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No. 274

American Embassy  
Habana, Cuba, April 2, 1948REC'D  
APR. 6CONFIDENTIALACTION Subject: Payment of Salaries of Customs Officers  
\*ITP by Private CompaniesINFO  
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TARThe Honorable  
The Secretary of State,  
Washington.

Sir:

I have the honor to refer to the practice which has long prevailed in Cuba of requiring private shipping and terminal companies to pay for the services of certain customs officials, even during normal business hours. This matter has been the subject of repeated complaints on the part of affected American companies, particularly the United Fruit Company, for more than fifteen years and the Embassy's files reveal that during that period the attention of the Embassy and of the Department has frequently been engaged in efforts to obtain relief for such companies in this regard. Considerable material on the subject will doubtless also be found in the Department's files.

The issue has now arisen again as a result of representations made to the Embassy by Dr. Mario LAZO, attorney for the United Fruit Company in Cuba, who has long been concerned with this question and who has been associated with previous efforts to induce the Cuban Government to enact appropriate legislation, exempting private companies from the obligation to include customs inspectors on their payrolls. Dr. Lazo has now suggested that the matter might appropriately be discussed at the Bogotá Conference and has cited Articles 30 and 31 of the preliminary draft of the agreement on Inter-American Cooperation to be presented at the Conference, relating to the reduction of transportation costs and other expenses which restrict maritime trade and to the elimination of restrictive laws and regulations, as indicative of pertinent principles which could be applied to the case in point.

An examination of the Embassy's records on the subject reveals that Cuban Government officials have

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from time to time agreed that the payment of the salaries of customs officials by private companies is an undesirable practice and that this burden should properly fall on the Government, but nevertheless no effective action has been taken to correct it. It appears that in 1936, largely as a result of pressure brought by the affected shipping companies, the Cuban Government enacted a Decree prohibiting the payment of salaries to Cuban Government employees and officials by private entities or persons. (See the Embassy's despatch No. 5954 of April 17, 1936.) Shortly thereafter, however, the Cuban Congress approved a law, which was signed by the President, repealing the aforementioned Decree and reinstating the former requirements. (See Embassy's despatch No. 6644 of July 1, 1936). The principal reason given at that time for the Government's action was that the Treasury's fiscal position did not permit assumption of the added obligation involved.

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When in the latter part of 1938 and early 1939 negotiations were contemplated with the Cuban Government looking to the conclusion of a Treaty of Friendship, Commerce and Navigation, an article was included in the text of the proposed Treaty drafted in the Department on the recommendation of the Embassy and of the American Chamber of Commerce of Cuba, which would have prevented either Party from exacting from the nationals of the other any charges, salaries or emoluments for customs services rendered by government personnel at ports of entry during regular hours on business days. As the Department is aware, negotiations for the conclusion of the Treaty proved abortive. ✓

Subsequently, in 1946, when the draft of a new proposed Treaty of Friendship, Commerce and Navigation between the United States and Cuba was prepared in the Department, no reference to the above subject was included. The comments of the American Chamber of Commerce of Cuba regarding the new draft Treaty, which were transmitted to the Department under cover of confidential despatch No. 930 of January 21, 1946, contained a recommendation (see specifically page 7 of the enclosure to said despatch) for the inclusion of an article on the subject of the payment of customs officers' salaries along the same lines as the article contained in the 1939 draft. The revised draft of the proposed Treaty, however, which was transmitted to the Embassy under cover of the Department's instruction No. 1216 of January 3, 1947, contained no mention of the subject and the Embassy was not informed of the Department's

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views regarding the Chamber's recommendation.

According to the Embassy's records, on April 29, 1945 Ambassador Braden left with President Grau an informal memorandum on the subject in which it was stated that in the view of the United States Government and of the Embassy all compensation of Cuban public servants should be paid by the Cuban Government. A similar memorandum was apparently subsequently delivered to the Cuban Minister of Finance. This appears to have been the latest occasion on which the Embassy brought up the subject with the Cuban Government.

Since the issue has now been revived, the Embassy would appreciate the Department's comments and instructions in the premises, particularly with reference to the action, if any, which the Embassy might appropriately take at this time. In this connection, the Embassy believes it highly important to ascertain whether the payment of salaries of customs officials by private companies is a practice prevailing in any port of entry in the United States, since this consideration might affect the desirability of our making any representations to the Cuban Government on the subject. Moreover, the prevalence of such practices elsewhere (if this is the case) and the fact that private companies in Cuba, despite frequent protests, have continued to pay salaries of customs officers over a long period of years might tend to "fix" it as an established practice and render any attempted change increasingly difficult.

Respectfully yours,

  
R. Henry Norweb

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