CONSULTATION UNDER ARTICLE XII:4(b) WITH

C E Y L O N

Basic Document prepared by the Secretariat

I. SYSTEM AND METHODS OF THE RESTRICTIONS

(a) Legal Basis of the Restrictions

The legal basis for the import restrictions in force in Ceylon is the Import and Export Control (Continuation) Act, No. 27 of 1950, which extends the validity of the Defence (Control of Imports) Regulations and certain sections of the Defence (Miscellaneous) Regulations. These Regulations were first given the force of law by virtue of the Supplies and Services (Transitional Powers) Act, 1945, of the United Kingdom. Under the Act of 1950 they will remain in force until rescinded by Order of the Government.¹

Under these Regulations, the Government has broad powers to prohibit or restrict the import of any goods either from all sources or of specified origin, and to prescribe any conditions or exemptions relating to imports. The Government may order that imports be not allowed except under the authority of a licence, and may issue Open General Licences authorizing free imports either without limitation or up to a prescribed limit.

The text of Act No. 27 of 1950, together with the Defence Regulations which form part of the Act as Schedules annexed thereto, is given in Annex I.

Under this Act and the Defence Regulations, the import control policies have been directed towards the regulation of the country's imports in the light of its balance-of-payments position, the strengthening of the overall reserve position of the sterling area, and the diversion of the country's trade into the hands of the Ceylonese nationals (Ceylonization).

¹ There has been enacted an Imports and Exports (Control) Act No. 9 of 1955, a legislation designed to consolidate the various measures taken under the Defence Regulations. The new Act, which gives the Government broad powers for the enforcement of controls and regulations over imports and exports, has not been implemented by the issue of regulations. Pending the bringing into operation of this Act, import restrictions will continue to be based on the Act of 1950.
Import regulation measures are also in force for certain products\(^1\) pursuant to the provisions of the Industrial Products Act, No. 18 of 1949, for the purpose of giving protection to new industries through the required purchase by importers of domestic products when similar products are imported. Likewise, the import of certain \(\text{Food items}^2\) is regulated under the provisions of the Agricultural Products (Regulation) Ordinance, No. 29 of 1939. Measures taken under these legislations are not related to balance-of-payments considerations and are therefore outside the scope of the present document.

(b) Administration of the Restrictions

Import policy is formulated by the Minister of Commerce and Trade, subject to the approval of the Cabinet. The responsibility for administering the regulations rests with the Controller of Imports and Exports whose office constitutes a Department of the Ministry of Commerce and Trade. The policy for any licensing period (the "import control year" begins on 1 July and ends on 30 June) is made known by the Controller by means of a Notification which is published in the Government Gazette. Any changes that may be introduced are also announced in the Gazette.

Before an intending importer may import any goods which are subject to licence, he must receive from the Controller of Imports and Exports a validated licence which is obtained by submitting an application on the prescribed form. Commodities listed in an Open General Licence may be imported freely by any person or firm without an individual licence, subject to any conditions that may be prescribed in the Open General Licence.

In connexion with the policy of "Ceylonization", importers wishing to qualify as "Registered Ceylonese Traders" for purposes of the licensing regulations must register themselves with the Controller of Imports and Exports. Under the relevant Notification (No.15/53 of 3 June 1953; see Annex II) individuals, firms and public companies are eligible for registration if they fulfill certain conditions. Individuals must be citizens of Ceylon; firms must have at least 51 per cent of their share capital held by citizens of Ceylon; and public companies must be incorporated in Ceylon with their shares quoted in the local stock market. The majority of the directors and partners of a firm or company must be citizens of Ceylon. The individuals or directors or partners must not hold office nor have an interest in a non-national trading establishment which has the purpose of defeating the Government policy of Ceylonization. In all cases, not less than 50 per cent of the staff receiving emoluments of Rs. 500/- per month or above, and not less than 75 per cent of all the other staff must be citizens of Ceylon.

\(^1\) At present, these consist of plywood chests, cotton sarongs, towels and towelling and ceramic ware.

\(^2\) Chillies, tamarind, red onions, coffee, pepper, turmeric, mustard and green gram are currently covered by this legislation. In most of the cases, however, the regulation is not effective as the prevailing domestic prices are not below the levels at which purchases of local products by importers would be required.
Further, the Controller may at his discretion refuse any application for registration, or cancel any existing registration. An annual fee of Rs.250/- is levied for each registration.

The purpose of the policy, as mentioned above, is to divert the country's trade into the hands of the Ceylonese nationals and to create greater employment opportunities for them. The policy has so far been applied mainly in the field of "new trade" in the sense of trade with countries with which Ceylon has had very little trade in the past or with which trade was substantially interrupted during the last war. Thus, the afore-mentioned purpose is to be achieved with the least possible damage to the interests of established importers. Following the usage of the Ceylonese import control authorities, the following countries from which imports are partly or completely controlled for Ceylonization purposes, will be, for convenience, referred to in this document as the "Ceylonized trade countries":

Albania, Austria, Bulgaria, China (mainland), Czechoslovakia, Germany, Hungary, Japan, Poland, Rumania, Spain, USSR, and Yugoslavia.

Payments for imports are regulated as a part of the general exchange controls applied under the Exchange Control Act, No. 24 of 1953, which superseded earlier Defence (Finance) Regulations. In applying for an exchange permit an importer must present to the Exchange Control Department of the Central Bank of Ceylon, which is the agency administering the control, certain documents, such as invoices and customs papers, and in cases where an individual import licence is required under the import control regulations, the exchange copy of the licence. The import licence and the exchange permit are separate documents. Foreign exchange, however, is normally granted without any restriction upon presentation of the required papers.

(c) Methods used in Restricting Imports

Under the authority of the Defence (Control of Imports) Regulations, the Government has taken action whereby all imports are made subject to licence. Open General Licences and other measures permitting imports without individual licences, however, are also in force. The Import Control policy governing the use of the various types of licences in the twelve-month period from 1 July 1956 to 30 June 1957 is contained in a Gazette Notification which is attached hereto as Annex III. The licensing authorities are currently engaged in drawing up new regulations aiming at simplifying the licensing system and procedures. Pending the issue of a new Notification, the import policy for the year ending 30 June 1957 continues to apply.

Under the current import policy as set out in the above-mentioned Notification, imports are admitted under the following different procedures:

(i) Open General Licences
(ii) General Import Licences
(iii) Individual Import Licences
(iv) State Trading.

1 i.e. Federal Republic of Germany and Eastern Germany.
(i) Open General Licences

Four Open General Licences are in force applying, with respect to the commodities specified therein, to different groups of countries. Open General Licence No.1 permits the import of a wide range of goods of all classes and groups (in fact, all goods except some thirty items) from all countries except those in the dollar area and the "Ceylonized trade countries". Open General Licence No.2 permits the free importation of over 200 essential items from the dollar area. Open General Licence No.4 covers additional goods (viz., liquors, watches and clocks, textiles and motor cars) which can be freely imported from the same countries as covered by Open General Licence No.1 except continental EPU countries. Open General Licence No.5 permits the import of maldive fish from the Maldive Islands. (Open General Licence No.3, covering meat imports from certain countries, has been rescinded).

Further details concerning the geographic coverage of the Open General Licences will be given in Section (f) below.

(ii) General Import Licence

None of the Open General Licences apply to imports from the Ceylonized trade countries. Most of the goods covered by Open General Licences may be imported, however, from Austria, Czechoslovakia, Germany, Japan, Poland and Yugoslavia (but not from the other Ceylonized trade countries) under General Import Licences which are issued only to Registered Ceylonese Traders. Such licences permit the importers who have obtained them to import from these sources the goods in question without limit as to value or quantity.

(iii) Individual Licences

All imports not covered by an OGL or General Import Licence require an individual licence. For a number of commodities, mostly those which are being produced locally, it is stated in the Gazette Notification that no licences will be issued. For other goods licences are, according to the Notification, issued at the discretion of the Controller, but in fact are being issued without limitation as to value or quantity. In most cases, however, such licences are issued to Registered Ceylonese Traders only but in certain cases, licences are also issued to other importers on the basis of past performance.

(iv) State Trading

Some essential items such as rice, wheat flour and sugar are imported only on Government account. The purpose of such State trading is general to ensure adequate supplies to the country without interruption and at reasonable prices. The prices of all these goods are controlled.
Goods covered by Open General Licences can be imported freely without limitation by any person or firm from the sources specified therein. Goods covered by General Import Licences can be imported freely from the specified sources by Registered Ceylonese Traders. Only those imports which are not covered by such General Licences require an individual licence, and only on these imports can restriction be applied through the non-issue of licences or by the issue of licences for a specified value or quantity. For most of the imports at present subject to individual licensing, licences are issued freely to Registered Ceylonese Traders; in many cases, licences may also be issued to other importers on the basis of previous performance. The practice, which existed in previous years, of fixing monetary ceilings (global quotas) for individual items or groups of items having been discontinued, no limitation is placed on the value or quantity of such imports. Only in the case of a limited number of commodities has it been declared that no licences will be issued (see Section (d) below).

For the purposes of Ceylonization most imports from a small number of countries are covered by General Import Licences issued to Registered Ceylonese Traders only (as distinct from Open General Licences applying to similar imports from other sources and valid for all importers); for certain other imports from all countries or from specified sources, licences are issued without limitation to Registered Ceylonese Traders, while for non-national importers licences may be issued up to a limit only or, in a few cases, withheld. In the view of the Ceylon Government, therefore, the licensing arrangements relating to these imports, while having the effect of facilitating imports by nationals and hampering imports by non-nationals, cannot be regarded as measures of import restriction, as they are not intended to reduce or limit the amount of the imports concerned.

(d) Categories of goods affected by the restrictions

The current policy applying to all imports under individual licence is described in the lists annexed to the Government Notification contained in Annex III. The list on pp. 1648 to 1651 relates to imports from all sources. The list on pp. 1651 to 1652 applies to EPU countries, excluding Austria and Germany. The list applying to imports from dollar sources is given on pp.1652 to 1654. All imports from China, Spain, the USSR and certain Eastern European countries are subject to individual licence, as described on p.1655 of the Notification.

As noted above, most of the licensing requirements are maintained for the purpose of Ceylonization and not for the restriction of imports, licences being issued freely to Registered Ceylonese Traders. Only in the case of the following items, as indicated in the relevant list, are licences not being issued to any importer:
* Paddy
* Rice
* Wheat

** Grain pulses: kesali, dhall and long dhall

* Flour other than corn flour

Aerated and mineral waters

\[
\text{Coconuts, fresh}
\]

* Red onions

Spirits: arrack

* Sugar, refined (except palmyrah sugar candy from India)

* Sugar, unrefined (except jaggery from India and Pakistan)

Tea

\[
\text{Any product of rice}
\]

** Opium

Citronella Oil

Coconut Oil

Gingelly Oil

Earthenware pots and pans

Furniture, wooden

Coir manufactures

Coir yarn

Pyrotechnic products (fireworks)

Baskets and basketware

Reconstructed, imitation or synthetic stones

Matches

Manufactures of straw, grass, rush and like material

Wooden toys, clay toys, rubber toys and rubber balloons

Cotton shirts, above a specified price

Bunians, above specified prices

Men's boots and shoes of certain types and sizes, above specified prices

*** Gold and silver bullion

* These goods are imported on Government account.

** Import controlled for public health reasons.

*** Import and Export to give effect to exchange control.
The non-issue of licences for these products applies to their importation from all countries. In the case of the dollar area, in addition to these items, no licences are issued for the import of confectionery and toys and parlour games, while for beer, ale, porter and all other malt liquors and whisky licences are issued only for token import quantities.

The Government of Ceylon considers that the import restrictions that it applies for balance-of-payments reasons under Article XII of GATT, affect the import of the above-mentioned thirty odd items only.

(e) Proportion of Imports covered by each import procedure

Breakdown of imports according to licensing category

<table>
<thead>
<tr>
<th></th>
<th>1954</th>
<th>1955</th>
<th>1956</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Value</td>
<td>Percentage</td>
<td>Value</td>
</tr>
<tr>
<td>Open General Licences</td>
<td>693.1</td>
<td>49.5</td>
<td>863.3</td>
</tr>
<tr>
<td>General Import Licences</td>
<td>103.1</td>
<td>7.4</td>
<td>132.9</td>
</tr>
<tr>
<td>Individual Licences</td>
<td>178.1</td>
<td>12.8</td>
<td>101.3</td>
</tr>
<tr>
<td>State Trading</td>
<td>423.0</td>
<td>30.3</td>
<td>363.7</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>1,397.3</td>
<td>100</td>
<td>1,461.2</td>
</tr>
</tbody>
</table>

(f) Treatment of imports from different countries or currency areas

Import restrictions, as shown in Section (d), are applied on some thirty items only. These restrictions are applied non-discriminatorily except in the case of four items which are restricted only when imported from the dollar area. Geographical distinctions made in the licensing arrangements are principally for the purpose of implementing the Ceylonization policy, which aims at diverting "new trade" to national traders.

For purposes of the licensing regulations, countries of the world may be divided into the following groups:

(1) The Dollar Area

The United States and dependent territories, Canada, Bolivia, Columbia, Costa Rica, Cuba, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Venezuela and the Philippines.
(2) **"EPU Countries"**

Belgium, Denmark, France, Greece, Iceland, Italy, Luxemburg, the Netherlands, Norway, Portugal, Sweden, Switzerland (the United Kingdom, Austria and Germany are not included in this category).

(3) **The "Ceylonized Trade Countries"**

(i) Austria, Czechoslovakia, Germany, Japan, Poland, Yugoslavia.

(ii) Albania, Bulgaria, Hungary, Rumania, USSR, China, Spain.

(4) **All Other Countries**

Including the sterling area countries and most South American countries.

In the application of Open General Licences, OGL No.1 is valid for all countries other than the dollar area and the "Ceylonized trade countries" (i.e. valid for groups 2 and 4); OGL No.4 is valid for the same countries as covered by OGL No.1 except the "EPU Countries" (i.e. valid for group 4); OGL No.2 applies to the dollar area.

Among the "Ceylonized trade countries" the six countries in group (i) benefit from the procedure of General Import Licences, permitting imports by Registered Ceylonese Traders without individual licences. All imports from the countries in groups (ii) require individual licences which are issued to Registered Ceylonese Traders.

Apart from the products whose imports from any source is banned or licensed in a non-discriminatory manner, the effect of these licensing arrangements as they apply to various countries or areas may be summarized as follows:

(i) from sterling area and certain other countries:
most goods may be imported freely without limitation (under OGL Nos.1 and 4);

(ii) from Continental EPU countries (except Germany and Austria):
the same goods except four groups of items (OGL No.4 goods which, when imported from these sources, are subject to licence and may be imported by Registered Ceylonese Traders only) may be freely imported (under OGL No.1);

(iii) from Austria, Czechoslovakia, Germany, Japan, Poland and Yugoslavia:
most goods may be imported by Registered Ceylonese importers (under General Import Licences);
(iv) from USSR, Albania, Bulgaria, China, Hungary, Rumania and Spain: all imports are subject to individual licence issued at the discretion of the authorities to Registered Ceylonese Traders. Licences for imports of liquor from Spain are issued to any importer.

(v) from countries in the dollar area: machinery, chemicals and other essential goods may be freely imported (under OGL No.2). Four items may not be imported from these countries or may be imported in token quantities only. The remaining items are regulated in either of two ways: (1) under purely discretionary licensing (at present licensed freely); or (2) freely licensed for Registered Ceylonese Traders, and licensed for other importers on the basis of past imports.

It may be re-emphasized that owing to the fact that licences where required are being issued freely and that the former practice of setting monetary ceilings has been discontinued, there is virtually no distinction between the restrictions applying to imports from different sources of supply. Apart from four items, namely toys, confectionery, whisky and beer, there is no discrimination existing in effect between imports from the dollar area and from other sources. The slight difference in procedure, i.e., the use of Open General Licence or General Import Licences for some imports and liberal licensing for others has been retained either to enable the Government to keep a watch on the impact of relaxation on imports or for purposes of the Ceylonization of trade. The channelization of trade through Registered Ceylonese Traders in respect of imports from certain countries is considered purely a matter of domestic policy, and in no way involves the restriction of imports.

(g) Use of State Trading or Government Monopoly in imports and the restrictive operation of such regimes

The Government continues to be the sole importer of the following commodities: rice, wheat, flour, sugar, sugar candy, palm sugar (except from India and Pakistan) and red onions. These commodities are subject to the restriction of Government being the sole importer for reasons other than balance-of-payments considerations.

Rice continued to be rationed by the Government, and the Government has agreements to buy specified quantities of rice from Burma and China at agreed prices. Surplus requirements in excess of the quantities contracted for with Burma and China are purchased in the open market abroad at competitive prices.

Ceylon is a participant in the International Wheat Agreement in terms of which the Government has undertaken to import a guaranteed quantity of wheat. Purchases are made from the cheapest sources.

The Government retains the monopoly for imports of sugar as it uses the profits from the sale of sugar to subsidize the prices of rice, which is supplied to the consumer at prices lower than the cost to the Government. Purchases of sugar are made from the cheapest sources. Sugar candy and palm sugar have been added to the list of Government imports in order to prevent private traders from importing these commodities in forms which can be substituted for sugar.
Red onions have been added to the list of Government imports in order to ensure a market for locally grown red onions and at the same time to safeguard the interests of the consumer as red onions are an essential food item in the Ceylon diet.

The proportion of the imports by the Government to total imports is shown in the following table:

(Rupees million)

<table>
<thead>
<tr>
<th>Commodity</th>
<th>1955</th>
<th>1956</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rice</td>
<td>221.5</td>
<td>263.7</td>
</tr>
<tr>
<td>Wheat</td>
<td>86.5</td>
<td>70.5</td>
</tr>
<tr>
<td>Sugar</td>
<td>60.6</td>
<td>86.1</td>
</tr>
<tr>
<td>Sugar Candy</td>
<td>0.1</td>
<td>-</td>
</tr>
<tr>
<td>Palm Sugar (Jaggery)</td>
<td>2.2</td>
<td>-</td>
</tr>
<tr>
<td>Red Onions (Shallots)</td>
<td>0.1</td>
<td>0.8</td>
</tr>
</tbody>
</table>

(1) Total value of imports by Government 371.0 421.1
(2) Total value of imports of all commodities 1,459.7 1,633.3
(3) (1) Expressed as a percentage of (2) 25.4 25.8

(h) Measures taken in recent years to relax import restrictions

Since 1954 restrictions on imports from the dollar area have been relaxed considerably.

Up to 30 June 1955 the import of the following commodities from the dollar area was prohibited:

- Beer, ale, porter and all other malt liquors
- Confectionery
- Fruits, preserved in sugar, syrup or spirits (other than jams, jellies or marmalades)
- Certain types of stationery
- Cosmetics
- Some varieties of toys and parlour games,
In addition there was a longer list of commodities (e.g. raw cotton, imitation jewellery, photographic goods) which could be imported only up to "monetary ceilings" (quotas) prescribed by the Controller of Imports and Exports.

From 1 July 1955 these restrictions were relaxed. The third, fourth and fifth items mentioned above were removed from the list of goods for which no licence was issued and the import of these items was allowed up to a monetary ceiling. The number of items that were subject to monetary ceiling was considerably reduced.

Finally, at the beginning of the import control year on 1 July 1956 all monetary ceilings were abolished and licences were thereafter issued freely. A further advance was made by including under Open General Licence No. 2 (permitting imports from the dollar area without individual licences) the following goods which had earlier been under licence:

- Cereal goods (prepared)
- Skimmed milk
- Sugar unrefined other than jaggery
- Raw cotton
- Cotton waste
- Stearic acid
- Animal oils, fats and greases
- Vegetable oils, fats and greases
- Tinned plate
- Iron and steel safes
- Iron and steel sanitary fittings
- Iron and steel shoot runners
- Iron and steel baths
- Iron and steel windows, bedsteads, mattresses and furniture
- Iron and steel springs for upholstery, letter-racks and curtain-rod wire
- Iron and steel office equipment
- Manufactures of iron and steel n.e.s.
- Manufactures of brass and copper n.e.s.
- Printing type
- Cutlery: razor blades
- Cutlery: Other than razor blades
- Oils, fats and resins n.e.s.

It will thus be seen that Ceylon has progressively removed restrictions on imports from the dollar area which, in fact, were the only restrictive measures of any substance maintained by Ceylon in recent years.
II. EFFECTS OF THE RESTRICTIONS ON TRADE

The following paragraphs have been drawn up on the basis of information supplied by the authorities of Ceylon, and represent the views of the latter.

That the import control policy of Ceylon does not have an overall restrictive effect on trade will be evident on an examination of Ceylon's import figures:

<table>
<thead>
<tr>
<th>Year</th>
<th>Total value of imports (in million rupees)</th>
<th>Import volume index 1948=100</th>
<th>Import price index (for all imports) 1948=100</th>
</tr>
</thead>
<tbody>
<tr>
<td>1950</td>
<td>1,167</td>
<td>121</td>
<td>98</td>
</tr>
<tr>
<td>1951</td>
<td>1,559</td>
<td>135</td>
<td>116</td>
</tr>
<tr>
<td>1952</td>
<td>1,702</td>
<td>138</td>
<td>125</td>
</tr>
<tr>
<td>1953</td>
<td>1,608</td>
<td>144</td>
<td>114</td>
</tr>
<tr>
<td>1954</td>
<td>1,397</td>
<td>143</td>
<td>100</td>
</tr>
<tr>
<td>1955</td>
<td>1,460</td>
<td>140</td>
<td>101</td>
</tr>
<tr>
<td>1956</td>
<td>1,634</td>
<td>153</td>
<td>113</td>
</tr>
</tbody>
</table>

The volume of imports has been steadily increasing since 1950; the increasing total value of imports against the backdrop of an import price index that has been tending to decline is further proof of the increase in the quantity of goods imported into Ceylon.

Some of the restrictions on imports have had a protective effect on certain local industries, and it is clear that it is not always possible to avoid the protective incidence of import restrictions maintained primarily for balance-of-payments reasons. In order to utilize the available foreign exchange to the best advantage and not to jeopardise local production on the basis of existing productive capacity, certain goods for which local demand is fully or nearly fully met by domestic production have been chosen for the application of import restrictions, as permitted under Article XII of GATT. Of the thirty odd items being restricted, however, only about half can be regarded as being in this category; only in the case of these few items is there a possibility of the local industries benefiting from incidental protection, namely:

- Red onions
- Wooden furniture
- Banian cloth - cotton and artificial silk
- Banians - cotton and artificial silk
- Boots, shoes, sandals made of leather
- Rubber footwear
- Rubber manufactures n.e.s. and rubber balloons
- Soap
- Pyrotechnic products
- Baskets and basketware
- Reconstructed, imitation or synthetic stones
- Matches
- Straw, grass, rush, mats and matting and manufactures thereof n.e.s.
- Toys
Such domestic products as have received incidental protection as a result of import restrictions are carefully scrutinized. These investigations are made by the coordinated efforts of the Government Departments in charge of the development of industries as well as other departments which are not directly connected with industrial development. The association of the latter in these investigations ensures that independent, disinterested judgment is brought to bear on every restrictive measure. In addition to this, there is also a periodic investigation by a body known as the Import Duties Advisory Board, the membership of which consists of non-officials having no interest in industrial undertakings.

In the administration of import control in Ceylon no action is taken to prevent the importation of goods in minimum commercial quantities, whenever it is considered reasonable to do so. The importation of commercial samples is freely permitted when no payment has to be made for the samples. Where payment is involved, small quantities are allowed to be imported. Though particular items of export of certain contracting parties may be adversely affected by Ceylon's import restrictions, taken all in all these restrictions do not damage the general commercial or economic interests of any contracting party.

As noted in Part I above, the licensing authorities are currently considering the simplification of the system of import regulation, which when completed and announced in a new Notification would further reduce any inconveniences that might under the present system be caused to importers and foreign exporters.

**ANNEXES**

I. Import and Export Control (Continuation) Act, No.27 of 1950, with attached "Schedules" containing the Defence Regulations

II. Import and Export Control Notice No. 15/53 on the Registration of Ceylonese Traders (Gazette No. 10533)

III. Import Control Notice No. 22/56 on the Import Control Policy for the Period commencing 1 July 1956 (Gazette No.10970)

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1 These Annexes are circulated in the English language only. Only one copy of Annexes II and III is supplied to each contracting party.
ANNEX I

Import and Export Control (Continuation)
Act No.27 of 1950

L.D.-30/49

AN ACT TO PROVIDE FOR THE CONTINUANCE IN FORCE
AFTER 9 DECEMBER 1950, OF DEFENCE REGULATIONS
FOR THE CONTROL OF IMPORTS AND EXPORTS

(Date of Assent: 20 October 1950)

WHEREAS the Defence Regulations which have the effect by virtue of the
Supplies and Services (Transitional Powers) Act, 1945, of the Parliament of the
United Kingdom are due to expire on the tenth day of December 1950:

AND Whereas it is expedient to provide for the continuance in force for a
further period of certain of those Defence Regulations which provide for the
control of imports and exports:

BE it therefore enacted by the King's Most Excellent Majesty, by and with
the advice and consent of the Senate and the House of Representatives of Ceylon
in this present Parliament assembled, and by the authority of the same, as
follows:

1. This Act may be cited as the Import and Export Control (Continuation)
Act No.27 of 1950, and shall come into operation on the ninth day of December
1950 (hereinafter referred to as "the appointed date").

2. (1) The Defence Regulations, specified in the First Schedule to this
Act shall from the appointed date have the force of law by virtue of this Act
and as though they were herein enacted.

(2) The Defence Regulations specified in the Second Schedule to this Act
shall from the appointed date have the force of law by virtue of this Act and
as though they were herein enacted, so however that references in any of the
said Regulations to any defence regulation shall be construed as references
only to any of the Defence Regulations specified in the First Schedule to this
Act.

3. The Governor-General may, by Order published in the Gazette, declare
that any Defence Regulation specified in the Schedules to this Act shall cease
to be in force on such date as may be specified in the Order.

4. References in this Act to Defence Regulations shall be deemed to include
references to all Orders and instruments heretofore made or issued thereunder
and in force at the appointed date.
THE DEFENCE (CONTROL OF IMPORTS) REGULATIONS

1. These regulations may be cited as the Defence (Control of Imports) Regulations.

2. (1) There may be appointed any person by name or by office to be or to act as the Controller of Imports or as an Assistant Controller of Imports for the purposes of these regulations.

(2) The Controller and every Assistant Controller shall, in the performance of his duties, the exercise of his powers and the discharge of his functions under these regulations, be subject to the general direction and control of the Minister for Labour, Industry and Commerce.

3. (1) The Governor may, by Order published in the Gazette -

(a) prohibit the importation into Ceylon of any goods of any class or description specified in the Order;

(b) prohibit the importation into Ceylon of such goods, of any class or description specified in the Order, as are grown, produced or manufactured in any territory, or place mentioned or described in the Order.

(2) An Order under paragraph (1) shall be subject to such exemptions and conditions as may be prescribed by the Governor in that or any subsequent Order.

4. (1) The Governor may, by Order published in the Gazette, direct that except under the authority of a licence granted by or on behalf of the Controller, no person shall import into Ceylon -

(a) any goods of any class or description specified in the Order;

(b) such goods, of any class or description specified in the Order, as are grown, produced or manufactured in any territory or place mentioned or described in the Order.

(2) Any Order under paragraph (1) shall be subject to such exemptions and conditions as may be prescribed by the Governor in that or any subsequent Order.

5. (1) Every applicant for a licence shall furnish to the Controller such particulars as the Controller may require in such forms as may be provided by him for the purpose.
(2) Every licence -

(a) shall be in such form and subject to such terms and conditions as the Controller may determine;

(b) shall be valid for such period as may be specified therein; the person to whom the licence is granted or such agent of that person as may be designated in the licence, but no other person, to import goods of such description and to such value or in such quantities as may be specified in the licence.

(3) The Controller may at any time amend or cancel any licence.

(4) Every decision of the Controller on any application for a licence, and every decision of the Controller to amend or cancel any licence, shall be signed and dated by him and shall forthwith be communicated to the applicant or licensee as the case may be: Provided, however, that a decision of the Controller to amend or cancel any licence may, in lieu of its being so communicated, be published in the Gazette.

Such applicant or licensee may, if dissatisfied with the decision of the Controller, appeal therefrom to the Minister within a period of ten days reckoned from the date on which the decision is so communicated or published.

(5) Before adjudicating on any appeal preferred under paragraph (4), the Minister shall consult the Financial Secretary.

(6) The decision of the Controller under the preceding provisions of this regulation or, in a case where an appeal has been preferred against any such decision, the order of the Minister on such appeal shall for all purposes be final and conclusive and shall not be subject to review or called in question in any court of law.

5A. (1) Notwithstanding anything in regulation 5, the Controller may, by notification published in the Gazette, grant a licence (hereinafter referred to as an "open general licence") authorising the importation into Ceylon from any territory or place whatsoever or from any such territory or place as may be specified in such licence, of any goods of any class or description specified in any Order for the time being in force under regulation 4.

(2) The Controller may insert in any open general licence granted in respect of any goods all such conditions as he may consider necessary, including a condition that no person, shall, under the authority of such licence, import any goods to any value greater than such value as may be specified by the Controller or in any quantity greater than such quantity as may be so specified.
(3) An open general licence granted in respect of any goods shall be sufficient to authorise any person to import such goods into Ceylon subject to the terms of the licence and to such conditions as may be inserted therein under paragraph (2).

(4) Nothing in any open general licence shall be deemed to be an authority for doing any act the doing of which would constitute the offence of trading with the enemy, within the meaning of the Defence (Trading with the Enemy) Regulations, 1939.

5B. Where at any time goods of any class or description specified in any Order under regulation 4 are imported into Ceylon by any person, and it is found that the quantity or the value of such goods exceeds the quantity or value, as the case may be, specified in the licence issued to that person in respect of such goods or in an open general licence relating to such goods the Controller may, in his discretion, having regard to all the circumstances and equities of the case, issue to that person, on such terms and subject to such conditions as the Controller may impose, a supplementary licence authorising the importation by that person of such goods in such quantity or to such value as may be specified in the supplementary licence; and such supplementary licence shall have the same force and effect as though it had been issued by the Controller prior to the importation of the goods to which such supplementary licence relates.

50. Where at any time goods of any class or description specified in any Order under regulation 4 are imported into Ceylon by any person (hereinafter referred to as "the importer"), and it is found that the importer is not the holder of a licence authorising the importation of such goods, the Controller, if he is satisfied -

(a) that the failure or default of the importer to obtain such licence was due to mistake, inadvertance or other unavoidable cause; and

(b) that it is expedient or equitable to issue a special licence in the circumstances of the case,

may issue to the importer, on such terms and subject to such conditions as the Controller may impose, a special licence authorising the importation of such goods in such quantity and to such value as may be specified in the special licence; and such special licence shall have the same force and effect as though it had been issued by the Controller prior to the importation of the goods to which such special licence relates.

6. Without prejudice to any special provision contained in any other defence regulation, the Controller may, for the purposes of these regulations, give to any person directions requiring him, within such time, in such manner and to such persons as may be specified in the directions, to furnish such information as may be so specified, and produce for inspection any relevant books, accounts, or other documents.
7. Any person who, in furnishing any particulars under regulation 5 or any information under regulation 6, makes any statement which to his knowledge is untrue, shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand five hundred rupees or to imprisonment of either description for a term not exceeding six months, or to both such fine and imprisonment.

8. The Principal Collector of Customs may, at the time of the importation into Ceylon of any goods of any class or description specified in an Order under regulation 3(1)(b) or regulation 4(1), refuse to admit any claim that the goods were grown, produced or manufactured in any particular territory or place, unless such claim is supported by a certificate of origin in such form and containing such particulars as he may require. The decision of the Principal Collector of Customs on each such claim shall be final and conclusive and shall not be subject to review or called in question in any court of law.

8A. Where goods which are imported from any territory forming part of the British Empire are goods of enemy origin, such goods shall, for the purposes of these regulations be deemed to be grown, produced or manufactured in that territory notwithstanding that they are goods of enemy origin.

In this regulation, "goods of enemy origin" means goods grown, produced or manufactured in any territory which is enemy territory within the meaning of the Defence (Trading with the Enemy) Regulations, 1939.

9. (1) The provisions of these regulations shall be read and construed as one with the Customs Ordinance and the Defence (Miscellaneous) Regulations; and for the purposes of the application of the Customs Ordinance—

(a) goods specified in any Order made by the Governor under regulation 3 shall be deemed to be goods the importation of which is prohibited by Ordinance; and

(b) goods specified in any Order made by the Governor under regulation 4 shall be deemed to be goods the importation of which is restricted by Ordinance.

(2) Where under these regulations or under the Customs Ordinance in so far as the provisions of that Ordinance have application for the purpose of the enforcement of these regulations or of any Order made thereunder, any question at any time arises as to whether any goods are of any class or description of goods specified in any such Order, that question shall be determined by the Controller.

(3) No penalty or forfeiture shall be imposed or mitigated under the Customs Ordinance either by the Principal or any other Collector of Customs except after reference to and consultation with the Controller in any case where such penalty or forfeiture may be imposed or has been incurred under that Ordinance by reason of the importation of any goods into Ceylon in contravention of any provision of any of these regulations or of any Order made thereunder.
(4) The provisions of these regulations shall be in addition to, and not in derogation of, the provisions of any written law relating to the importation of any goods specified in any Order made by the Governor under these regulations.

Provided, however, that where in any case any of these regulations or any Order made thereunder is in conflict or inconsistent with any such written law, the provisions of such regulation or Order shall prevail.

10. Any goods may, in any Order or licence made or issued under these regulations, be described by reference to the class and group in which such goods are classified in the Ceylon Customs Tariff.

11. In these regulations -

"Ceylon Customs Tariff" means the edition current for the time being of the publication under that name, printed or issued by the Government Printer, and includes all amendments, modifications and additions thereto, whether by correction slips or otherwise, similarly printed or issued;

"Controller" means the person appointed under regulation 2 to be or to act as the Controller of Imports, and includes any person appointed under that regulation to be or to act as an Assistant Controller of Imports;

"goods" includes any article, animal, substance or property whatsoever of any class or description;

"Importation", with its grammatical variations and cognate expressions, means the importing or bringing into Ceylon, or causing to be imported or brought into Ceylon, whether by sea or by air;

"licence" means a licence issued by or on behalf of the Controller under regulation 4;

"Principal Collector of Customs" includes any officer of Customs authorised by the Principal Collector of Customs to act on his behalf.

SECOND SCHEDULE

REGULATIONS 52-55 OF THE DEFENCE (MISCELLANEOUS) REGULATIONS

52. (1) If any person contravenes or fails to comply with any defence regulation, or any order or rule made or any direction given or requirement imposed under any defence regulation or any term or condition to which a licence issued under any defence regulation is subject he shall be guilty of an offence against that regulation.
(2) Where in any defence regulation express provision is made for the trial or punishment of an offence against that regulation, such offence shall be tried or punished as provided in that regulation.

(3) Where in any defence regulation no express provision is made for the trial or punishment of an offence against that regulation, any person guilty of an offence against that regulation shall -

(a) on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a term not exceeding six months or to a fine not exceeding one thousand five hundred rupees, or to both such imprisonment and such fine, or

(b) on conviction before a District Court, be liable to imprisonment of either description for a term not exceeding two years or to a fine not exceeding seven thousand five hundred rupees, or to both such imprisonment and such fine.

(4) Where in any defence regulation whipping is prescribed as a punishment for any offence against that regulation, such punishment may, notwithstanding anything in section 15(c) of the Criminal Procedure Code, be imposed by a Magistrate on any male person convicted of that offence by the Magistrate, irrespective of the age of such person.

53. Where a person convicted of an offence against any defence regulation is a body corporate, every person who, at the time of the commission of the offence, was a director or officer of the body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of the said offence.

54. (1) Any person who attempts to commit, or does any act preparatory to the commission of, any offence against any defence regulation, shall be deemed to be guilty of an offence against that regulation.

(2) No person, knowing or having reasonable cause to believe that any other person is guilty of an offence against any defence regulation, shall give that other person any assistance with intent thereby to prevent, hinder or interfere with the apprehension, trial or punishment of that other person for the said offence.

55. (1) Save as otherwise expressly provided, proceedings in respect of an offence alleged to have been committed by a person against any defence regulation may be taken before the Magistrate's Court having jurisdiction in the place where that person is for the time being.
(2) Where in any defence regulation it is provided that any person guilty of any offence referred to in that regulation shall be liable to any specified penalty on conviction before the Supreme Court or before a District Court or to any other specified penalty on conviction after summary trial before a Magistrate, then, in the absence of express provision as to the circumstances in which that person is to be tried summarily for that offence, it shall be lawful for the Magistrate, before whom a prosecution is instituted against that person for that offence, to decide whether he will try such person summarily or take non-summary proceedings in respect of that offence; and such decision may be made by the Magistrate notwithstanding anything in the Criminal Procedure Code:

Provided that nothing herein contained shall affect or prejudice any right or power of the Attorney-General under that Code.

55A. Where in any defence regulation it is provided that a prosecution for a contravention of that regulation or for an offence against that regulation shall not be instituted except by, or with the sanction of the Attorney General, the person charged with any such contravention or offence may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or admitted to bail, notwithstanding that the sanction of the Attorney-General to the institution of a prosecution has not been obtained.

55B. The Functions of the Attorney-General under any of these regulations may, in the event of a vacancy in the office or in the event of the Attorney-General being unable to act owing to illness or absence, be exercised by the Solicitor General.

55C. (1) Notwithstanding anything in any written law other than these regulations -

(a) an emergency case shall, in any Court, have priority over any other matter, case or business before that Court and shall, so far as may be practicable, be heard determined, dealt with or disposed of by the Judge of the Court before any such other matter, case or business;

(b) any person employed or engaged in any essential services or in any essential work who is a witness in any emergency case shall be entitled, unless the Judge otherwise directs, to depart from the court-house as soon as may be after his evidence has been taken or recorded.

(2) In this regulation -

"emergency case" means a prosecution for -
(a) a war offence; or
(b) an offense under the Food Control Ordinance; or
(c) an offence under the Control Prices Ordinance No. 39 of 1939;

and includes any application or proceeding preliminary or incidental to, or consequent upon, any such prosecution; "Judge" includes a Magistrate.