

GENERAL AGREEMENT
ON TARIFFS AND
TRADE

ACCORD GENERAL SUR
LES TARIFS DOUANIERS
ET LE COMMERCE

RESTRICTED
LIMITED B

GATT/CP.3/40
9 June 1949

ENGLISH
ORIGINAL: FRENCH

CONTRACTING PARTIES

Third Session

NON-DISCRIMINATORY MEASURES NOTIFIED BY CONTRACTING PARTIES
UNDER PARAGRAPH 6 (11) OF ARTICLE XVIII OF THE GENERAL AGREEMENT

Notification by the Government of Haiti

The following letter, dated 8 June 1949, has been received from the head of the Haitian Delegation:

"In reply to your letters of 20 and 30 May 1949 relating to the report of Working Party 2 on procedure for notification of non-discriminatory measures under paragraph 11 of Article XVIII of the General Agreement, I have the honour to inform you that the Haitian State, pursuant to the Law of 16 February 1948, a copy of which I enclose, has reserved to itself the right to purchase, process and sell tobacco. This law, which is vital to the development of the tobacco industry in Haiti, is in strict conformity with Article XVIII, Paragraph 7 (a) (iii) of the General Agreement on Tariffs and Trade, as I had occasion to explain to a member of Working Party 2.

I wish to point out that my delegation has almost completed its negotiations and intends to leave Annecy about 16 June. I should therefore be grateful if Working Party 2 would get in touch with us before that date should it wish for any clarification of the law in question.

I think I should also inform you that the Haitian Republic has been obliged to approach the United Nations with a view to a general survey of the Republic's present economic and fiscal position and to

obtaining advice as to the measures to be adopted so that the country's economic development can be planned and established on a sound foundation.

Since the report of the United Nations ad hoc Commission has not yet been examined by the Haitian Government the latter is not in a position at present to notify Contracting Parties of any non-discriminatory measures that it may adopt in order to implement this plan. It is understood, however, that the Contracting Parties will receive notification of any non-discriminatory measure in accordance with paragraph 6 of Article XVIII of the General Agreement."

L A W

DUMARSAIS ESTIME,

PRESIDENT OF THE REPUBLIC

BY VIRTUE OF Articles 60, 61 and 84 of the Constitution;

BY VIRTUE OF the Laws of 5 August 1931 and 5 September 1934 on
Tobacco;

WHEREAS it is expedient to encourage producers to expand tobacco-
growing by offering them a remunerative price for this commodity;

AND WHEREAS it is unreasonable that a tobacco-producing country like
Haiti should be obliged to import this commodity for the home-manufacture
of cigars and cigarettes;

AND WHEREAS the most effective means of achieving this end is to
establish a State Monopoly with the sole right to purchase and sell
tobacco;

AND WHEREAS the exploitation of tobacco by the State will yield
considerable revenue to the Public Treasury and will enable the Government
to proceed with and intensify the economic development of the country;

In the light of the reports of the Secretaries of State for Finance,
National Economy, Trade and Agriculture;

After due deliberation by the Council of Secretaries of State;

HAS PROPOSED

And the Legislature has voted the following Law:

Article 1 - The purchase, processing and sale of tobacco shall be
the exclusive prerogative of the State.

Article 2 - The exercise of this State prerogative shall be vested
in an organ known as the "Régie du Tabac" (State Tobacco Monopoly) which
shall have legal status and shall function under the supervision of an
Executive Board comprising:

- 1) The Secretary of State for Finance, Chairman;
- 2) The Secretary of State for Commerce, Member;
- 3) The Secretary of State for Agriculture, Member;
- 4) The Vice-President of the Commercial Department of the
National Bank of the Republic of Haiti, Member;
- 5) The Director-General of the Inland Revenue Administration,
Member;

All decisions of the Executive Board shall be taken by a majority of three votes. Should the votes be equally divided the Secretary of State for Finance shall have the casting vote. The members of the Executive Board shall not receive any remuneration from the Régie.

Article 3 - Within 30 days of the promulgation of the present Law all holders of leaf-tobacco in the country and all manufacturers and importers of cigarettes, cigars, tobacco and snuff shall be required to declare their stocks to the Director of the Régie or, in towns or localities where the Régie has no office, to the local Tax Collector or officer who shall transmit the information supplied to the Director of the Régie, through the intermediary of the Director-General of the Inland Revenue Administration. After the expiry of this time limit any undeclared or under-declared stocks shall be confiscated by the Régie after a report has been drawn up by two sworn inspectors of the Régie or the Inland Revenue. Furthermore, in the event of a repetition of the offence, the offenders shall be brought before the Court of Summary Jurisdiction and shall be liable to a fine varying from 100 to 5,000 gourdes or 3 to 6 months' imprisonment.

Article 4 - Any tobacco purchased, manufactured, imported or sold in contravention of the provisions of the present Law and of the Presidential Decree provided for under Article 23 of the present Law shall likewise be confiscated by the Régie. Persons infringing these provisions shall also be liable to the fines and terms of imprisonment prescribed in Article 3.

Article 5 - The Régie shall be in charge of a "Director-General" and a "Technical Director" who shall be appointed by the President of the Republic for a term of one year.

Article 6 - The Director-General and the Technical Director shall supervise all the operations of the Régie. The technical and administrative staffs shall be appointed by His Excellency the President of the Republic on the recommendation of the Executive Board.

Article 7 - All contracts, cheques, vouchers and other documents committing the Régie shall be signed jointly by the Director-General and the Technical Director.

Article 8 - The Executive Board shall be represented at Offices of the Régie by a delegate who shall supervise all the operations of the Régie. For this purpose the delegate shall be entitled to examine the books and vouchers and shall report any irregularities to the Board.

The delegate's salary shall be paid by the Régie.

Article 9 - The Director-General shall receive the sum of 750.00 gourdes per month for expenses, plus the following percentage on the net annual profits of the Régie:

<u>Net Annual Profit</u>	<u>Percentage payable to the Director-General</u>
1. On a net annual profit up to Gdes 2,500,000	Nil
2. On a net annual profit over Gdes 2,500,000 but not exceeding Gdes 5,000,000	
(a) on the first Gdes 2,500,000	Nil
(b) on the balance	$\frac{1}{2}$ of 1%
3. On a net annual profit over Gdes 5,000,000 but not exceeding Gdes 10,000,000	
(a) on the first Gdes 5,000,000	Gdes 12,500
(b) on the balance	$\frac{1}{4}$ of 1%

4. On a net annual profit over Gdes
10,000,000
- | | |
|----------------------------------|-------------|
| (a) on the first Gdes 10,000,000 | Gdes 25,000 |
| (b) on the balance | 1/8 of 1% |

Article 10 - The Technical Director shall receive the sum of Gdes. 625.00 per month for expenses, plus the following percentage on the net annual profit of the Régie.

Net annual profit	Percentage payable to the Technical Director
1. On a net annual profit up to Gdes 2,500,000	Nil
2. On a net annual profit not exceeding Gdes 5,000,000	
(a) on the first Gdes 2,500,000	Nil
(b) on the balance	1/2 of 1%
3. On a net annual profit over Gdes 5,000,000 but not exceeding Gdes 10,000,000	
(a) on the first Gdes 5,000,000	Gdes 6,250.00
[(b) on the balance]	1/8 of 1%
4. On a net annual profit exceeding Gdes. 10,000,000	
(a) on the first Gdes. 10,000,000	Gdes. 12,500
[(b)] on the balance	1/16 of 1%

Article 11. - The capital of the Régie, fixed at Gdes. 1,500,000, shall be advanced by the National Bank of the Republic of Haiti with the approval of its Board. Promissory notes shall be issued and signed by the Director-General on behalf of the Régie and endorsed by the Secretary of State for Finance, on behalf of the State.

Each of these notes, 36 in number, shall be made out in the amount of Gdes. 41,666.70. The date of maturity of the notes shall be spread over a period of 36 months from the date of issue.

Interest shall be payable on these notes at the rate of 6% per annum.

Article 12. - On 30 September each year the Régie's accounts shall be audited by two accountants from the Department of Finance and two from the National Bank of the Republic of Haiti. Any irregularity discovered by these accountants shall be reported to the Executive Board and the Secretary of State for Finance for the application of the penalties laid down by law.

Once the annual profit has been determined, the payments provided for in Articles 9 and 10 shall have first call, after which 50% of the net profit shall be credited to a reserve fund designed to bring the capital up to Gdes. 3,000,000. The balance shall be paid into the Treasury. When the reserve fund has reached the stipulated amount, 30% of the profits shall be utilised for developing tobacco-growing, improving the quality of this commodity, and for publicising Haitian tobacco abroad.

Article 13. - The budget of the Régie shall be drawn up by the Directors in conjunction with the Executive Board, and shall be submitted for approval to the Secretary of State for Finance.

Article 14. - Raw materials shall be purchased by the Directors of the Régie at prices fixed by the Government and under the supervision of the Delegate of the Executive Board.

Raw materials purchased shall be paid for exclusively by the National Bank of the Republic of Haiti on presentation by the seller of a purchasing order signed by the Director-General. Such raw materials shall be deposited in the warehouses of the Régie, either at Port-au-Prince or in the provinces. The warehouses shall be locked and unlocked by means of two different keys, the one kept by the Director-General and the other by the National Bank of the Republic of Haiti.

All stocks of tobacco consigned to Port-au-Prince for processing shall be deposited in a warehouse with two keys, as described above.

Any tobacco removed from the warehouses and sent to the factories for manufacture shall be covered by a receipt in duplicate signed by the Director-General. The original of the receipt shall be forwarded to the Delegate of the Executive Board and the duplicate to the National Bank of the Republic of Haiti.

Production of manufactured tobacco shall be carried out under the permanent supervision of the Delegate of the Executive Board.

The manufactured tobacco shall be handed over to the National Bank of the Republic of Haiti against receipt.

Article 15. - In addition to the functions enumerated above, the National Bank of the Republic of Haiti shall:

- a) sell manufactured tobacco wholesale to the trade;
- b) in agreement with the Director of the Régie, sell to cigarette manufacturers the tobacco they require, at the price fixed by the Government;
- c) make all payments and collect all funds on behalf of the Régie;
- d) keep a special account for all operations of the Régie.

In remuneration for its services, the National Bank of the Republic of Haiti shall receive Gdes. 0.10 per one pound package of any manufactured tobacco product sold. This 10 centimes shall be deducted from the selling price fixed by the Government.

Article 16. - The Inland Revenue Administration shall issue licences in accordance with the Law of 5 August 1931, but with the approval of the Director of the Régie.

Article 17. - The Director of the Régie, in conjunction with the Secretary of State for Finance, shall discuss with cigarette manufacturers and decide the percentage of imported tobacco to be used in the manufacture of their products. The Director of the Régie shall check the quantity of tobacco

imported by these manufacturers in order to make certain that this undertaking has been carried out; and for this purpose a report on the subject shall be made to him every fortnight by the Customs Administration. The Director of the Régie shall furthermore have the right to inspect and supervise cigarette manufacture.

Article 18. - The Secretary of State for Finance, on the recommendation of the Director-General of the Régie, and after inspecting the books of manufacturers, shall fix the cost price of cigarettes, allow a profit margin, to be determined by Presidential decree, and fix the manufacturer's selling price. In the event of the dispute in regard to the costing, the manufacturer shall have the right to appeal for arbitration as provided by the Code of Civil Procedure.

The Secretary of State for Finance shall also fix the wholesale and retail selling price of cigarettes, but this shall not be subject to arbitration.

Article 19. - The Régie shall purchase the output of manufacturers, in accordance with market requirements issuing a cheque in their favour on the National Bank of the Republic of Haiti.

The stocks purchased shall be deposited in the warehouses of the National Bank of the Republic of Haiti, the warehouses being locked with two different keys, one to remain in the possession of the Director of the Régie and the other to be kept by the National Bank, which is responsible for the sale of cigarettes wholesale to the trade. On the proceeds of sales, the National Bank shall receive 10 centimes per packet of 200 cigarettes as remuneration for its services.

Article 20. - Imported cigarettes and cigars shall, after payment of customs duties by the importer, be sold by him to the Régie, at cost price plus a percentage for profit to be fixed by Presidential decree.

All importers shall be granted an import permit. The Régie is under an obligation to grant such permits insofar as market requirements warrant it. The extent of these requirements shall be determined by the Secretary of State for Finance, who for this purpose shall take into account among other factors, the customs statistics for the previous five years.

The cigars and cigarettes purchased shall be warehoused in the manner provided for under Article 19 and shall be sold wholesale to the trade by the National Bank of the Republic of Haiti, on behalf of the Régie.

On the selling price, the Bank shall be entitled to 10 centimes per packet of 200 cigarettes and 10 centimes per one pound packet of cigars.

Article 21. - The purchase and selling prices of tobacco and tobacco products shall be fixed by the Secretary of State for Finance, and published in the "Moniteur".

Article 22. - Each Commune shall receive 2 centimes on each pound of tobacco produced by that Commune and purchased by the Régie.

Article 23. - The President of the Republic shall enact a Decree setting forth this regulation governing the Régie.

Article 24. - The present Law shall repeal all laws or legislative enactments at variance with it, in particular the provisions of the Law of 5 August 1931 and the Law of 5 September 1934 relating to tobacco duties and products, with the exception of the provisions referring to licences. This law shall be enforced at the instance of the Secretaries of State for Finance and National Economy, Commerce and Agriculture, each his own sphere.

Done at National House, Port-au-Prince, 13 February 1948,
145th Year of Independence.

President: Jean Bélizaire

Secretaries:
Charles Fombrun, Beauharnais Boisrond (Acting)

Done at the Chamber of Deputies, Port-au-Prince, 16 February 1948,
145th Year of Independence.

President: Dr. Jh. Loubeau

Secretaries:

L. Stephen D. Michel (Acting)

IN THE NAME OF THE REPUBLIC

The President of the Republic orders that the above law be sealed
with the Seal of the Republic, printed, published and put into force.

Done at the National Palace, Port-au-Prince, 18 February 1948,
145th Year of Independence.

By the President: DUMARSAIS ESTIME

E. THESAN

Secretary of State for Finance and National Economy

CARLET R. AUGUSTE

Secretary of State for Commerce

JEAN P. DAVID

Secretary of State for Agriculture and Labour

GEORGES HONORAT

Secretary of State for the Interior, Justice and National Defence

GEORGES HONORAT

Secretary of State for Foreign Affairs, Touring and Public Worship
(Acting) :

MAURICE LARAQUE

Secretary of State for National Education and Public Health

PAUL PEREIRA

Secretary of State for Public Works

