1. In accordance with its terms of reference (W.16/4), the Panel on Article XVIII has, in consultation with the representative of Ceylon and other contracting parties, considered the notifications submitted by the Government of Ceylon under Section C of Article XVIII with respect to aluminium foil, asbestos cement products and certain textile products. The Panel noted that notifications on these items had been submitted at the fifteenth session but a decision was not reached partly because the Ceylon delegation wished to supply additional data which were not ready at that time. The CONTRACTING PARTIES had agreed that in the case of aluminium foil and asbestos cement products, the Ceylon delegation would be free to submit new information on the difficulties confronting the two industries for re-examination at the sixteenth session and that in the case of textiles, the Ceylon Government should re-examine its notification with a view to drawing up a revised statement for consultation at the sixteenth session. Accordingly, the Panel has considered the three cases on the basis of new information supplied by the Ceylon delegation at the beginning of the present session.

2. In its report to the CONTRACTING PARTIES, the Panel of the fifteenth session set out the general considerations on the basis of which the notifications had been examined (see BISD, Eighth Supplement, pages 90–92). These general considerations were accepted by the present Panel as the basis of its deliberations. Account was taken of the statement in that report recognizing Ceylon's right at present to invoke the provisions of Section C of Article XVIII (Ibid page 90).

3. As instructed by the CONTRACTING PARTIES and in accordance with paragraph 16 of Article XVIII, the Panel consulted with Ceylon, in respect of the first two products, on (a) the purpose of the proposed measures, (b) whether there were any alternative measures available under the Agreement which could achieve the objective envisaged, and (c) the possible effects of the measure proposed on the commercial and economic interests of other contracting parties.

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4. With regard to aluminium foil and aluminium lining (aluminium foil covered with waterproof and tissue paper for lining tea chests) the Ceylon delegation stated that the industry was started in 1950 on a relatively small scale and since then had been expanding until it reached its present production capacity of 10,000 cwts. per year. Owing to various circumstances, including the cost and price advantages enjoyed by certain exporting countries, however, output had never reached production capacity but had fluctuated between 53 and 73 per cent thereof. This inadequate level of production had prevented the achievement of full efficiency, and it was expected that costs and prices could be substantially reduced and the local product could thereby attain a better competitive position if production were stepped up to capacity. The principal obstacle to an expansion of sales was, however, not higher costs of production in the domestic industry but a lack of confidence among local users in the consistency of the quality of its products. Although the quality of locally produced foil and lining compared favourably with imported products, the users of lining were generally reluctant to change over from imported products to local products for fear that the quality of the latter might vary in future. As in the other cases in which action under the Industrial Products Act had been considered under Article XVIII, the problem was again one of overcoming resistance and prejudice against a locally produced article. Measures such as import tariffs, tariff quotas and subsidies might to some extent help to overcome any cost or price disadvantage but it was only the kind of measures provided by the Industrial Products Act which would be efficacious in dealing with such resistance and prejudice.

5. With regard to asbestos cement products, the Ceylon delegation stated that the firm producing these building materials was established in 1957 as a public limited liability company with Government participation. Although some production was started in that year substantial production did not start until 1959. The first year was spent in training the operatives and in the second year, production was hampered by strikes. In the three years of its existence the factory had produced altogether 425,000 cwts., but by the end of 1959 it was faced with an unsold accumulated stock of 36,000 cwts. Furthermore, even the present level of sales had been reached only through governmental promotion, chiefly through the enforced purchases of domestic products for use in public buildings. The industry has a potential capacity of 480,000 cwts. which could
not possibly be reached in the face of the present accumulated stocks and stagnation in sales. While up to 1959 there had been grounds for attributing the difficulties partly to the exports of certain highly industrialized countries which were available at slightly lower prices than local products, present indications were that the prices of imports would hereafter be slightly higher than those of domestic products. The problem faced by the industry was not one of high costs of production or inferior quality of its products, but the lack of confidence of consumers in the quality of domestically produced products. Laboratory tests had demonstrated that the domestically produced tiles, ridges and sheets met the requirements of British minimum quality standards. Furthermore, having regard to the haphazards of transport and handling of imports from distant sources of supply, the domestic products should have a clear quality advantage over imported products. But, as production had commenced only recently, consumers had not had an opportunity of gaining confidence in the domestic products through actual use. The Ceylon authorities expected that confidence in the quality could be established in three more years, i.e. when the local products would have been put to test for just over six years. In the meantime, measures under the Industrial Products Act were considered indispensable in order to help the industry to work off accumulated stocks and to expand production to a level nearer to capacity, whereby the costs of production were expected to be lowered by 11 per cent.

6. The Panel and representatives of certain contracting parties, notably those of India, Japan and the United Kingdom, discussed with the Ceylon delegation the nature of the problems faced by the industries and the possibility of using other measures to deal with these problems. Some members of the Panel and other representatives doubted whether the difficulties of those industries were in fact caused by consumer or traditional resistance to domestic products. In both cases it was thought that imports from particular sources of supply might be principally, or at least partly, responsible for the lack of progress in selling domestic products and that a solution should perhaps be sought in the tariff field rather than the measures of compulsion provided under the Industrial Products Act. The Panel was therefore faced with the problem of reconciling the nature of the proposed measures with the requirement of paragraph 13 of Article XVIII that there should be no measures available under the provisions of the General Agreement to achieve the objective in question.
Also it was considered doubtful whether, in the case of aluminium foil, the industry could qualify for consideration under Article XVIII:C having regard to the fact that it had already been in existence for nearly ten years.

7. The Ceylon representative submitted that the measures under the Industrial Products Act had been considered only a last resort when all other measures of sales promotion and encouragement to use the local products had been found inadequate. While the development programme embraced some 150 industrial products, only a handful had been given Industrial Products Act protection. The Ceylon representative also argued that, although the aluminium foil factory had been set up as early as 1950, the industry could in no way be regarded as having been well-established, and that it therefore was eligible for consideration under the provisions of Article XVIII, Section 6. As to the effects of the measures on the trade and economic interests of other contracting parties, the Ceylon delegation gave the undertaking that if the requested releases were granted, the Government would take the utmost care in applying the measures sanctioned in order to keep to the minimum any damage that might be caused to the interests of other contracting parties. In particular, the standard ratio used in the regulation of imports would always be kept to the minimum required by the marketing conditions, in the interests of imported products. In the first place, the Ceylon delegation would be agreeable to adjust its notifications and reduce the maximum standard ratios to the following:

- Aluminium foil: 2 domestic to 1 imported
- Asbestos cement products: 5 " " 1 imported

8. The Panel was not fully convinced that the real nature of the problems faced by the Ceylon industries was such that a remedy could not be sought in other measures which might be consistent with the provisions of the General Agreement. Assuming that the difficulties were principally caused by the so-called consumer or traditional resistance to domestic products, it was also doubtful whether the proposed measures would in fact be beneficial to the industries in question, consistent with the interests of the consumer and not detrimental to the long-term interest of the economy. The Panel recognized, however, that the industries were faced with difficulties in marketing their products, whatever the reasons, and that the proposed measures might not have
very great detrimental effects on the interests of other contracting parties if they were applied only for a limited period of time.

9. The Panel, therefore, and without prejudice to all intent of Section C of Article XVIII, recommends that the CONTRACTING PARTIES acting under paragraph 16 of Article XVIII, concur in the measures proposed with regard to the two products in question, subject to the limitations regarding the duration of the releases and the maximum standard ratio prescribed in the attached draft Decision.

10. With regard to the release sought for the textile items, the Panel noted that the new request differed substantially from the one presented at Tokyo and was of much more limited scope. At Tokyo the request had been for a blank release covering all textile items whereas the new request related only to the thirteen grades of piecegoods which come under Tariff Item 652-02.05 and 653-05 but which were excluded from the release granted at the thirteenth session. Since both these items were those on which Ceylon had assumed obligations under Article II of the Agreement, the appropriate procedures to follow must be those set out in paragraph 18 of Article XVIII. The Ceylon delegation stated that in making this application, Ceylon was concerned with the tendency for imports to increase under these two tariff items which consisted largely of sarees and saro cloth in direct competition with domestically produced cotton piece goods, cotton sarees and cotton camboys, i.e. products covered by releases already granted under Article XVIII.

11. The Panel recommends that in accordance with paragraph 18 of the Article, Ceylon enter into consultations with the Governments of France, Italy and the United States with which the concessions under Article II were initially negotiated, and with any other contracting parties having a substantial interest in the two products. Following the usual procedure, the Panel recommends that contracting parties wishing to claim a substantial interest should notify the delegation of Ceylon and, unless there should be objection by Ceylon, should be deemed to have been "determined by the CONTRACTING PARTIES to have a substantial interest therein". The Panel further recommends that the Intersessional Committee (or its succeeding body) should be given the necessary powers to complete the procedure provided for in paragraph 18 of Article XVIII.
CONSIDERING that the Government of Ceylon is eligible under paragraph 4(a) of Article XVIII to have recourse to the provisions and procedures set out in Section C of that Article;

CONSIDERING that the Government of Ceylon has notified the CONTRACTING PARTIES pursuant to paragraph 14 of Article XVIII, of the special difficulties which it meets in the establishment or substantial expansion of particular industries and of its intention of applying the Industrial Products Act to the import of certain products in order to overcome these difficulties; and

CONSIDERING FURTHER that the Government of Ceylon believes that there is, in present circumstances, no measure consistent with the provisions of the General Agreement which is practicable in order to give the governmental assistance required to achieve the objective proposed consistently with the terms of paragraph 13 of Article XVIII,

The CONTRACTING PARTIES, acting under paragraph 16 of Article XVIII,

CONCUR in the application by the Government of Ceylon of the Industrial Products Act No. 18 of 1949, as amended, to the products specified below subject to the terms and conditions laid down in this Decision; and

AGREE to release the Government of Ceylon from its obligations under the relevant provisions of the General Agreement to the extent necessary to enable it to apply the measures thus concurred in.

1. Aluminium lining used in Tea Packing - Ex 684-02.01 (Aluminium foil)

The release in respect of the products specified above is valid for a period of two years, effective from the date on which it is first brought under regulation under the Industrial Products Act. For the purpose of issuing import licences under that Act, the standard ratio between the local products and the corresponding imported products shall not exceed the proportion of two to one.
2. Asbestos Ridges - 661-09.01
   Asbestos Sheets - 661-09.02
   Asbestos Tiles - 661-09.03
   Building materials of
      asbestos cement of   661-09.99
      unfired non-metallic
      minerals, other

The release in respect of the products specified above is valid for a period of three years from the date on which the product is first brought under regulation under the said Act. For the purpose of issuing import licences under that Act the standard ratio between the local products and the corresponding imported products shall not exceed the proportion of five to one.