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RELATIONS WITH CUBA

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DEPARTMENT OF STATE
DIVISION OF THE AMERICAN REPUBLICS

January ²⁶~~15~~, 1940.

RELATIONS WITH CUBA

The purpose of this memorandum is to review briefly the course of our relations with Cuba from the time of Colonel Batista's visit to Washington in November 1938 and to indicate the current status of the different matters which have been under discussion.

The Ten Points.

The results which it was hoped would flow from the conversations between Colonel Batista and officials of this Government may be summarized as follows:

(1) The loan by the United States to Cuba of naval officers to formulate a plan of national defense and to recommend the most suitable type of coast guard vessel for Cuba.

(2) The loan by the United States to Cuba of one or more agricultural experts.

(3) The loan by the United States to Cuba of qualified experts in taxation and internal revenue administration.

(4)

(4) A plan for the financing of public works in Cuba by the Export-Import Bank.

(5) The settlement by Cuba of its outstanding public works obligations, notably those owing to Warren Brothers and Purdy & Henderson; the Export-Import Bank financing was made contingent on this.

(6) The extension of the provisions of Cuban Decree-Law 522 which governs the distribution of grinding quotas to the sugar mills on the island without substantial modification so long as the Republic of Cuba continues to receive a sugar quota under the United States sugar control plan.

(7) The negotiation of a treaty of establishment and navigation.

(8) The furnishing by the United States of competent experts to assist the Cuban Government in settling the problem of the revaluation of mortgage and other credits and the liquidation of the credit moratoria.

(9) The payment of the Morris Claim by the Cuban Government in full at the earliest opportunity.

(10) The implementation at the earliest opportunity of the expressed willingness of the Government of the United States to negotiate with the Government

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of Cuba revision of the existing trade agreement between the two countries for the purpose of increasing the volume of trade between Cuba and the United States.

Progress under the Ten Points

The ten points set forth above may be divided into (a) offers of technical assistance; (b) plans for financing public works and the settlement of outstanding claims, that is to say financial cooperation, and (c) what may be termed commercial cooperation including under that heading the supplemental trade agreement, the treaty of establishment and navigation and Cuban sugar legislation. The progress made is summarized in the following paragraphs.

(a) Offers of Technical Assistance. No naval experts have been loaned to the Cuban Government. However, a Naval Attaché has been assigned to the American Embassy at Habana. That officer, so far as is known to the writer of this memorandum, has given the Cuban Government no advice as to national defence or coast guard matters.

The Cuban Government, at the instigation of this Government, retained Professors Magill and Shoup of Columbia University to make a study of the tax system.

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The result was a report entitled "The Cuban Fiscal System" the influence of which was evident in the various tax bills discussed by the Cuban Congress although not reflected to any important extent in the legislation finally enacted.

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No experts were furnished in connection with the credit revaluation bill; the informal comments made by officials of this Government regarding certain features of the bill are not reflected in the bill recently vetoed by President Laredo Bru although supported by Colonel Batista.

why?

(b) Economic Cooperation. Prior to the conclusion of Colonel Batista's visit to the United States, an arrangement had been arrived at between the public works creditors and the Cuban Secretary of the Treasury which involved a payment of 58 cents on the dollar of original principal plus accrued interest in bonds the market value of which was about 55 or 60% of the face value thereof. A bill embodying this settlement was introduced into the Cuban Senate before the Colonel's return to Cuba at the end of November 1938; it has remained there ever since in spite of very frequent promises of rapid action from Cuban officials.

ask about this

In the case of the Morris Claim, the Secretary of the Treasury, after many representations by Ambassador

Wright,

Wright, appointed a respectable Habana lawyer, Dr. Hernandez Cartaya, to study the mode and manner of settlement; we have not been apprised of the result of this study or even whether the appointee has received satisfactory instructions from the Government.

In contrast with this procrastination on the part of the Cuban authorities, Mr. Warren Pierson of the Export-Import Bank visited Cuba within a few days of Colonel Batista's return from Washington, made an extensive trip through the island in the company of the Secretary of Public Works and in every way showed interest in the proposals which were made to him. Since that date, the bank has made credit arrangements with a number of the other American republics.

(c) Commercial Cooperation. Turning now to the commercial phases, it will be recalled that on November 30, 1938, only a day or two after Colonel Batista had returned to Habana where he was deliriously acclaimed as the "Messenger of Prosperity", this Government announced its intention of negotiating a supplementary trade agreement with Cuba. Sugar, seed potatoes, tobacco and rum were mentioned in this announcement as the products on which concessions would be considered by us in return for reductions or bindings in the Cuban tariff. Both

Colonel Batista

Colonel Batista and Ambassador Martinez Fraga, somewhat over-exhilarated by the atmosphere of cordiality which had prevailed on the occasion of the Washington visit, proceeded to get the negotiations off to a very bad start indeed by announcing that a reduction of fifteen points in the duty on sugar had been definitely promised to Cuba; this ineptitude was followed up by an attempt to include within the scope of the negotiations a number of matters which had not been mentioned in the original announcement. The positions assumed by the Cubans in the exchange of views with this Government showed a complete lack of knowledge of conditions and procedure in the United States. It is very probable that if the Cubans had adopted a realistic approach the supplemental agreement might have been ready for signature within three or four months of the announcement of intention to negotiate, that is, by the first of March or April of 1939. A number of notes were exchanged; the last one being this Government's note of August 30, 1939. It is not necessary to go into the details of these notes except to say that regardless of the other matters under discussion between the two Governments the positions they assumed as to the terms of the supplemental trade agreement were so far apart as to
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have practically precluded all hope of agreement even had the relations of the two Governments on other matters been more satisfactory than they were. (The supplemental trade agreement signed with Cuba in December of 1939 provided primarily for the restoration of the United States duty on Cuban sugar to the level prevailing prior to the suspension of the quota provisions of the Sugar Act of 1937, that is to say to the same level which had prevailed since the effective date of the original trade agreement in 1934. The new agreement, as far as the sugar duty is concerned, became effective when the President announced the termination of the suspension of the aforesaid quota provisions.)

A draft of a treaty of establishment and navigation, many of the provisions of which were taken from similar treaties in force between the United States and other countries was submitted to the Cuban State Department on March 30, 1939. No specific reply, other than an expression many weeks later by the Secretary of State that he would like to postpone this matter until after the holding of the Constituent Assembly, was ever received; the Ambassador in Washington did submit a few brief comments in an informal manner. However, the
Cuban

Cuban Government allowed copies of the draft to be made available to the Habana press where it was the object of unbounded denunciation, some of the editorial writers and extremist political leaders such as the Communist Lázaro Peña going so far as to term it a second Platt Amendment. The principal point of attack was that the treaty would exempt American workers from the disabilities which Cuban labor legislation imposes upon other aliens seeking employment in Cuba. The clauses regarding navigation were held to be of a nonreciprocal nature owing to the absence of a Cuban merchant marine!

And finally, nothing at all was achieved in the matter of the extension of the validity of Decree Law 522 which, as at present drafted, expires with the crop of 1941. The most that can be said is that the Cuban Congress did not act on two or three proposals of a rather sweeping character for the modification of the decree-law. On the other hand, the President, by executive action, distributed a small number of bags of sugar in a manner which was certainly contrary to the spirit of decree-law 522 and which caused a large number of sugar companies to bring suit on the ground that the

executive

executive action embodying this supplementary distribution was unconstitutional.

It will thus be noted that the results of the talks with Colonel Batista have been almost entirely negative as far as constructive action on the part of the Cuban Government is concerned.

New Factors

Not only was slight progress made along the lines of the ten points but a number of new factors arose which tended further to trouble Cuban-American economic relations.

(a) Price-fixing. First of these in point of time although not in importance were the attempts of the Cuban Secretary of Commerce to fix the retail prices at which pharmaceutical products (and later other articles) could be sold; a good deal of irritation and misunderstanding resulted before American exporters of such goods felt that their interests, for the time being at least, were properly safeguarded.

(b) Exchange and Monetary Legislation. In order to counteract the continued weakness of the peso, certain steps were taken: the first being the establishment of a

stabilization

stabilization fund to be built up with the contribution by exporters of Cuban products of a portion of the dollar proceeds of their transactions, and the second the passage of a monetary law which aroused great alarm in the business community because of its possible effect on contracts already entered into as well as upon other types of transactions. The monetary law made dollar deposits payable in dollars but obliged the banks to accept pesos for certain of their dollar credits. The bearing of the law on the dollar bond contracts of such concerns as public utilities operating in Cuba was uncertain. There was also some ambiguity as to the extent to which the law allowed importers to pay for goods already received in pesos. These questions were to a large extent cleared up in the regulations to the monetary law issued by Presidential decree but there continued to be some fear as to the result of a conflict between the provisions of the law and of the regulatory decree.

(c) The Tax Bill. Finally, a tax bill was introduced into the Cuban House of Representatives which, although it reflected many of the recommendations of the Magill report, contained features which were extremely alarming to the American and Cuban business communities. The provisions which gave rise to the most protest were (a) those relating

relating to foreign insurance companies, the effect of which it was claimed would be to force such companies out of business; (b) a tax on large landholdings which it was asserted was of a confiscatory nature, and (c) an increase in the tax on the export of capital from Cuba. The present tax is 1/4 of 1%, while the bill called for a 6% rate. (None of these provisions were included in the law finally enacted.)

The American Ambassador's Note of July 20, 1939

This note pointed out that the Cuban Government had taken no steps toward the settlement of the public works debt or of the Morris Claim and that negotiations for the supplemental trade agreement were not progressing along the lines of our announcement of November 30, 1938. The desire of the Cuban Government that the question of the treaty of Establishment and Navigation be postponed until after the holding of the constituent assembly was noted. The bill passed by the Cuban Senate for the settlement of the credit moratorium situation was held not to constitute "an orderly procedure for adequate and equitable repayment to the creditorsnor to have contributed to the creation of that feeling of economic and financial confidence in Cuba which could be regarded

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as conducive to the carrying out of those measures of cooperation which my Government has expressed its willingness to undertake". The note stated that the monetary legislation had further aggravated the situation and pointed out that no regulations had yet been issued in spite of the President's promise to the Ambassador. The Government of the United States regretfully announced that in view of these circumstances all studies regarding the program of economic cooperation had been suspended "pending a clarification of the situation and of the specific matters which are alluded to in this note". It was furthermore stated that the Government of the United States intended to announce the suspension of the trade agreement negotiations on the first of August following.

In this note, there is some uncertainty as to whether the question of the supplemental trade agreement was tied in directly with the financial matters; from a reading of the note, it could not be specifically inferred that the Government of the United States had said to the Government of Cuba: "No public works and Morris claim settlement will mean no Export-Import Bank credits and no trade agreement". However, subsequent negotiations removed any doubt on this subject; the date for the announcement of the indefinite suspension of trade agreement negotiations

negotiations was twice postponed on the basis of Cuban assurances that the public works matter would be taken care of. It may be said that if the European war had not broken out and if the President had not, in consequence thereof, suspended the quota provisions of the Sugar Act of 1937, the announcement of the suspension of the trade agreement negotiations would have been made about the tenth of September; it was not made at that time principally on account of the fact that the President's action increased the duty on Cuban sugar from \$0.90 to \$1.50 per hundred pounds and that it was desired to keep available a method for dealing with this new situation.

The Suspension of Sugar Quotas

The commonly accepted Cuban version of negotiations following the suspension of quotas is contained in a series of articles which appeared in the weekly newspaper EL SIGLO, some of which were signed by Dr. Raul de Cardenas. Briefly, the position taken is that while the suspension of quotas may have been due in part to domestic considerations, the desire to take reprisals against Cuba was also a factor. It is further alleged that at the Panama Meeting, Mr. Welles offered a deal to
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the Cuban delegation involving a reduction in the duty on sugar and a tariff quota of 1,900,000 tons on the part of the United States in return for action by the Cuban authorities and legislature including a modified moratorium liquidation bill, the elimination of the insurance features from the tax bill and a settlement of the public works matter. It is further alleged, in these accounts (which have, of course, no basis in fact), that the Cuban delegates, acting on instructions of Colonel Batista, rejected this offer.

Present Status of the Ten Points.

It is not proposed in this memorandum to give an account of the study and discussion of the sugar situation which took place both within the Department and in the Trade Agreements Organization following the suspension of sugar quotas. It will be sufficient to state that agreement was finally reached on a minimum program including the restoration of the 90 point duty on Cuban sugar contingent on the restoration of quotas, the settlement of certain points concerning seed potatoes and rum, the restoration of the tobacco concession and the settlement of a number of minor matters of a technical and noncontroversial nature. It may be stressed that this program, embodied in the supplemental agreement now in effect, involved no reduction

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in the sugar duty below the figure prevailing before the quotas were suspended.

The status of the remaining matters dealt with in the Ten Points memorandum is discussed below under appropriate heading.

(a) Offers of Technical Assistance. It would seem that, in the light of the present condition of Cuban finances, the Cuban Government would not be in a position to profit very much from any advice concerning the defense of the island or the acquisition of suitable coast guard vessels since any recommendations which might be made would presumably involve considerable expenditures. It is therefore recommended that the question of naval advice be left in abeyance.

On the other hand, the loan of agricultural experts would seem to be a matter of the greatest urgency. Even the most confirmed optimist regarding sugar matters must concede that the long-range prospects of the industry are dark; even at present levels, it does not furnish a decent living to the masses engaged in it. Agricultural diversification, in conjunction with which a moderate intensification of industrialization may be desirable, is one of Cuba's most urgent needs. It is earnestly recommended that every effort be made to take advantage of the fact that the present Cuban Secretary of Agriculture, Amadeo

López

López Castro, has an honest, enlightened interest in this problem. I do not know whether it is a fact, as sometimes alleged in Cuba, that the solution of Cuba's problem of agricultural diversification and rural resettlement is being held up by, among other factors, the control of large tracts of land by sugar companies which are unable or unwilling to use the land and which pay no taxes of any importance thereon. This is a question to which an impartial investigator might well give consideration.

I would not recommend that anything further be done in the matter of experts in taxation and internal revenue administration as it seems to me that there has been made available a considerable body of advice which has not yet been digested on these subjects.

The possibility that a favorable opportunity will arise for us to render expert assistance to the Cuban Government in solving the credit revaluation problem appears remote. The bill which was approved by the Cuban Congress and which had the approval of Colonel Batista, and the opposition of creditor interests, including the American banks, was vetoed by the President and no real attempt appears to have been made to pass it over the veto. On the other hand, the tax legislation recently enacted contains a provision suspending credit foreclosure

proceedings

proceedings until after June 30, 1940.

(b) Financial Cooperation. The signature of the supplemental trade agreement in December (which could not have been postponed without serious damage to the Cuban economy) removed an inducement to the enactment of legislation by the Cuban Congress giving effect to the arrangement made by the Secretary of the Treasury with the creditors in November of 1938. Ambassador Martínez Fraga, who at one time stated that the Government was unable to command the necessary two-thirds vote to pass the bill through the Senate, now holds out hope that since General Menocal has agreed to allow his followers to vote for the bill, it will shortly be passed. This development, if true, is highly encouraging; however the Department's experience with the positive statements of Cuban officials, including especially the Cuban Ambassador, in regard to this matter has been uniformly such as to warrant a markedly skeptical attitude until performance takes place.

The economic situation of Cuba has deteriorated in some respects during the past year. The discount on the peso which in 1938 fluctuated between 1% and 4% reached a high of over 16% in 1939 and has now

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found a level in the neighborhood of 10%. The burden of servicing the foreign debt is consequently greater than it was although the Government has passed that burden on to the exporters of Cuban products, and especially of sugar, by obliging them to turn over a proportion of the dollar proceeds of their transactions to the Government at par. Government finances ended the year 1939 with a deficit of between five and six million pesos if revenues are set off against authorized expenditures under the official budget for the year and of considerably more if unauthorized expenditure and supplementary authorized expenditure against general revenues are taken into account. The Government payroll for the month of December was only met by borrowing in excess of four million pesos from the so-called special funds. This amount is to be repaid from the proceeds of the additional taxes provided in legislation recently enacted. The "floating" debt probably increased materially during the year.

It will presumably continue to be our policy to insist upon a settlement of the public works debt. Our position from the practical point of view is weaker than it was last year: the reduction in the duty on Cuban sugar is no longer a possibility without an announcement of intention to negotiate a further trade agreement with Cuba and the possibility

possibility of Export-Import Bank credits is considerably less than it was both on account of the limited authority of the bank and of the deterioration in Cuba's position as a credit risk. About the only incentive Cuba has to settle this matter is the possibility that sugar legislation will come up for discussion in our Congress this year and that the enemies of Cuba may use the debt default to besmirch the Cuban escutcheon and to weaken the position of the Department of State, which advocates as mutually beneficial the maintenance of Cuba's share of the American sugar market.

The Cuban Government has again been urged in a very pressing manner to settle the Morris Claim. No answer has as yet been received to a written communication on the subject which was delivered to the Cuban Department of State by the Embassy on January 15.

(c) Commercial Cooperation. The authority to negotiate a supplementary trade agreement with Cuba without further public hearings having been exhausted, the reduction in the duty on Cuban sugar below the present 90 point level is no longer a practical possibility. The only remaining pending question is that involving the Cuban treatment of American rice. During the negotiations of the agreement signed in December, the Cuban Ambassador expressed

expressed the desire of his Government to make a further concession on American rice contingent upon the maintenance of the American quota on Cuban sugar. Such a concession was not requested by us nor was there to be any equitable basis for it. No agreement was reached as to the details of the improved treatment to be granted by the Cuban Government and the matter is open for further discussion.

No progress whatever has been made in connection with the treaty of establishment and navigation. It is my recommendation that the provisions of the draft which we submitted to the Cuban Government be carefully examined in the light of Cuban labor legislation and possibly also in the light of the realities of the Cuban political situation. Quite possibly some satisfactory modifications can be introduced which would be regarded in Cuba as a victory for Cuban diplomacy without in any way impairing the advantages to be derived from a treaty of this kind by American interests in Cuba.

No progress whatever has been made in connection with the extension of Decree-Law 522. If and when the American Congress passes legislation reducing the Cuban share of the American sugar market, it will be most difficult to secure fair treatment for the American mills in Cuba in
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the distribution of the quota. Therefore, this matter should be classified as urgent. In Mr. Welles' memorandum of December 29, he stated his intention of speaking to the Cuban Ambassador in regard thereto.

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