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Letter From Philander C. Knox to Oscar W. Underwood, December 13, 1911

Philander C. Knox

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December 13, 1911.

The Honorable Oscar W. Underwood,
Chairman of the Committee on Ways and Means,
House of Representatives,
Washington, D. C.

Sir:

In adjusting the tariff and trade relations of the United States with other nations under the terms of the maximum and minimum tariff provided in Section 2 of the Tariff Law of August 5th, 1909, there were developed numerous instances of tariff and administrative discrimination against products of the United States. Through the negotiations which followed the enactment of the law most of the more flagrant instances of discrimination were removed or were equalized by compensations in tariff rates granted by other countries in exchange for the granting of the minimum tariff of this country. Some instances of discrimination could not be removed by negotiation and because of their minor character when considered in the relation of the commerce thus involved to the entire commerce of the United States with the particular offending countries they were permitted to remain.
There were issued 134 proclamations by the President under the authority of Section 2 of the Tariff Act, and these covered the entire commercial world.

The remarkable growth of this country's export trade in the past two years is of itself evidence of the enlarged markets obtained and equalized opportunity made possible by Section 2 of the Tariff Law.

Time has developed the desirability of seeking measures for further adjustment in cases where it is now apparent American enterprise suffers embarrassment or loss of trade or opportunity abroad.

The problem presented is to remove, so far as practicable, those features in foreign practice adverse to our export-trade development and of serious import to American enterprises directly affected. To solve this problem will call for an amendment of Section 2 whereby will be afforded a degree of elasticity in the imposition of tariff rates suited to the offenses intended for correction. These offenses are not many, but their importance, in justice to our commerce and industry, must not be overlooked. In detail, there may be mentioned a few of the more notable cases, some of which existed at the time of the negotiations under Section 2 and others of which have since developed.

BELGIUM. The failure of the Administration of State
Railways to permit the Continental Petroleum Company of Antwerp, representing a Texas oil-exporting concern, to bid for supplying the State railways with lubricating oil of American production. The advertisements for bids invariably specify oil of Russian origin.

GERMANY. (a) The embargo through administrative action upon meats of American origin; (b) the enactment of a law in May, 1910, regulating the output of potash mines and so taxing surplus production as to render valueless certain advantages obtained by Americans in their contracts with German mines and greatly reducing the tax-free output of two mines owned and controlled by American capital, the result being to lodge the control of the price-making power for the potash consumption of the United States in the hands of a German syndicate of mine owners and to remove the competition in buying which would have been possible under recognition of the contracts with the independent mines, including the two American-owned mines, not members of the syndicate; (c) the export certificate practices which provide the equivalent of bounties upon exports and which are destructive of American trade in neutral markets; (d) the existence of rates of freight on State railways much greater east bound than west bound on the same commodities, by means of which the competing products of Austria and Russia have material
advantages in their distribution in Germany as compared with products of the United States.

ITALY. The imposition of a manufacturing tax upon imported cotton-seed oil—a distinctively American product—whereas no such tax is levied upon any other imported edible oil.

AUSTRIA-HUNGARY. (a) Rates of duty upon cotton-seed oil more than double the rate applied to any other edible oil with which refined cotton-seed oil comes in competition; (b) the unequal and oppressive measures authorized by the Government and applied to American investments in Austria with respect to the conversion of crude oil into refined oil and the distribution of the finished product, as compared with the treatment accorded the investments of Austrian citizens similarly engaged.

BULGARIA. The requirement that cotton-seed oil when imported should be denatured and rendered unfit for human consumption.

PORTUGAL. The practical prohibition of imports of cotton-seed oil.

It has been observed that similar instances of discrimination as between European nations have found adjustment through means at hand for specific retaliation where conciliatory measures have failed. The laws of most European countries make provision adequate to meet contingencies of the nature described.
The Department feels that in the suggested amendment to Section 2 provision should be made for varying rates of tariff to be added to the minimum rates—not less than five per centum ad valorem and not exceeding twenty-five per centum, applicable by proclamation when, through the investigations made at the instance of the President, he shall have become satisfied that another nation's laws or practices as relating either to tariffs or commercial methods having governmental sanction are inimical to that equal opportunity in trade and commerce to which American enterprise is fairly entitled.

With respect to the logical course of the United States when foreign methods bar our national progress in seeking equality of opportunity abroad, the Department feels that only by a practicable means of effectively offsetting adverse action of other nations can injustice to our foreign commerce be overcome. It is convinced that equal opportunity for enjoying the minimum tariff of the United States and the abundance of commercial opportunity thus vouchsafed should not be conceded to such nations as deny to American citizens rights and privileges granted to others. It is realized that the gravity of the offense should be met by a suitable remedy—one that may be graduated to meet the degree of embarrassment sought to be corrected. This might call for the imposition of additional
duties of from five to twenty-five per centum upon a few commodities or it might require that all of a nation's exports to the United States should be made subject to rates of duty higher than the existing minimum. Instances might arise where to subject commodities now upon the free list to the payment of duties would be found to be the only measure of relief for offensive treatment; or the prohibition of imports in aggravated cases might be necessary.

A period of ninety days, if provided in the proposed amendment, to lapse between the date of the issuance of a proclamation and its taking effect would offer an opportunity for modification of policy on the part of an offender which, in recognition of the pending change fore­shadowed by the proclamation, it would probably undertake. In the opinion of the Department the instances of actual application of increased rates of duty would prove to be exceedingly rare, once the administrative authority was granted as herein recommended.

The suggested legislation would so strengthen the Department in future negotiations looking to the advancement of American trade abroad that in the light of experience and observation I feel impelled to invite your earnest consideration of the subject. The accompanying draft of a proposed amendment to Section 2 of the Tariff Act embodies the various corrective measures which in the
opinion of the Department are necessary for perfecting the foreign policy of this Government concerning commercial affairs.

I have the honor to be, Sir,

Your obedient servant,

(Signed) P. C. KNOX.

Enclosure:

Draft of amendment to Section 2 of the Tariff Act of August 5, 1909.