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GENERAL AGREEMENT ON TARIFFS AND TRADE

CONTRACTING PARTIES

Tenth Session

FINAL REPORT OF WORKING PARTY 6 ON ARTICLE XVIII APPLICATIONS

Ceylon - Ceramic Ware and Petroleum Products

1. The Working Party was instructed by the CONTRACTING PARTIES to examine applications for releases under Article XVIII, consisting of one application by the Government of Haiti and two by the Government of Ceylon. The Working Party in its first report of 21 November 1955 (L/454) submitted recommendations concerning Haitian tobacco. The present report, which covers the two applications by Ceylon, therefore completes the work assigned to it.

A. CERAMIC WARE

2. The Working Party has considered the statement submitted by Ceylon in SECRET/54 in support of its application for a release under Article XVIII with respect to two items of ceramic ware. As these items are among those on which Ceylon is renegotiating under Article XXVIII for the withdrawal of concessions, Ceylon has asked therefore that the CONTRACTING PARTIES consider the case under paragraphs 6 and 7 of Article XVIII, which relates to items not bound in the appropriate schedule. In this connexion the representative of Ceylon explained that the application was not being made under paragraph 8 of Article XVIII which governs applications for renewals of releases because the conditional release granted on 13 August 1949 never came into effect. The Working Party agreed to consider the application on the basis of paragraphs 6 and 7 with the understanding that a release, if granted, would be made conditional upon the removal of the items from Ceylon's schedule.

3. In this connexion, the representative of Ceylon was asked whether in addition to the proposed measure for which a release was sought his Government intended to increase the relative rates of duty when the Article XXVIII renegotiations had been completed. The Working Party took note of the Ceylon representative's reply that the reason for the unbinding was solely to give Ceylon the freedom to apply tariff protection when the Industrial Products Act is no longer applied.

4. (a) The measure which Ceylon proposes to apply to these items for a period of five years is the Industrial Products Act No.18 of 1949, under which on the basis of estimated domestic consumption and production a ratio can be prescribed

from time to time which determines 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. The representative of Ceylon explained to the Working Party that as a general rule the standard ratio represented the ratio between current domestic availability on the one hand and estimated domestic consumption minus domestic availability on the other. In applying this ratio the maximum sales of the domestic product permissible would be limited to 900 tons per year.

(b) The licensing system ensures the maximum imports within this ratio in that it provides that the domestic purchase coupon, which the importer is required to buy, be negotiable.

(c) Imports will be subject to regulation only in cases where there is local production of similar goods of a comparable quality. In applying the criteria of "comparable quality", the Ceylon delegate stated that the control of imports would have to be applied on goods that directly compete with the local product.

(d) The representative of Ceylon considered that this measure was essential in order to permit the operation and development of a new factory which had been established for the production of ceramic ware. The range and type of goods to which the measure relates are:

<u>New tariff no.</u>	
Chinaware domestic crockery)	666-03.01
Porcelainware and ")	
Chinaware & Porcelain, other	666-03.99

5. The Working Party considered whether the measure contemplated would fall within the provisions of paragraphs 6 and 7 of Article XVIII and decided with reference to paragraph 6 that the measure was non-discriminatory, in that there was no limitation in the source from which the regulated product might be imported as between hard and soft currency areas. With relation to paragraph 7(a), the Working Party noted that the Government of Ceylon was applying for a release under paragraph 7(a)(iii) and considered on examination that the measure came within the provisions of that sub-paragraph for the following reasons:

- (a) It was designed to promote the development of a particular industry for the processing of indigenous natural deposits of kaolin, felspar and quartz which would otherwise be wasted;
- (b) It would enable the achievement of a fuller and more economic use of Ceylon's natural resources and manpower;

(c) It was necessary, in the long run, to raise the standard of living within Ceylon and it was unlikely to have a harmful effect, in the long run, on international trade.

6. The Working Party further decided that the conditions of paragraph 7(a)(2) were met, as Ceylon was completely independent as regards the import of raw materials apart from a small proportion of ball clay; and noted with reference to paragraph (7)(b), that if Ceylon were granted a release, it had undertaken to apply the measure in such a way as to avoid unnecessary damage to the commercial or economic interests of any other contracting party.

7. In the circumstances and in the light of this examination, the Working Party agreed to recommend to the CONTRACTING PARTIES that Ceylon be granted a provisional release in the following terms;

DECISION BY THE CONTRACTING PARTIES UNDER ARTICLE XVIII, PARAGRAPH 7

REGARDING the application by the Government of Ceylon under Article XVIII with respect to the following items:

	<u>New tariff No.</u>
Chinaware domestic crockery)	666-03.01
Porcelainware and ")	
Chinaware and Porcelain, other	666-03.99

which are currently the subject of negotiation by Ceylon under Article XXVIII in accordance with Ceylon's notification to the CONTRACTING PARTIES of 5 March 1955 (SECRET/28).

THE CONTRACTING PARTIES

DECIDE to concur in the measure and to grant a release under paragraph 7 of Article XVIII for a period of five years from the effective date of the release and subject to the limitation that the figure of 900 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 and provided that this release shall not become effective unless and until Ceylon is free to withdraw these items from Schedule VI.

B. PETROLEUM PRODUCTS

8. The Working Party next examined the application of Ceylon for a release under Article XVIII so as to permit Ceylon for a period of ten years to impose a quantitative restriction on the importation of specified petroleum products if at any time this should prove necessary in order to ensure the establishment and development of the domestic petroleum refinery which Ceylon proposes to establish. In considering this request the Working Party had available to it Ceylon's application and supporting statement (SECRET/55, 7 November 1955), and the text of the relevant regulation under the Import and Export Control (Continuation) Act which would provide the government with the necessary authority to act if the release is granted (W.10/8). It also had the text of the additional supporting statement made in the plenary session of 14 November 1955 by the Leader of the Ceylon delegation (W.10/11).

9. The representative of Ceylon explained that the three petroleum companies which presently distribute petroleum products in Ceylon had agreed at the request of the Government to commence to build a refinery in 1956 with an initial capacity of 900,000 tons rising by 1966 to 1,050,000 tons. It was expected that the refinery would commence operations some time in 1958. In order to induce these companies and a forth company to invest the necessary capital in this large undertaking, the Government of Ceylon was required to guarantee that quantitative restrictions on imports would be applied if this should prove necessary to ensure the refinery a market for its output. The companies, on the other hand, had agreed that products would be sold in Ceylon at a price not exceeding the landed cost of similar products. This would ensure the consumers in Ceylon obtained these products at prices not exceeding prevailing world prices.

10. Ceylon applied for the release under paragraphs 6 and 7 of Article XVIII. In respect of paragraph 6 it was established that the products are not included in Ceylon's Schedule, that any measures that might be applied would be applied in a non-discriminatory manner and that the release requested was for ten years. The Ceylon Government is not committed to protect the companies against imports after that time.

11. With respect to paragraph 7(a) the representative of Ceylon explained that sub-paragraph (i) was not applicable because the industry is not yet in existence and that sub-paragraphs (ii) and (iii) would not apply since the refinery must import crude oil. The Working Party was then asked to examine the application in terms of sub-paragraph (iv).

12. The Working Party examined, with the representative of Ceylon, the possibility of using some other measure than a quantitative restriction in order to accomplish the purpose desired. The representative of Ceylon explained that the agreement reached with the companies was on the basis of the use of quantitative import restrictions. This had been considered necessary for a number of reasons. It was not at all certain that restrictions would ever need to be applied since it was expected that the refinery could compete successfully with normal imports, and the companies had in fact guaranteed to supply the products to consumers in Ceylon at prices not exceeding world

prices. The right to impose a quantitative restriction, therefore, was necessary only in the event that abnormal competition might be encountered. The representative of Ceylon explained that unless and until the refinery was capable of meeting all of the domestic demand a tariff would have the effect of increasing prices to consumers and would lead to an increase in the general level of costs in the country. Furthermore, continuous limitations on imports were not expected to be necessary.

13. Finally, the representative of Ceylon assured the Working Party that Ceylon would, in applying the proposed measure, fully observe the provisions of sub-paragraph (b) of paragraph 7.

14. In the light of this discussion the Working Party recommends that the CONTRACTING PARTIES grant to Ceylon the requested release and submits the following decision for adoption by the CONTRACTING PARTIES:

RELEASE GRANTED TO CEYLON UNDER PARAGRAPH 7
OF ARTICLE XVIII REGARDING PETROLEUM PRODUCTS

The CONTRACTING PARTIES

DECIDE to grant a release to Ceylon under Article XVIII, paragraph 6 and 7(a)(iv) from its obligations under Article XI in respect of the petroleum products mentioned in the following paragraph for a period of ten years from the date on which the refinery commences commercial operations so as to permit Ceylon to apply a quantitative restriction on the importation of such products whenever this is necessary to enable the domestic petroleum refinery, with a maximum capacity of 1,050,000 tons, to market its products, on the understanding that the refinery would begin to operate before the end of 1958 and that the actual date of commencement of operations would be communicated to the CONTRACTING PARTIES by the Government of Ceylon, provided that Ceylon will not use this authority in such a way as to enable the domestic refinery to sell these petroleum products at above the landed cost in Ceylon of like products.

The products covered by this release are: motor gasoline, kerosene, aviation turbine fuel, gas oil, marine diesel fuel, furnace oil and heavy fuel oil.