

RESTRICTED

GATT/CP.2/WP.5/4  
24 August 1948

Original: ENGLISH

GENERAL AGREEMENT ON TARIFFS AND TRADE

Contracting Parties

Second Session

Working Party 5 on Article XVIII

Letter received by the Chairman from the Netherlands Delegation

The following letter has been received by the Chairman of the Contracting Parties from the Chairman of the Netherlands Delegation.

"August 23, 1948

With reference to your ruling in this morning's meeting according to which the difficulties the Netherlands Delegation feels with regard to the existing legislation in the Netherlands Indies on some protective measures for the development or reconstruction of certain branches of agriculture and industry, I have the honour to submit to Working Party V for study and clarification the following remarks.

According to the Protocol of provisional application of the GATT it is not yet necessary to change existing legislation. On the other hand, it would have been necessary to give a list of measures in force to be maintained under Article XVIII before October 10, 1947, and give full information on the measures within sixty days of becoming a contracting party. This last period would begin for the Netherlands overseas territories on March 11, 1948.

Our Government experienced some difficulty regarding the implication of "existing legislation" and "measures in force on September 1, 1947". In fact, the relevant laws and regulations in the Netherlands Indies all date from the pre-war period and are still valid, but they were on the date of September 1, 1947, suspended. These regulations, provided for certain import quota, or for special licenses for importation of certain commodities. The purpose of these regulations was covered in 1947 by the use of foreign exchange restrictions as envisaged under Article XII of the GATT. Another reason for the suspension was that abnormal postwar conditions in large parts of the country gave administrative difficulties in applying the above mentioned protective measures.

For each of the products involved a law was adopted by the Peoples Council of the Netherlands Indies, which law was followed mostly by annual bylaws, stating quantities involved, for a yearly period, or making revised rules for application for import licenses.

The list of laws and bylaws is as follows:

1933 No. 85, No. 299, No. 300 - regulation of the importation of  
rice, soybeans, soya and taotjo  
1935 No. 86 - cement, latest bylaw 1940 No. 469  
1935 No. 341 - iron frying pans - latest bylaw 1940 No. 259  
1936 No. 497 - automobile tyres - latest bylaw 1940 No. 468  
1936 No. 542 - beer - latest bylaw 1940 No. 475  
1934 No. 678 - colored woven textiles (sarongs)  
latest bylaw 1940 No. 229  
1936 No. 65 - some categories of cotton textiles which can be  
woven on sarong-loom - latest bylaw 1940 No. 431

These import regulations have been made with a view to price stabilization of rice and soybeans, and in connection with the establishment or development of specific branches of industry.

The reasons for maintaining these laws are as follows:

I. In the case of rice and soybeans, the measure relates to two important items in the diet of the Indonesian population. Production and consumption of these two commodities were in the years preceding the war nearly in equilibrium, depending upon the outcome of harvest under weather conditions. The consumption of these foodstuffs is extremely stable, but the prices are fluctuating widely when the supply is only slightly under or above the consumption level.

Moreover it has been proved by experience that levels of wages are dependent to a large extent upon the price and therefore price stabilization is a recognized means of stabilizing economic conditions in the villages.

A further reason is that in the Archipelago conditions vary to a large extent. Some regions always have a surplus, others have a shortage. Some regions are accustomed to Burma rice, others to Siam or Indochina rice. The imposition of a duty on rice, even on a sliding scale could not prevent price fluctuations beyond the acceptable range and would raise the cost of living in some districts above the desired level. From 1933 to 1941, the measure of licensing rice imports according to the situation of the moment has worked very well and it would be extremely difficult to stabilize economic life in Indonesia without a system of licensing rice imports.

II. Java is one of the most populated countries in the world and it is extremely desirable that industry be developed on this island. It has been the policy of the government to reach this aim without high tariffs and without large subsidies. In some instances, however, industries which require relatively large capital investments, could only be established after a promise from the government that they would get protection from cutthroat competition and therefore a system of import quota was introduced. On the other hand, the government introduced a price regulation so as to avoid any monopolistic high price. This was especially done for cement, beer and automobile tyres.

The local industries for iron frying pans, and some cotton textiles for the local market are small or middle-sized industries for local use, mostly of types that are only or especially suited for Indonesian markets. In this case again, the government refrained from the imposition of a high tariff wall to avoid sacrifices from the consumers which could not afford high prices.

In the Geneva negotiations in 1947 among the products mentioned above only for automobile types an obligation of tariff binding has been assumed, and it would seem therefore that under par. 7 of Article XVIII of the GATT this product would be excluded from the provisions of Article XVIII, para. 6.

In case the CONTRACTING PARTIES would decide that the measure was not only maintained up till now, but has to be considered to have been in force on September 1, 1947, the delegation has not acted in accordance with the provision of Article XVIII, par. 6, but in view of the special circumstances and the lack of clarity of the case, would like to ask for a waiver of the date of latest notification in the spirit of Article 14 (1)a, last part, of the Havana Charter.

On the other hand, if the CONTRACTING PARTIES would decide that the abnormal measures were not in force on September 1, 1947, a future application of the existing laws would come under Article 13 of the Havana Charter.

Summarizing, the Netherlands Delegation has the honour:

- 1) to ask for clarification, whether the existence of a law, providing for import regulations for certain products, is equivalent to "a measure in force", even if the law is temporarily suspended or not applied because of postwar difficulties;
- 2) if the answer is in the affirmative, to ask for a waiver of the obligation to notify CONTRACTING PARTIES before October 10, 1947, and to give full information as regards the measures concerned at the end of a sixty days period after the provisional application of the GATT, which would have been on May 10, 1948;
- 3) to ask for examination by and a decision of the CONTRACTING PARTIES concerning their concurrence with the above mentioned measures."