fact.

5. On 1 August 1949, the Cuban and United States Delegations reported to the Working Party that they had failed to agree on a possible basis for renegotiations, as the Cuban representatives maintained that their proposals constituted such a basis, while the United States' representatives held the opposite view. They further reported that they had been unable to agree on the scope of a temporary waiver which might be granted to Cuba. At that meeting, the Delegation of Cuba supplied the list of increases proposed in certain rates of duty on textile products as well as copies of additional evidence and information, already furnished to the Delegation of the United States during the course of the bilateral conversations, on some points which had not been covered previously. The Working Party took note of the report of the two delegations on the exploratory conversations and suggested that they make one more effort to agree on a mere limited list of items for which Cuba would be afforded a temporary waiver of obligations and on the temporary compensation to which the United States would be entitled, if the waiver were granted by the CONTRACTING PARTIES. At the request of the Cuban representatives for an indication of what such a list might include, the United States representatives said that a temporary waiver could be granted on those types of cotton and rayon fabrics which are produced in Cuba, which are included in 11 tariff sub-items, with the understanding that if the preliminary results of the technical enquiry showed the need for a temporary waiver on additional sub-items or products, the United States would give sympathetic consideration to a request by the Cuban Government for a longer waiver list, this additional waiver to become effective immediately after successful negotiation with Cuba without reference back to the Working Party or the CONTRACTING PARTIES, if the CONTRACTING PARTIES approved of that procedure.

6. On 4 August 1949, the Cuban and United States Delegations reported to the Working Party that they had been unable to agree on a common proposal. The Cuban Delegation based its rejection of the Working Party's proposal to restrict the temporary waiver to a more limited number of tariff sub-items mainly on the following grounds: it represented, in its view, not even a minimal solution to the Cuban textile crisis; it would be easy to nullify the increases obtained through the waiver and defeat its purpose by substituting one group of textile fabrics (on which the duties would remain unaltered) for the products on which the duties would be increased; and since the waiver would be granted against compensation, Cuba would be paying by means of the compensation for something which would prove ineffective in practice and would only result in a serious unbalancing of its customs tariff on textiles. On the other hand, the United States Delegation indicated that the demand of the Cuban Delegation for an emergency waiver on eight items covered 54 sub-items in the Cuban tariff in which more than 80 per cent of all United States textile exports to Cuba were; involved, including a large number of types of textile products not produced in Cuba. In addition, the requested waiver would involve increases in rates of duty ranging from 50 to 130 per cent in most cases.

7. In the course of its consideration of the question of the Cuban textile industry, the following suggestions were made either by the Chair or by individual members of the Working Party which they considered might have afforded a solution to the problem submitted for their consideration had they proved acceptable to both the Cuban and the United States Delegations. These suggestions were as follows:

- (a) That the CONTRACTING PARTIES would authorize their Chairman to arrange for an enquiry to be conducted as to the nature and extent of the difficulties encountered by the Cuban textile industry, such enquiry to be completed not later than 30 November 1949, and to convene the Working Party after the completion of the enquiry to examine the conclusions of that enquiry and to submit recommendations to the Governments of Cuba and the United States for settlement of the question raised by Cuba.

This proposal was acceptable to the United States Delegation but the Government of Cuba indicated that this procedure would be acceptable only if, before the end of the session, the CONTRACTING PARTIES authorized the Cuban Government under the provisions of Article XXV 5(a) to take some emergency measures to meet the immediate requirements of the Cuban textile industry, pending the outcome of the enquiry. As no agreement could be reached regarding the scope of such a temporary waiver, the Cuban government felt that such an enquiry would not serve any useful purpose since they were prepared to furnish all the information required in the course of bilateral negotiations with the United States.

- (b) That the Working Party should recommend that the CONTRACTING PARTIES accord sympathetic consideration to a request submitted by Cuba for a waiver under Article XXV 5(a), provided that the scope of such waiver and the compensation to be granted to the United States were agreed to by the two delegations concerned.

For the reasons set out in paragraph 6, those delegations were unable to agree on a joint proposal to that effect.

- (c) That the CONTRACTING PARTIES grant to both parties a temporary waiver of obligations without determining either the scope of the release granted to the Cuban Government or the compensation to which the United States would be entitled.

The parties concerned did not consider this proposal a proper solution of the immediate difficulties and the Working Party as a whole felt that such a release of negotiated commitments would establish a regrettable precedent, as it would impair the benefits derived from the General Agreement and introduce an element of insecurity which the Agreement was intended to remove from international trade relations.

8. After considering the views of the two delegations principally concerned the Working Party reports to the CONTRACTING PARTIES as follows:

- (a) In order to recommend a solution, the Working Party had to establish the facts of the case, either on the basis of an agreement between the two parties concerned or on the basis of its own judgment;
- (b) the Working Party noted that the two parties concerned had not agreed on the facts of the case, and the Working Party itself was not in a position to assess the nature, causes and extent of the difficulties encountered by the Cuban textile industry;
- (c) under these circumstances, the members of the Working Party, except the Cuban representatives, considered that no solution could be reached unless substantial agreement were arrived at between the two parties mainly concerned;
- (d) for the reasons outlined above the Working Party suggests that the CONTRACTING PARTIES, taking note of the assurance given by the United States Delegation that sympathetic consideration will be accorded to a request by Cuba for renegotiation of some of the duties on textile products, recommend that the two governments proceed

on the above basis as soon as possible after the termination of the present session. If any agreement is forthcoming from any such negotiations, the revised duties which the two parties concerned would recommend be inserted in the GATT Schedules would be communicated by the Chairman to all contracting parties and if no objection is raised within 30 days by any contracting party materially affected, the revised duties would become effective on the expiration of a further 30 days. The necessary modifications in the text of the Schedules would formally be recorded in a Protocol to be agreed at the first session held by the CONTRACTING PARTIES after the expiration of the first time-limit.