

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/61

7 November 1952

Limited Distribution

WORKING PARTY 8 ON NETHERLANDS ACTION UNDER ARTICLE XXIII: 2

REPORT TO THE CONTRACTING PARTIES

1. At the Sixth Session the CONTRACTING PARTIES decided that the import restrictions on dairy products maintained by the United States under Section 104 of the Defense Production Act, were contrary to the provisions of the General Agreement and, under the circumstances, sufficiently serious to justify recourse to Article XXIII, paragraph 2 by the contracting parties affected. Article XXIII provides in part that, if the CONTRACTING PARTIES consider that the circumstances are serious enough to justify such action, they may authorise a contracting party or parties to suspend the application to any other contracting party or parties of such obligations or concessions under this agreement as the CONTRACTING PARTIES determine to be appropriate in the circumstances. Therefore, the Netherlands Delegation requested the CONTRACTING PARTIES, in accordance with the second paragraph of Article XXIII of the General Agreement, to authorise the Netherlands to suspend the application to the United States of their obligations under the General Agreement to the extent necessary to allow the Netherlands to impose an upper limit of 57,000 metric tons on imports of wheat flour from the United States during the calendar year 1953. This would constitute an annual reduction of approximately 15,000 metric tons from the rate of current imports from the United States.
2. The Working Party was instructed by the CONTRACTING PARTIES to investigate the appropriateness of the measure which the Netherlands Government proposed to take, having regard to its equivalence to the impairment suffered by the Netherlands as a result of the United States restrictions.
3. The Working Party felt that the appropriateness of the measure envisaged by the Netherlands Government should be considered from two points of view: in the first place whether, in the circumstances, the measure proposed was appropriate in character, and secondly, whether the extent of the quantitative restriction proposed by the Netherlands Government was reasonable, having regard to the impairment suffered.
4. Although the Working Party recognised that it was appropriate to consider calculations of the trade affected by the measures and counter-measures in question, it was aware that a purely statistical test would not, by itself, be sufficient and that it would also be necessary to consider the broader economic elements entering into the assessment of

the impairment suffered. It was agreed therefore that it would be proper to take into account the contention of the Netherlands Government that the restrictions imposed by the United States had had serious effects on the efforts which were being made by the Netherlands to stimulate its exports to the United States not only of the products subject to the restrictions but of other products as well, and the further contention of the Netherlands Government that the restrictions had affected its efforts to overcome balance-of-payment difficulties with which the country was confronted.

5. The meetings of the Working Party were conducted in a spirit of co-operation. The representatives of the Netherlands and the United States presented statements, including statistical information, for the guidance of the Working Party.

6. The Working Party recognised the difficulties inherent in fixing, with any real precision, the point at which any proposed measure could no longer be considered reasonable. The Working Party was of the view that the size of the measure proposed could not be regarded as unreasonable. However, on the basis of its independent review of the circumstances and of the considerations adduced at this Session, the Working Party decided to recommend a measure somewhat different in magnitude from that proposed by the Netherlands.

7. The Working Party submits to the CONTRACTING PARTIES the following draft decision for their consideration and approval:

DRAFT DETERMINATION

TAKING NOTE of the request from the Netherlands Government for the application of the second paragraph of Article XXIII of the General Agreement, and

CONSIDERING information relating to the damage suffered by the Netherlands through limitations on its ability to sell its products in the United States market owing to the restrictions imposed by the United States of America under Section 104 of the Defense Production Act

THE CONTRACTING PARTIES

DETERMINE

1. that the measure proposed by the Netherlands Government is appropriate in character, and
2. that having regard
 - (i) to consideration of the value of the trade involved,
 - (ii) to the broader elements in the impairment suffered by the Netherlands,

(iii) to the statement of the Netherlands Government that its principal objective in proposing the measure in question is to contribute to the eventual solution of the matter in accordance with the objectives and spirit of the General Agreement,

the limitation by the Netherlands of imports of wheat flour from the United States to 60,000 tons in 1953 would be appropriate within the meaning of Article XXIII, and

AUTHORISE

the Netherlands Government to suspend the application to the United States of their obligations under the General Agreement to the extent necessary to allow the Netherlands Government to impose an upper limit of 60,000 metric tons on imports of wheat flour from the United States during the calendar year 1953.