Working Party 2 on Article XVIII

Section of the Draft Report Dealing with the Indian Measure

1. The Working Party examined the statement submitted by the Government of India (GATT/CP.3/1/Add.2) and took note of the discussions on the measure at the third meeting of the CONTRACTING PARTIES (cf. GATT/CP.3/SR.3 and Corr.2). The representative of India also supplied certain supplementary information in response to requests made by other members of the Working Party.

2. The Working Party noted that the measure involved the prohibition of imports of grinding wheels and segments (Indian Tariff Item No. 71(8)) except under licence. However, since the intention was to restrict the importation of grinding wheels only of the types, qualities and sizes which could be produced locally, licences were granted freely in those cases where the goods to be imported were of the types, qualities and sizes which were not produced locally. The measure, therefore, related more precisely only to Ex Item 71(8): grinding wheels of all types, qualities and sizes from 1/4" to 36" diameter with the exception of rubber bonded and diamond wheels.

3. It was also noted that as from 6 December 1948, on the imposition of a protective tariff duty, import of this product has been placed on the open general licence, which permitted the unrestricted import of this product into India under duty. The Working Party first studied the question whether in view of this action, taken prior to a decision being given by the CONTRACTING PARTIES, the measure should still be accepted as eligible for consideration under paragraph 11 of Article XVIII. The representative
of India pointed out that the experiment with tariff protection was carried out on the recommendation of the Indian Tariff Board with a view to testing the market conditions and to seeing whether it was possible to dispense with the measure in the present state of economic development. The temporary relaxation of the measure was therefore in full accord with the spirit of the General Agreement. The Working Party agreed with the representative of India that the temporary change in the administration of the measure did not fundamentally affect the status of the measure. In view of the fact that the measure was in force on September 1, 1947, the date specified in paragraph 11, the Working Party was of the opinion that it should be examined as an existing measure under the provisions of the Article.

4. In examining the measure under paragraph 11, the Working Party established that:

1) the measure was in force on September 1, 1947 and notification had been given to the CONTRACTING PARTIES before October 10, 1947;

2) the measure was non-discriminatory in nature; and

3) India had not assumed an obligation under Article II of the Agreement in respect of grinding wheels.

5. Concerning the question whether the measure was imposed for the establishment or development of an industry, the Working Party was informed that the grinding wheels industry was established in March 1939; that during the war abnormal conditions had deprived the country of supplies from abroad of the product in question; that in consequence, governmental requirements of the product were met by the domestic production up to the limit of the expanding capacity of the industry; and that furthermore, the Government had encouraged the production by
permitting manufacturers to import synthetic abrasive grains free of customs duty. The abnormal conditions continued to exist in the post-war period up till the middle of 1947. At that juncture, market and supply conditions were so changed as to threaten the existence of the industry, and the measure was required to assure its continued existence and further development.

6. The representative of India requested that the application, which was for a release from the obligations under Article XI of the Agreement, be considered under sub-paragraph 7 (a) (i) of Article XVIII. The Working Party, having regard to India's need for economic development, was satisfied that the measure fulfilled the conditions of that sub-paragraph.

7. Sub-paragraph 7 (a) requires the CONTRACTING PARTIES to grant a release pursuant to its provisions for a specified period. The Working Party heard the views of the representative of India, who proposed a period of 10 years, and those of other members of the Working Party, who suggested that a much shorter period would be sufficient in this instance. The Indian representative stated, in support of his suggestion, that a release for a long period was needed in order to assure producers of the domestic market and to induce further investment for the development, which would help to lower the costs of production and eventually to make the product competitive on the Indian market with foreign products. Some members of the Working Party felt, that the past expansion of the industry from 111 tons per annum in 1943 to 258 tons in 1947, suggested that a shorter period would suffice for the expansion of the industry to the desired capacity of 400 to 450 tons per annum to meet the home demand.
On the whole the Working Party felt that, at present, when the restriction was not enforced, the direct effect of the measure on the industry was not clear and that the Working Party would not be justified in recommending a long period of release without more definite information relating to the likely period required to protect the industry in the light of the plans for expansion. The representative of India stated that until there was some assurance that these measures could be utilised the industry was hesitant in formulating any plans for further expansion beyond the present plant capacity. The problem before the Working Party was therefore that on the one hand any period of release that was recommended could not be based on any positive information concerning expansion. On the other hand, without the approval of the CONTRACTING PARTIES to use the measure, if it were required, no expansion would be contemplated.

8. Moreover, as it was the intention of the Indian Government to enforce the measure again only in the event that the present protective tariff should fail to afford the degree of protection needed for the industry, it was not known at present whether, and when, the measure would be required for the purpose.

9. The Working Party, after careful consideration and taking into account all the circumstances, agreed to recommend that:

(i) the Government of India be allowed to re-impose the existing measure on "Ex Item 71 (6): grinding wheels of all types, qualities and sizes from 1/4" to 36" diameter with the exception of rubber bonded and diamond wheels" at any time within three years from the time of the decision; and

(ii) the full period for which the measure could be maintained would then be decided by the CONTRACTING
PARTIES, in accordance with paragraph 7 of Article XVIII, at the first session subsequent to the re-imposition of the measure, in the light of the facts relating to the industry, established by the Government of India at that time.