

Minister van Buitenlandse Zaken (Beyen) en minister zonder portefeuille (Luns) aan hoge commissaris te Djakarta (Van Bylandt), 15 febr. 1956

**Informatiekopie aan Washington, New York en Londen*

Uw 1231.

Gisteren heeft Luns in zijn verklaring aan de Staten-Generaal medegedeeld dat de Nederlandse regering geen overhaaste stappen zal nemen betreffende de toen nog slechts in de pers aangekondigde opzegging van de Unie. De inmiddels ontvangen nota wordt thans op zijn volkenrechtelijke merites bestudeerd. Het ligt in de bedoeling dat de ministerraad op twintig dezer een beslissing zal nemen over de Nederlandse reactie. Het lijkt niet onverstandig Indonesië terzake even in het ongewisse te laten.

Wel wordt overwogen reeds thans aan de secretaris-generaal van de Verenigde Naties mededeling van deze unilaterale daad te doen met verzoek hiervan alle leden van de VN in kennis te stellen. Ter inlichting van de pers en als materiaal voor gesprekken is gisteren een memorandum aan U en andere posten toegezonden waarvan heden een Engelse tekst en clair volgt welke confidentieel aan bevriende diplomaten kan worden overhandigd. Ook is in overweging om bij de regeringen van de landen welke lid zijn van de nimmer opgeheven UNCI, welke commissie was belast met het toezien op de naleving van de overeenkomsten, een stap te doen.

Uit Uw berichtgeving blijkt dat het nog onzeker is hoe de verdere ontwikkeling te Uwent zal zijn. Ook daarom lijkt het verstandig deze nog even af te wachten, opdat wij niet bijdragen tot het formeren van een eensgezind anti-Nederlands front door het nemen van spectaculaire stappen.

U ontvangt nader bericht zodra besluiten zijn genomen en kan uiteraard normaal voortgaan met het gebruik van de titel hoge commissaris.

Wij stellen er prijs op op de hoogte te worden gehouden van de ontwikkelingen te Uwent evenals van Uw oordeel over de aan te nemen houding. De moeilijkheid zit hierin dat enerzijds de Nederlandse regering eenzijdige opzegging van verdragen niet zonder meer kan accepteren doch dat anderzijds het geen Nederlands belang is om hieruit een diepgaand en verstrekkend conflict te doen voortvloeien.

De aandacht verdient nog dat ingevolge artikel 120 van de Indonesische grondwet opzegging van verdragen slechts kan geschieden door de president en krachtens de wet. Een formele opzegging kan dus in de U overhandigde nota niet worden gezien. Ook dit aspect zal in de bestudering van de nota worden betrokken.

[telex Beyen/Luns 101192]

Hier volgt tekst van langs andere weg aangekondigde memorandum:

'A little over a year ago discussion with an Indonesian delegation led by the then minister of Foreign Affairs, mr. Sunarjo, led to complete agreement concerning a protocol to abolish the Netherlands-Indonesian Union and to regulate the future relations between the two countries. The agreement however was never ratified and in the autumn of 1955 the Indonesians requested a new conference.

Considering that as a result of general elections the internal political situation in Indonesia is now passing a transitory phase, thereby obviously limiting the mandate of the present outgoing Indonesian cabinet, the Netherlands government had every reason to wonder whether this was a suitable moment for renewed discussion of such important matters of principle as the remodeling of the general relations between the two countries. Furthermore the Netherlands felt generally and seriously hurt by the grievous injustice inflicted by the previous cabinet on imprisoned Dutchmen, an injustice that has not yet been rectified by the present cabinet of premier Harahap.

As however the Indonesian government strongly felt that new consultations were necessary to improve the mutual relations the Netherlands government did not want to take a negative attitude and the Netherlands delegation started the discussions with a maximum of goodwill.

Wherever possible Indonesian wishes were met in the interest of good relations. For instance the request of the Indonesian delegation to transfer the conference, that had been opened in the Hague, to Geneva was met despite obvious disadvantages from the point of view of efficient working-arrangements. Also when the Indonesian side requested not to bring up the question of the imprisoned Dutchmen as a separate point on the agenda the Netherlands government agreed as not to bring the Indonesian delegation in difficulties at home.

After the adjournment of the conference on 7th January and at a moment when the Netherlands delegation was ready to continue the discussions, the Indonesian delegation requested to delay the return of the Netherlands delegation to Geneva.

The developments leading to this request - and those following it - made it clear that the Netherlands were in danger of getting involved in internal political tensions in Indonesia. The Netherlands obviously had no wish or inclination to be so involved.

In a note of 1st February the Netherlands government therefore asked the Indonesian government whether it would not be preferable to leave further discussion to the new cabinets to be formed shortly both in Indonesia and in the Netherlands.

The Indonesian government however continued to press for continuation of the conference obviously because this had become an essential element in maintaining their position in Indonesia.

As the Indonesian delegation consequently had to put their demands too high the conference failed. The delegation was no longer in a position to continue an open and reasonable discussion of outstanding problems.

The Protocol concluded in 1954 contained the decision to abolish the Netherlands-Indonesian union and furthermore to terminate a number of other agreements based on the Round Table Conference of 1949.

Whether the remaining parts of the Financial-Economic Agreement should be replaced by new agreements remained a point for later consideration. Ratification of the concluded Protocol could not take place as the then opposition in Indonesia, consisting of the parties that now form the Indonesian government, succeeded in preventing a vote in parliament. They were of the opinion that the Netherlands should make further concessions. After these parties came in office the Netherlands have shown - by agreement to convene a new conference - that the Netherlands government was indeed willing to meet the Indonesians in this respect. During the

conference just held these concessions were further elaborated. The Netherlands showed themselves willing to terminate the existing agreements in the financial and economic field and to substitute them by new agreements. As it was clearly impossible to draft these new agreements during the conference part of the old agreements would continue to exist during an interim period. The abolition of the Union, to which the Netherlands had already agreed in 1954 and again at this conference and to which the government will be ready to agree in future, would also terminate the arrangements contained in the Union Treaty for the peaceful solution of disputes. In 1954 both delegations had devised a simple and normal arrangement to take its place. Disputes of a legal nature that could not be solved through diplomatic channels would be submitted to arbitration and in case no agreement could be reached one of the parties could bring its case before the International Court. During the conference just held it became clear that the present Indonesian government does not want an effective arbitration agreement because it is of the opinion that such an agreement would curtail the sovereignty of Indonesia. Expressed willingness of the Indonesian delegation to agree to an arbitration agreement to be concluded in the future was therefore of little value. Nevertheless the Netherlands delegation was willing to accept an interim arrangement whereby legal disputes could be submitted to an ad hoc-committee, consisting of an equal number of Netherlands and Indonesian representatives provided that in case of a tie in voting the president of the International Court could be asked to appoint a further member. The Indonesian delegation, although they had suggested this formula, was however only willing to formulate it in the vaguest terms giving no guarantee whatsoever for a workable system of arbitration. A clearer formula embodying the same principle and presented by the Netherlands delegation was not accepted, not even as a basis of discussion. This again showed that Indonesia is in fact not ready to accept an arbitration agreement as is usual between states and that it wants to remain its own judge.

Indonesia now seems ready to abrogate valid treaties unilaterally. Whether that will improve its international standing remains to be seen. The fact however that such intentions have been published even before the ministerial delegation of Indonesia has had time to return from Geneva to Djakarta and to report to its government shows, that the Netherlands were in fact presented in Geneva with an ultimatum and makes quite clear why the conference could not succeed. As long as Indonesia continues to try and solve its political tensions at the expense of the Netherlands the wish to accomplish normal relations between the Netherlands and Indonesia will be frustrated.

The Netherlands government will await developments and will not take hurried decisions.