

GENERAL AGREEMENT ON
TARIFFS AND TRADE

RESTRICTED
LIMITED C
GATT/CP/60
25 April 1950
ENGLISH
ORIGINAL : FRENCH

CONTRACTING PARTIES

NON-DISCRIMINATORY MEASURE NOTIFIED BY THE
GOVERNMENT OF HAITI UNDER PARAGRAPH 11 OF
ARTICLE XVIII

1. The Government of Haiti notified the CONTRACTING PARTIES on 8 June 1949, under paragraph 11 of Article XVIII, of the existence in Haiti of a state monopoly affecting the import of tobacco, cigars and cigarettes. The notification, together with the text of the relevant legislation, was distributed as document GATT/CP.3/40.
2. The terms of paragraph 12 of Article XVIII require that the Government of Haiti submit a statement of considerations in support of the measure within 60 days of becoming a contracting party, that is, before 1 March 1950. The CONTRACTING PARTIES, however, decided on 21 March 1950 that such a statement, if submitted by the Government of Haiti on or before 30 April 1950, should be treated as though it had been submitted within the 60-day period (GATT/CP.4/21 and GATT/CP.4/SR.17).
3. A statement, dated 30 March 1950, has now been received and is circulated herewith.

WRITTEN STATEMENT BY THE HAITIAN GOVERNMENT SETTING
FORTH THE GROUNDS FOR THE MAINTENANCE OF THE
TOBACCO REGIE

1. ORIGIN AND AIM.

The Haitian "Tobacco Régie" was established by a law of 16 February 1948 after a long period of depression in the home-grown tobacco market. The instability of this branch of Haitian economy must be briefly recalled in order to explain the need for the Régie and the policy of the Haitian State with regard to tobacco.

The production of this commodity in Haiti had been clearly declining for more than two decades. In fact, the graph for successive crops showed a falling curve signifying, not poor yields, but a systematic reduction in the number of tobacco plantations. Analyzed in the light of market laws, the situation could be explained by the Haitian consumer's refusal to buy the badly processed and imperfectly finished native product and, hence, his marked preference for imported tobacco, cigars and cigarettes. The whole position was worsened by a law of 1928 imposing all kinds of vexatious measures on the Haitian producer who, disheartened by an ever-shrinking demand and by the continual drop in prices which was aggravated by the "cumulative effects" of the successive depressions of 1921 and 1929, preferred to give up tobacco-growing and turn his attention to other more profitable commodities. In the absence of statistics concerning production, which is estimated to be between 500,000 and 300,000 pounds annually, we give the export figures for a period of nearly 20 years. Although incomplete, these give some idea of the instability and general trend of the Haitian tobacco market.

	<u>Leaf Tobacco</u>		<u>Cigars</u>	<u>Gourdes</u>	<u>Cigarettes</u>	<u>Gourdes</u>
	<u>Kgs.</u>	<u>Gourdes</u>				
1923-24					65,000	680
1924-25	854	1,640			430,000	3,375
1925-26	1,179	3,905				
1926-27			100	30	30,000	1,000
1927-28					173,000	3,975
1928-29						
1929-30					2,600	26
1930-31			6,000	240	200	3
1931-32	119	52				
1932-33	2	1				
1933-34	239	128	222	110		
1934-35						
1935-36						
1936-37						
1937-38						
1938-39						
1939-40	75	76				
1940-41						
1941-42						
1942-43						
1943-44						
1944-45			15	295		
1945-46	1	20	6	325		
1946-47			22	370		
1947-48			2	25		
1948-49						

These then are the various reasons which impelled the Government to set up the Tobacco Régie in the endeavour to prevent the disappearance of that commodity from Haitian economy, to bring about the resumption of its production and to restore it to its important place among the country's sources of revenue.

2. DESCRIPTION OF THE REGIE

Under Article 1 of the law establishing the Régie, "the purchase, processing and sale of tobacco shall be the exclusive prerogative of the State". Like all similar organs in other countries, the Régie therefore exercises a de facto and de jure monopoly over the tobacco trade and industry. But in view of the conditions obtaining in the Haitian market, this organ has had to confine itself to the mere rôle of sole agent, which, we may add, is specifically laid down in Articles 20 and 17 of the law concerning the Régie. This position of sole agent affects the commodity in two different ways, according to whether it is imported or home-grown.

(a) So far as imported tobacco is concerned, there has been scarcely any change in market conditions, since the law has not deprived purchasers of foreign cigarettes and cigars of their rights. As in the past, Haitian merchants continue to import raw tobacco from Porto-Rico and manufactured tobacco from the United States of America, and whereas, on the one hand, the Haitian State has instituted a licence system for this trade, on the other, it has seen to it that the number of licences granted is strictly in line with the general trend of demand as shown by the import statistics.

(b) With regard to tobacco manufactured in Haiti, the Director of the Régie is obliged to "come to an agreement with cigarette manufacturers on the percentage of imported tobacco to be used in the manufacture of their products". This monopoly therefore functions mainly as a price-regulating organ for Haitian tobacco by providing it with a stable market. It is particularly important to note that the establishment of such a monopoly has neither retarded nor reduced the trade in foreign tobacco products, as is demonstrated by the import figures for this commodity before and after 1948.

	<u>Leaf Tobacco</u>		<u>Cigars</u>	<u>Gourdes</u>	<u>Cigarettes</u>	<u>Gourdes</u>
	<u>Kgs.</u>	<u>Gourdes</u>				
1940-41	43,471	193,208	31,981	6,307	26,689,126	352,067
1941-42	73,408	371,900	42,043	13,183	24,666,600	343,985
1942-43	65,131	363,446	54,049	19,272	26,505,616	380,244
1943-44	74,718	388,007	71,262	27,851	44,907,360	618,715
1944-45	70,106	473,513	63,069	33,575	37,377,834	519,657
1945-46	129,451	760,416	49,656	67,171	73,646,170	1,049,905
1946-47	84,119	621,063	63,913	34,287	103,385,810	1,634,552
1947-48	67,114	432,860	67,867	34,819	120,520,565	1,967,162
1948-49	76,271	644,535	73,829	36,997	70,262,368	1,291,315

3. POSITION OF THIS MONOPOLY IN REGARD TO GATT

Does the Régie, despite the actual situation as analyzed above in the light of Haitian market statistics, represent a discriminatory measure as defined in Article XVIII, paragraph 1 of the General Agreement on Tariffs and Trade? Is it an institution, the operation of which is detrimental to international trade? The above figures would suffice to prove the

contrary. Furthermore, in our view, this tobacco monopoly is strictly in line with Article XVIII, paragraph 1 of the General Agreement on Tariffs and Trade, which reads as follows:

"The contracting parties recognize that special governmental assistance may be required to promote the establishment, development or reconstruction of particular industries or particular branches of agriculture, and that in appropriate circumstances the granting of such assistance in the form of protective measures is justified ..."

The Haitian State considered that in view of the present position with regard to tobacco production - "diseases and pests affect the plantings The product is very crudely picked and dried, and frequently not fermented at all", (1) and of the market conditions arising out of the acquired habit of utilising foreign tobacco in all its forms, only special assistance to this commodity and only systematic development of the tobacco industry under the central direction of one organ "can be expected to bring about a substantial improvement of Haiti's tobacco supply".

4. TOBACCO AND HAITIAN ECONOMY

Turning from the specific problem of tobacco to the problem of Haitian economy in general, it will be seen that tobacco is but one aspect of the effort to diversify the resources of the country and ensure a more prosperous future for it.

(1) Since Haiti's resources are agricultural, it is vital that all the possibilities of its soil should be developed on a rational basis. The Haitian State considered that by establishing stable and profitable conditions for the growing of crops - as in the case of the Tobacco Régie - it was creating new sources of revenue, both for the farmer and for the whole community.

(2) Moreover, the Haitian State considered, in the light of recent experience, that there was grave danger of Haiti's remaining a single-crop country. It is therefore necessary to widen the scope of its production, insofar as the capacity of its soil and its financial resources permit. For a long time to come, the Tobacco Régie will not be able to do more than satisfy the domestic demand; but this may lead to a saving in foreign currency which will, to some extent, assist the development of Haitian economy, which is recognized as very backward.

On all these grounds, the Government of the Republic of Haiti trusts that the Contracting Parties to the General Agreement on Tariffs and Trade will realize how necessary it was for it to protect home-grown tobacco and will be willing to admit that the Tobacco Régie is not a discriminatory measure deliberately directed against the corresponding foreign product. The Government of the Republic of Haiti believes that the co-signatories of the annex Agreement will agree with it in recognizing the need for maintaining such an organ.

Port-au-Prince, 30 March 1950.

(1) Mission to Haiti: Report of the United Nations Mission of Technical Assistance to the Republic of Haiti, July 1949.

