

SIXTH REPORT OF WORKING PARTY 2 ON ARTICLE XVIII

Interim Report on the Ceylon Application under
Article XVIII

1. The written statement of considerations submitted by the Ceylon delegation in support of the application for release under paragraph 7 of Article XVIII (GATT/CP.3/20) was referred to Working Party 2 for examination and recommendation to the CONTRACTING PARTIES at the fourteenth meeting of the CONTRACTING PARTIES on 19 May 1949. The Working Party was required to study the proposal and to report as soon as possible in the light of the points raised in the discussion at that meeting (GATT/CP.3/SR.14).
2. In view of the provisions of paragraph 10 of Article XVIII, the Working Party submitted on 1st June 1949 an interim report (GATT/CP.3/36) concerning the date on which the CONTRACTING PARTIES should make a decision on the application. A further report (GATT/CP.3/64) was submitted on 4th August 1949 recommending a modification of the decision regarding that date.
3. The Ceylon delegation clarified the original list of the products to which the application referred and at that time amended its application by the withdrawal of certain items and the addition of others. A definitive list circulated in GATT/CP.3/54 dated 4th July 1949 formed the basis for consideration by the Working Party. However, such consideration was subject to the results of the re-negotiations by Ceylon at this session of Schedule VI to the Agreement.
4. After the completion of the re-negotiations, five items remained in the new Ceylon Schedule which is being submitted to the CONTRACTING PARTIES and the Ceylon delegation consequently amended further its original application and requested that the application for the measures relating to these five items be considered under paragraph 5 of Article XVIII (GATT/CP.3/20.Add.1).

5. A precise description of these products and the tariff item numbers and descriptions under which these products fall is contained in an Annex to this Report.
6. The Working Party noted that the purpose of the "Industrial Products Act" was to facilitate the sale of the industrial products of Ceylon by regulating the importation of industrial commodities from abroad. Under the provisions of the Act the Government may require an importer, in order to obtain a licence to import a specified quantity of the goods concerned, to buy a certain proportion of the corresponding local product.
7. The "standard ratio" for determining the quantity of the local product which an importer must purchase in order to obtain a licence to import a specified quantity of the regulated product will be determined and published in the Gazette from time to time under the provisions of the Act. The Ceylon representative informed the Working Party that the estimates upon which the standard ratio was based would also be published.
8. The Working Party took note of the statement by the Ceylon delegation regarding the circumstances in which the industries concerned were to be established and/or developed, and the reasons which necessitated the use of the measures.
9. In considering the Ceylon application, it became apparent that there were different points of view concerning the interpretation of sub-paragraphs 7(a)(i) and 7(a)(iii). It was found that while some members of the Working Party were prepared to agree that certain items were eligible under sub-paragraph 7(a)(i), others felt that these same items fulfilled the requirements of 7(a)(iii). It was, therefore, found that it was not possible in consistence with expedition to reconcile the divergent views held by individual members of the Working Party; and in order, therefore, to enable consideration of the Ceylon measure to proceed it was agreed that individual members should satisfy themselves in regard to each proposed measure whether the criteria of either sub-paragraph (a)(i) or (a)(iii) had been met, and, that this alternative determination should be accepted as sufficient evidence as to the eligibility of the measures under paragraph 7 of Article XVIII.

10. The Ceylon representative stated that no upper limit was to be set to the total imports of these regulated products and there was consequently no quantitative restriction on imports in the strict sense of that term. However, the Working Party generally considered that the measures proposed by the Government of Ceylon appeared to conflict with the provisions of Article XI and that releases, if any, in terms of Article XVIII to be accorded to the Government of Ceylon should be from the provisions of Article XI.

11. It was further decided, in agreement with the representative of Ceylon, that the recommendation regarding releases on individual products should be subject to the following conditions:

- (a) The import of these products will be subject to regulation only in cases where there is local production of similar goods of a comparable quality.
- (b) The maximum quantity of domestic availability that would be used in the calculation of a standard ratio should in each case be stated as a condition of the release.
- (c) The release will operate in relation to imports by the application of the standard ratio in accordance with the provisions of the Industrial Products Act.

12. The considerations of the Working Party on each of the products with particular reference to the nature of the industries concerned and their establishment or development are set out below, together with the recommendations by the Working Party.

A. Plywood Panels and Other Ornamental Plywood

13. The Working Party, in considering these products noted that the Government plywood factory was established in 1941. It had been protected during the war and the post-war period by abnormal conditions. Plans for expansion had been adopted by the Government involving the installation of machinery in order to recover a higher percentage of timber veneers and the introduction of synthetic glues to raise the quality of the plywood. It was anticipated that the production of

ornamental plywood for general decorative purposes would be raised to 250,000 square feet per annum within the five year period covered by the application.

14. The Working Party agreed that the proposed measure in respect of this item was eligible under paragraph 7 of Article XVIII. Some members felt that the measure fulfilled the requirements of sub-paragraph 7(a)(i), while others felt that sub-paragraph 7(a)(iii) was more appropriate.

15. The Working Party recommends that the CONTRACTING PARTIES concur in the measure and grant a release under paragraph 7 for a period of five years subject to the limitation that the figure of 250,000 square feet shall be used as the maximum quantity of domestic availability in calculating the standard ratio between such quantities of domestic availability and imports for the purpose of issuing import licences under the provisions of the Industrial Products Act.

B. Leather Goods - Boots, Shoes and Sandals

16. The Ceylon representative stated that the Government Leather factory and tannery were established in 1947. During the war the entire output of the factories was absorbed for military purposes. In the post-war period re-organization of the industry has been undertaken to expand output and to adapt existing plants for civilian production. The prospects for expansion were particularly favourable in Ceylon, because of the potential high demand for lower grade footwear. The Ceylon representative added that the reconversion and re-organization would not require any considerable additional investment or new plants.

17. The Ceylon representative pointed out in relation to sub-paragraph 7(a)(iii) that the industry would use domestic hides and that there was an ample supply of cattle in Ceylon from which the raw material could be obtained.

18. The Working Party agreed that the measure in respect of this item was eligible under paragraph 7 of Article XVIII. Some members felt that the measure fulfilled the requirements of sub-paragraph 7(a)(i), whilst others felt that sub-paragraph 7(a)(iii) was more appropriate.

19. The Working Party recommends that a release be granted under paragraph 7 for a period of five years subject to the limitation that

the figures of 30,500 pairs of boots and shoes and 19,000 pairs of sandals shall be used as the maximum quantities of domestic availability in calculating the standard ratio between such quantities of domestic availability and imports for the purpose of issuing import licences under the provisions of the Industrial Products Act.

C. Leather Goods - Volley Balls

20. The Ceylon representative stated that volley balls were a by-product of the Government leather factory and the expected production in five years was estimated at 200,000 balls per annum. The Working Party considered that the utilization of the waste leather was an industrial process of the type contemplated in sub-paragraph 7(a)(iii) and that the measure was eligible under paragraph 7 of the Article.

21. Accordingly, the Working Party recommends that a release be granted under paragraph 7 for a period of five years, subject to the limitation that the figure of 200,000 balls shall be used as the maximum quantity of domestic availability in calculating the standard ratio between such quantities of domestic availability and imports for the purpose of issuing import licences under the provisions of the Industrial Products Act.

D. Acetic Acid and Wood Preservative

22. The Working Party was informed that the Government acetic acid factory was established in 1942 for the economic utilization of a by-product from coconuts which were an important indigenous primary commodity.

23. The domestic demand for acetic acid by the rubber industry amounts to 600 tons per annum. The Ceylon representative stated that it was planned to expand the production of acetic acid to 400 tons per year in the course of the next five years.

24. The potential demand for the by-product wood preservative was high but there was difficulty in finding a ready market for it owing to established consumer preference for imported products. The potential annual production of wood preserve is 15,000 gallons.

25. The Working Party agreed that the measure in respect of both acetic acid and wood preservative was eligible under paragraph 7 of Article XVIII. Some members agreed to this in regard to the acetic acid, because they felt that it fulfilled the requirements of sub-paragraph

7(a)(i), while others felt that it was justified more appropriately under sub-paragraph 7(a)(iii). The measure relating to wood preservative was regarded as fulfilling the provisions of sub-paragraph 7(a)(iii).

26. The Working Party recommends that a release be granted under paragraph 7 for a period of five years, subject to the limitation that the figures of 400 tons of acetic acid and 15,000 gallons of wood preserve shall be used as the maximum quantities of domestic availability in calculating the standard ratio between such quantities of domestic availability and imports for the purpose of issuing import licences under the provisions of the Industrial Products Act.

E. Shark Liver Oil

27. The Ceylon representative stated that this was a product of the Government drugs factory which had been established in 1943 and its development had been stimulated by the abnormal conditions resulting from the war. Production had increased from 1944 until 1947 but after 1947 a sharp fall occurred as a result of foreign competition. The problem facing the industry was essentially one of marketing, rather than of price differential. When the local product gained the confidence of local consumers, it was believed that the industry would be firmly established and there would be an assured market for the expect output of 3,000 gallons per annum.

28. The Working Party agreed that the measure in respect of this item was eligible under paragraph 7, fulfilling the conditions of sub-paragraph 7(a)(i). The representative of Ceylon amended the original application with regard to the period for which a release was sought from five years to four years.

29. The Working Party recommends that a release be granted under paragraph 7 for a period of four years, subject to the limitation that the figure of 3,000 imperial gallons shall be used as the maximum quantity of domestic availability in calculating the standard ratio between such quantities of domestic availability and imports for the purpose of issuing import licences under the provisions of the Industrial Products Act.

F. Pyrodite (Insecticide)

30. The Ceylon representative stated that pyretherum was a low cost agricultural product of the Island which had no use other than in the manufacture of insecticide. Since an effective insecticide for combating mosquitoes was expensive and in short supply during the war, the Government factory established in 1943 commenced production of pyrodite. It was expected that in five years the production would be expanded to 18,000 gallons per annum. This represented only a small proportion of the country's total requirements. The measure was needed to ensure the establishment of the industry during the interim period when the local preference was for the imported product.

31. The Working Party agreed that the measure in respect of this item was eligible under paragraph 7 by virtue of the provisions of sub-paragraph 7(a)(iii).

32. The Working Party recommends that a release be granted for a period of five years under paragraph 7, subject to the limitation that the figure of 18,000 gallons shall be used as the maximum quantity of the domestic availability in calculating the standard ratio between such quantities of domestic availability and imports for the purpose of issuing import licenses under the provisions of the Industrial Products Act.

G. Rubber Products including Rickshaw Tyres

33. The representative of Ceylon stated that the six private companies established before the last war produced an aggregate of 175 tons of miscellaneous rubber products and it had been planned to expand production to 250 tons per year.

34. Since rubber is an indigenous raw material readily available in Ceylon, the Working Party agreed that the measure in respect of this item fulfilled the conditions of paragraph 7(a)(iii) and was therefore eligible under paragraph 7.

35. The Working Party recommends that a release be granted under paragraph 7 for the application of the measure for a period of five years subject to the limitation that the figure of 250 tons shall be used as the maximum quantity of domestic availability in calculating the standard ratio between such quantities of domestic availability and imports for

the purpose of issuing import licences under the provisions of the Industrial Products Act.

H. Paper

36. The representative of Ceylon stated that production is being developed and that a new factory equipped with modern machinery was being set up and would be ready for production late in 1951. The production would be 4,500 tons of printing and writing paper.

37. The existing plants and the new factory would use straw and fibres of the indigenous weed, illuk, for raw material which would otherwise be wasted. In view of the hydraulic power and salt available locally, it was hoped that even the necessary chemicals used by the industry would be locally produced in the near future.

38. The measure was needed to ensure that protection would be available to the industry when the expansion in output began to take effect in 1951.

39. The Working Party agreed that the measure was eligible under paragraph 7 by virtue of the provisions of sub-paragraph 7(a)(iii). The Ceylon representative requested that since protection from the measure would not take effect until two years from the date of the decision, the period for which the measure should be permitted should be six years.

40. The Working Party recommends that a release be granted under paragraph 7 for the period of six years, subject to the limitation that the figure of 4,500 tons of writing and printing paper shall be used as the maximum quantity of domestic availability in calculating the standard ratio between such quantities of domestic availability and imports for the purpose of issuing import licences under the provisions of the Industrial Products Act.

I. Brassware

41. The representative of Ceylon stated that the traditional cottage industry manufacturing brassware had received governmental assistance in recent years. Expansion of the industry had been contemplated to raise output to 1,500 tons per year. The Working Party was requested to consider the application in respect of this item under sub-paragraph

7(a)(iii) on the ground that scrap brass was used as raw material. The Working Party, however, agreed that brass scrap is not an indigenous raw material and therefore the provisions of sub-paragraph 7(a)(iii) were inapplicable. The representative of Ceylon amended the original application and requested that the item be considered under the provisions of paragraph 8 of the Article.

42. As a preliminary step contracting parties were requested in GATT/CP.3/65 to inform the Chairman of the CONTRACTING PARTIES whether they were materially affected and if so intended to lodge an objection.

43. The Working Party will submit a separate report on this item.

J. Ink

44. The representative of Ceylon stated that the Ceylon Government was encouraging production of ink to meet increasing demand. It was envisaged that annual production of ink would reach 25,000 gallons if adequate protection was afforded to the industry for the next few years. He pointed out that the industry used indigenous gall nuts and vegetable barks which were available in abundant quantities and were suitable for the manufacture of ink.

45. The Working Party agreed that the measure was eligible under the provisions of sub-paragraph 7(a)(iii). The Ceylon representative amended the application requesting release for a period of 4 years instead of 5 years.

46. It is recommended that a release be granted for the application of the measure for a period of four years subject to the limitation that the figure of 25,000 gallons shall be used as the maximum quantity of domestic availability in calculating the standard ratio between such quantities of domestic availability and imports for the purpose of issuing import licences under the provisions of the Industrial Products Act.

see separate sheet

K. Items considered under paragraph 5 of Article XVIII

47. As set out in paragraph 4 above, the following items which were contained in the original Ceylon application still appear in Schedule VI and consequently, the provisions of paragraph 7 of Article XVIII are not appropriate.

Plywood chests for packing tea and other Ceylon produce	Ex.III U 492
Glassware	Ex.III B 235
Chinaaware and Porcelain ware	Ex.III B 231
Leather Goods	III Q 430
Cotton textiles	Ex.III I 339

48. The Ceylon delegation, in a letter circulated in document GATT/OP.3/20/Add. 1, requested the CONTRACTING PARTIES to consider their application for the use of measures on those products under the provisions of paragraph 5.

49. The Working Party therefore examined the application under the following headings:

- (a) Eligibility: The Working Party agreed that the proposed measures in respect of these items were eligible for consideration under the provisions of the Article.
- (b) Contracting Parties materially affected: As a first step in determining the contracting parties materially affected with which the negotiations referred to in paragraph 3(b) should be carried out, the Working Party requested the contracting parties to inform the Chairman not later than Monday, 8 August whether or not they were materially affected. On the basis of the replies to this the Working Party will recommend a decision as to which of the contracting parties are materially affected.
- (c) Time Schedule: It is proposed in consultation with Ceylon and the contracting parties determined to be materially affected, to recommend a time schedule for the negotiations and it is proposed that this should be carried out with expedition after the conclusion of this session.
- (d) Decision: In order to expedite the decision on these items the Working Party recommends that the CONTRACTING PARTIES decide to grant a release under paragraph 5, in accordance with the terms of any agreement reached between Ceylon and the materially affected contracting parties subject to any limitations that may have been agreed upon between them. Such release, however, is to be effective only after the expiration of a period of 30 days from the notification by the Chairman to each contracting party of the results of the re-negotiations and in the absence of any objection to those results.

ANNEX: DETAILED LIST

The list of products in respect of which Ceylon has applied for release under Article XVIII is contained in column I. The import of these products will be subject to regulation only in cases where there is local production of similar goods of a comparable quality. Column II lists the tariff items under which the products which may be regulated fall.

I. Exact description of products which may be regulated under the Industrial Products Act.	II. Tariff Items under which the products fall.
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(1) <u>Plywood</u>	
(a) Plywood chests for packing tea and other Ceylon produce.	(a) <u>Ex</u> III U 492 - Chests and boxes for packing Ceylon produce including shooks or fittings n.e.s.
(b) Plywood panels and other ornamental plywood.	(b) <u>Ex</u> III H 336 - Manufactures of wood and timber n.e.s.
(2) <u>Glassware</u>	
Blown glassware, particularly tumblers, chimneys and bottles.	<u>Ex</u> III B 235 - Glass and glassware n.e.s.
(3) <u>China ware and porcelain ware</u>	
Glazed china ware and porcelain ware, particularly cups, saucers, and other domestic crockery, vases and ornamental ware.	<u>Ex</u> III B 231 - China ware and porcelain ware n.e.s.
(4) <u>Leather goods</u>	
(a) Boots, shoes & sandals.	(a) III N 384(ii) - Boots and shoes other than canvas, rubber-soled.
(b) Miscellaneous leather manufactures, particularly suitcases, wallets and handbags.	(b) III Q 430 - Manufactures of leather n.e.s.
(c) Volley balls	(c) <u>Ex</u> III U 536 (ii) - Other Sports materials.

I. Exact description of products which may be regulated under the Industrial Products Act.	II. Tariff Items under which the products fall.
<u>(5) Acetic acid and by-products from cocoanut shell distillation</u>	
(a) Acetic acid.	(a) III O 391(i) - Acetic acid.
(b) Wood preservative as a by-product.	(b) <u>Ex</u> III O 398 - Chemicals n.e.s.
<u>(6) Drugs</u>	
(a) Shark liver oil.	(a) <u>Ex</u> III O 403 - Drugs, medicines and medicinal preparations n.e.s.
(b) Pyrodite (insecticide)	(b) <u>Ex</u> III O 400 - Disinfectants, insecticides and weed killers.
<u>(7) Iron and steel products</u>	
(a) Rolled steel bars and rods	(a) <u>Ex</u> III C 246(ii) - Bars, rods and slabs, including blister, jumper and tool steel, not fabricated.
(b) Hoop and strip.	(b) III C 259 - Hoop iron including wire and iron and steel specially prepared for strap- ping packages.
(c) Wire nails.	(c) III C 276(ii) - Wire nails, n.e.s.
(d) Drawn wire.	(d) III C 275(ii)(b) Wire, black or galvanised n.e.s., not fabricated.
(e) Bolts and nuts.	(e) III C 247 - Bolts and nuts, black or galvanised.
(f) Pig iron.	(f) III C 262 - Pig iron.
(g) Merchant sections.	(g-h) <u>Ex</u> III C 260 - Manufactures of iron and steel n.e.s.
(h) Miscellaneous, viz., grills, gates, axes and crowbars.	
<u>(8) Cotton textiles</u>	
(a) Sarees, sarongs, camboys, shirtings and suitings.	(a) <u>Ex</u> III I 344 - Piece goods of cotton excluding lace and net, but including mosquito and curtain netting.
(b) Towels, bedsheets and other household linen.	(b) <u>Ex</u> III I 339 - Cotton manufactures, n.e.s.

I. Exact description of products which may be regulated under the Industrial Products Act.	II. Tariff Items under which the products fall.
(9) <u>Rubber goods</u>	
(a) Rubber soles and heels, erasers, brake blocks, car accessories, hose-pipes, tubing, water-bags, toys, playballs, and balloons.	(a) <u>Ex</u> III T 476 - Manufactures of rubber, n.e.s.
(b) Rickshaw tyres.	(b) III T 479(ii) - Solid tyres other than for motor vehicles.
(10) <u>Paper</u>	
(a) Printing paper.	(a) III R 451 - Printing paper, plain.
(b) Writing paper.	(b) III R 454(i) - Writing paper n.e.s., plain.
(11) <u>Lace (Cotton)</u>	
Lace, trimmings, tray cloths, dinner mats, doyleys, crotchet and tattings.	<u>Ex</u> III I 343 - Lace and net (of cotton) excluding mosquito netting.
(12) <u>Brassware</u>	
Locks, hinges, door handles and moulded brassware.	<u>Ex</u> III D 284 - Manufacture of brass n.e.s.
(13) <u>Ink</u>	
Writing ink including ordinary grades of fountain pen ink.	<u>Ex</u> III U 539 - Stationery other than paper and manufactures of iron or steel n.e.s. including writing ink.

