

GENERAL AGREEMENT ON TARIFFS AND TRADE

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REPORT OF

WORKING PARTY 7 ON THE APPLICATION OF CEYLON

UNDER ARTICLE XVIII

1. The Working Party was instructed "to examine the application of Ceylon for release under Article XVIII and to report thereon to the CONTRACTING PARTIES" (SR.7/8). It had before it the introductory document submitted by Ceylon (L/35) and a statement providing relevant information along the lines of the questionnaire drawn up at the Third Session (L/35/Add.1). In addition, the Ceylon delegation supplied at the request of the Working Party further statements (L/35/Add.2, 3 & 4) amplifying the information already provided and reporting on the operation of the release granted by the CONTRACTING PARTIES at their Third Session in 1949 (L/35/Add.5). The Working Party also had the benefit of the presence of the Minister of Industries and Fisheries of Ceylon who gave a detailed exposé and replied to questions on the long-term objectives of industrial development in Ceylon as well as the actual operation of the Industrial Products Act.

2. In the original application the Government of Ceylon sought releases on six groups of products, namely:

- (1) Towels and towelling,
- (2) Rubber footwear,
- (3) Cotton banians,
- (4) Paints, French polish and varnish,
- (5) Dried Fish, and
- (6) Tortoiseshell ware.

In the course of discussion the Ceylon delegation amended the application by the withdrawal of items (4) and (6) and by the substitution of other tariff item numbers for those appearing under (1) and (2) in the original application. As a result only items (1), (2), (3) and (5) remained in the application and none of these related to a product included in the Ceylon schedule of tariff concessions annexed to the General Agreement. This enabled the Working Party to consider the whole application under the provisions of paragraph 7 of Article XVIII.

3. In discussing the application at the plenary session the CONTRACTING PARTIES had noted that three of the items in question, namely towels and towelling, rubber footwear and cotton banians had been brought under regulation at various dates in 1951 and early 1952 without releases having been sought from the CONTRACTING PARTIES (SR.7/8). The representative of Ceylon referred to various circumstances in which emergency action had to be taken and these included substantial increases in imports which, by ousting local products from the home market, caused mounting unemployment and in one case

threatened the local industry with extinction. The representative of Ceylon went on to explain that the failure to submit an application for releases under Article XVIII was due to an oversight; in view of this explanation the Working Party did not pursue this question further but agreed that the specific period for which a release might be granted in respect of any of these items should run from the date on which the product was actually brought under regulation.

4. The Working Party noted that it was the intention of the Ceylon Government to apply the Industrial Products Act to the four items in question on the same basis as to those products in respect of which releases were granted by the CONTRACTING PARTIES at the Third Session (Cf. GATT/CP.3/73/Add.1). The Ceylon representative recalled that the Industrial Products Act No. 18 of 1949 was designed to facilitate the sale of locally manufactured products by regulating the importation of industrial commodities from abroad. Under the provisions of the Act, an importer, in order to obtain a licence to import a specified quantity of the products concerned, can be required to buy, at a price fixed from time to time under the Act, a certain quantity of the corresponding local product. 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 and the "standard price" were to be determined and published in the Government Gazette from time to time under the provisions of the Act.

5. The representative of Ceylon explained to the Working Party that in fixing the standard ratio account was taken of two factors, namely, current domestic production and estimated domestic consumption. As a general rule, the standard ratio represented the ratio between current domestic production on the one hand and estimated domestic consumption minus domestic production on the other. In addition, account was taken of the stock position where it was of an abnormal and burdensome character.

6. The representative further explained that the Act was designed primarily to ensure the distribution of locally manufactured products. As a large proportion of the import and export trade of the country was in the hands of non-nationals who had established foreign trade contacts, experience had shown that importers were reluctant to undertake the distribution and sale of locally-produced commodities. The machinery of the Act, in the practical operation of which the import trade fully co-operated, required importers to assume responsibility for the distribution of regulated local products. An Industrial Products Regulation Board, on which the trade was represented, had been established to advise the Minister as to what articles or commodities should be declared industrial products, what ratio should be fixed under Section 9 of the Act, how standard prices should be determined and what the standard grades (i.e. the grades of the products to be regulated under the Act) should be. In addition, the particular branch of the import trade affected by any proposed measure was consulted and its advice taken into account in all these matters. No quantitative restriction by way of an upper limit on imports was fixed. Once the existing distributive system developed the habit of organising sales of comparable and competitive local products, the need for applying the Act in respect of such products would be eliminated.

7. Some members of the Working Party expressed concern about the appropriateness of the proposed measures for economic development in the terms of Article XVIII. It was their view that although the Government of Ceylon had in the past three years not availed itself of the various releases granted by the CONTRACTING PARTIES except in regard to three or four items and had exercised considerable restraint in the actual application of the Industrial Products Act, the proposed measures set up a precedent which, if generally adopted and less cautiously applied, would lead to undesirable consequences from the view-point of international trade. In this connection the Working Party took note of the statement by the Ceylon representative that the objective of the Ceylon Government to secure a fair and adequate distribution for local products in markets dominated by established concerns not interested in promoting their sale, could not, in its view, be achieved through other measures, such as higher import duties or government subsidies. The Working Party took this into account particularly in considering whether the measures were "necessary" within the meaning of paragraph 7 (a) (iii).

8. 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.

9. The representative of Ceylon reaffirmed that the regulation of any imports under the Act would be entirely non-discriminatory as between sources of supply.

10. The considerations and recommendations of the Working Party on the four products are set out in paragraphs 11-28. It was decided, in agreement with the representative of Ceylon, that the recommendations 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; it was understood that in determining the standard ratio the figure to be used for the domestic production (including the accumulation of stocks which it was desired to dispose of) would in no case exceed this maximum; and
- (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.

Towels and Towelling

11. The Ceylon representative stated that the application in respect of these products was submitted under paragraph 7 (a) (iii) of Article XVIII to enable the Ceylon Government to regulate under the Industrial Products Act, for a period of five years from 1 July 1951, the import of the goods falling under the following tariff items in the Ceylon Customs Tariff of 1949:

- 489 Mill-made Turkish towels;
- 490 Mill-made Turkish towelling;
- 495 Towels shown, to the satisfaction of the P.P.C., to have been imported by and for use in hotels and rest houses approved by the Director of the Tourist Bureau;
- 496 Towels and towelling n.e.s.;
- 515 Towels and towelling n.e.s. (except mill-made Turkish towels and towelling).

12. The Ceylon Delegation described in a written statement (L/35/Add.2) the projects which had been adopted for the development of both cotton cultivation and the hand-loom industry. The Government had had expert advice regarding the hand-loom industry and had engaged experts to advise on production methods and other related matters. It was expected that by replacing the primitive looms hitherto used with improved types productivity could be raised five times. The Government was convinced that in a rural economy burdened with the waste of under-employment the peasantry must be given every inducement not only to grow crops for which their land was suited but also to process the bare necessities of life such as simple textile goods out of raw materials locally available. As for the raw material to be used in this industry the Government had plans for undertaking cotton cultivation on an intensive scale and for inducing the peasants to cultivate cotton on a regular rotational basis. It was planned to bring about 200,000 acres of land under cotton and this would be doubled later. Financial provision had been made for a modern spinning mill of 25,000 spindle capacity, and one-fifth of its yarn production would be turned over to the hand-loom industry. With increased cotton production it was hoped that the rural population could be assisted to turn out their own basic textile requirements. In the light of this information the Working Party considered that the measure fulfilled the general requirements of Article XVIII as a measure for economic development and also the specific conditions set out in paragraph 7 (a) (iii).

13. The Working Party noted that, although the industry in the interest of whose development the measure had been taken produced only towels and towelling of the hand-made honeycomb and huckaback type, imported mill-made towels and towelling of the Turkish variety which were substantially more expensive than the local variety, had also been brought under regulation. Some members of the Working Party expressed doubts about the consistency between this fact and the specific condition set forth in paragraph 10 (a) above. The Ceylon representative maintained that mill-made towels and towelling including the Turkish type competed directly with the local hand-loom production and that import regulation, to be effective for the envisaged

purpose, could therefore not be limited to imported hand-loom towels and towelling. He assured the Working Party that the conditions in manufacture (mill-made and hand-made) did not prevent identification of comparable grades, sizes and types of towels. The Working Party generally agreed that in view of the special market conditions described in paragraph 6 above it should be permissible for the Ceylon Government also to regulate the import of mill-made towels including the Turkish type but expressed the hope that in the actual application of the Act the Ceylon Government should pay special attention to the desirability of exempting the Turkish type from the operation of the Act at as early a date as possible.

14. The Ceylon representative stated that the principal problem facing the industry was the accumulation of stocks. On the basis of estimated stocks of over 150,000 units the standard ratio for regulating imports had been fixed at 5 domestic to 1 imported when the Act was first applied to these products in July 1951, but with substantial reductions in estimated stocks the ratio had now been reduced to 2 domestic to 1 imported, thus giving a greater latitude to importers in regard to those types of towels for which there was a demand which could not be met by local production. It was envisaged that domestic production, estimated at 400,000 units in 1952, would be raised by 25,000 units each year, to 500,000 units in 1956. In order to ensure that the whole of domestic production would not be sheltered by the protection for the duration of the release, however, it was agreed that the quantity of domestic availability for purposes of calculating the standard ratio should be limited to 250,000 units.

15. The Working Party recommends that the CONTRACTING PARTIES grant a release in respect of this item under paragraph 7 (a) (iii) of Article XVIII, for a period of five years from 1 July 1951, subject to the limitation that the figure of 250,000 units of towels and towelling 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.

Cotton Banians

16. The representative of Ceylon stated that the application in respect of this item was made under paragraph 7 (a) (i) of Article XVIII to enable the Ceylon Government to regulate under the Industrial Products Act, for a period of three years from 1 May 1952, the import of the product falling under Tariff Item No. 543 of the Ceylon Customs Tariff of 1949.

17. The Ceylon representative stated that the industry was established in 1941 and was protected during the initial period of its development by the abnormal conditions arising from the War. In the immediate post-war period actual production was substantially lower than the capacity of the industry due to the difficulties encountered in obtaining sufficient quantities of yarn. The assistance of the government in re-organizing the collection and distribution of local and imported yarn supplies, however, had made possible

considerable increases in production since 1948. Insofar as locally produced cotton and yarn were used in the production the position of this particular branch of the textile industry was the same as that referred to above in respect of cotton towels and towelling. As manufacture was concentrated in a few units, problems of quality control, standardization, etc., that arose in the hand-loom industry, did not exist to the same extent. The Government was hopeful that this industry would not require further assistance after the period for which release was sought and that it would be able to exist competitively with the imported products. In the light of this information and the statistics supplied by the Ceylon Delegation (cf. L/35/Add.3), the Working Party concluded that the measure fulfilled the general requirements of Article XVIII and the specific conditions of paragraph 7 (a) (i).

18. The Ceylon representative informed the Working Party that although the industry had produced no more than 77,594 dozens of banians in 1951, the level of production was expected to increase in the following years as a result of a further improvement in the yarn supply situation and the application of the Industrial Products Act. In the six-month period since May 1952 production had reached the annual rate of 154,000 dozens. It was expected that production would reach 250,000 dozens in 1953 and 300,000 dozens in 1954. In order to retain an element of competition and to ensure that protection would be progressively reduced during the period of the release, it was agreed that the maximum quantity of domestic availability for purpose of regulating imports should be fixed at 200,000 dozens.

19. The working Party recommends that the CONTRACTING PARTIES grant a release in respect of this item under paragraph 7(a) (i) for a period of three years from 1 May 1952, subject to the limitation that the figure of 200,000 dozens of cotton banians be used as the maximum quantity of domestic availability in calculating the standard ration between such quantities of domestic availability and imports for the purpose of issuing import licences under the provisions of the Industrial Products Act.

Dried Fish

20. The representative of Ceylon stated that the application in respect of this item was submitted under paragraph 7(a) (iii) of Article XVIII to enable the Ceylon Government to regulate under the Industrial Products Act, for a period of three years, the import of the product falling under the following tariff item in the Ceylon Customs Tariff of 1949:

71 (ii) Fish, dried, cured or salted.

21. The representative of Ceylon emphasized the importance of the development of the fishing industry to the economy of Ceylon, which up to the present depended to a dangerously high extent on imports for food.

supplies. He described in a written statement (L/35/Add.2) the project which has been adopted for the reorganization and development of the fishing industry of which the processing of dried fish was an essential part. The plan envisaged the adoption of modern craft and gear for fishing and modern methods of curing involving the use of elaborate equipment. There was also contemplated a cooperative distribution scheme for marketing. It was suggested that the present prices of imported dried fish, which were processed in a primitive way, were not a fair criterion for judging the price and competitiveness of the domestic products of superior quality processed by modern methods. It was, however, expected that in three years the domestic industry would be able to compete with imports without governmental assistance. The Working Party was satisfied that the measure fulfilled the general requirements of Article XVIII as a measure for economic development and considered the application in the light of the specific conditions laid down in paragraph 7 (a) (iii). It was agreed that the ^{measure} was necessary to the development of the industry for the processing of the local fisheries products. The Working Party considered that the development of this industry would contribute to the achievement of a fuller and more economic use of Ceylon's natural resources and manpower and to the elevation of the standard of living in the country. In view of the prospect of the industry's attaining a fully competitive position within a short period, the Working Party also felt that the measure was unlikely to have a harmful effect in the long run on international trade.

22. The Ceylon Delegation informed the Working Party that the country at present imported 600,000 cwt. per annum and that the quantity of locally produced dried fish which the Government considered it necessary to put onto the market through the regulatory mechanism of the Industrial Products Act would be as follows:

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| 1952 | 122,850 cwt. |
| 1953 | 129,120 " |
| 1954 | 132,300 " |
| 1955 | 140,000 " |

It was agreed that the quantity of domestic availability for purposes of calculating the standard ratio should be limited to 140,000 cwt.

23. The Working Party recommends that the CONTRACTING PARTIES grant a release in respect of this item under paragraph 7 (a) (iii), for a period of three years from 8 November 1952, subject to the limitation that the figure of 140,000 cwt. 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 Production Act.

Rubber Footwear

24. The Ceylon representative stated that the application in respect of this item was submitted under paragraph 7 (a) (iii) of Article XVIII to enable the Ceylon Government to regulate under the Industrial Products Act the import of:

rubber footwear including rubber shoes with canvas and cloth uppers, waterproof rubber shoes, all-rubber shoes, and rubber slippers and sandals (excluding boots of all description and shoes with leather uppers),

which fell under the following tariff items in the Ceylon Customs Tariff of 1949:

- Ex 542 (i) rubber-soled shoes (with canvas or cloth uppers),
- Ex 542 (ii) other shoes (waterproof rubber shoes and all-rubber shoes), and
- Ex 548 rubber slippers and sandals.

25. In its written statements in L/35/Add.2 and 4, the Ceylon delegation recalled that a release had been obtained in 1949 for the regulation of two related products, namely rubber soles and heels. The intention of the Ceylon Government was to promote the development of the rubber footwear industry by encouraging the improvement of manufacturing processes, the installation of up-to-date machinery and the training of skilled labour. As had been noted by the CONTRACTING PARTIES in 1949, the industry had been established primarily for the processing of a raw material readily available in Ceylon. With the raising of standards of living in Ceylon, as well as in South-Eastern Asia generally, the Ceylon Government expected that the industry would be provided with expanded markets both domestically and in neighbouring countries. The development of this industry would contribute greatly to the fuller utilization of the natural resources and the manpower of Ceylon. With increased scale of production costs were expected to fall so rapidly that the industry would shortly attain a position where it could compete with foreign products and would no longer rely on abnormal protection under the Act. In the light of this information and having regard to the special market conditions in Ceylon, the Working Party was satisfied that the measure fulfilled the general requirements of Article XVIII for economic development and the specific conditions of paragraph 7 (a)(iii).

26. The Working Party was informed that in 1951 the factories produced 611,142 pairs of rubber footwear of the types mentioned in paragraph 24, but that the potential capacity of the local industry was 1,500,000 pairs per annum. It was stated that in view of, among other things, the adoption by schools of rubber footwear as standard equipment, there would be a very sharp increase in consumption in the next few years. Active health education and the general raising of living standards as a result of several develop-

mental schemes under the Colombo Plan, for instance, would, in the view of the Ceylon Government, certainly result in a substantial increase in consumption. In the light of this information the Working Party agreed that the domestic availability to be used in fixing the standard ratio should be limited to 600,000 pairs.

27. In regard to the high standard ratio of 5 domestic to 1 imported at present in force the Ceylon representative assured the Working Party that his Government would give consideration to the compatibility of the ratio with the figure of 600,000 pairs which was fixed as the maximum domestic availability. He further explained that by allowing the importer to choose among a wide range of rubber footwear for the fulfilment of the requirement of local purchase under the Act, considerable flexibility had been provided, and that this flexibility had been well received by the trade. The freedom given to importers to choose among local products would also provide the local industry with an indication of the most advantageous direction of expansion in anticipation of the termination of the abnormal protective measure.

28. The Working Party recommends that the CONTRACTING PARTIES grant a release in respect of this item under paragraph 7 (a)(iii), for a period of four years from 20 September 1951, subject to the limitation that the figure of 600,000 pairs be used as the maximum quantity of domestic availability in calculating the standard ratio between such quantities of domestic availability and imports for the purposes of issuing import licences under the provisions of the Industrial Products Act.