

25 February 1955

DRAFT FINAL REPORT OF WORKING PARTY I
ON ARTICLE XVIII APPLICATIONS

1. In the following report, the Working Party submits its final recommendations to the CONTRACTING PARTIES with respect to the applications under Article XVIII which were referred to it by the CONTRACTING PARTIES. These applications include a number of measures submitted by Ceylon (L/230/Rev.1) and one by Cuba (L/221).

I. Applications by Ceylon

2. At the outset of the deliberations of the Working Party, the representative of Ceylon modified the original request by that country. The modifications in Ceylon's requests are recorded in the First Interim Report of the Working Party (L/269).

3. The applications by Ceylon are dealt with in this report in two sections:

(a) Those concerning which the Working Party has previously submitted interim reports to the CONTRACTING PARTIES, and

(b) One application on which the Working Party has not previously reported.

(a) Plywood chests, glassware, cotton banians, and ready-made shirts

4. In its first interim report, the Working Party requested and obtained the approval of the CONTRACTING PARTIES of a procedure for determining those contracting parties who considered themselves materially affected by the proposed measures with respect to plywood chests and glassware, so as to permit Ceylon to carry out the procedures specified in paragraph 5 of Article XVIII.

5. In its second interim report (L/281), the Working Party asked for and obtained the approval of the CONTRACTING PARTIES of a similar procedure with respect to cotton banians under paragraph 7 of Article XVIII.

6. In its third interim report (L/289), the Working Party asked for and received the approval of the CONTRACTING PARTIES of a procedure to permit negotiations concerning the proposed measure with respect to ready-made shirts, under paragraph 3(b) of Article XVIII.

7. In each of the above cases, the contracting parties who considered themselves materially affected notified the Working Party, and C to recognize the interest of those contracting parties and to in in the negotiations or consultations required under the appropriate specified in the Article.

8. After several weeks of negotiations, the representative of C now notified the Working Party of the results as follows:

(i) Cotton banians and ready-made shirts

Ceylon has decided to withdraw the applications and cease to apply to them the provisions of the Industrial Products

(ii) Plywood chests and glassware

Ceylon has reached agreement with the contracting parties considered themselves materially affected, and this fact has been confirmed by the representatives of those contracting parties.

9. The Working Party therefore recommends that the CONTRACTING PARTIES acting under the provisions of paragraph 5 of Article XVIII, extend the dates shown below in each case the release granted to Ceylon in Decision of 13 August 1949:

Termination date

Blown glassware (Ex III B 235 - Glass
and glassware n.e.s.)

Tumblers

1 September 19

Chimneys

15 October 1957

Plywood chests (ex III U 492 - Chests
and boxes for packing Ceylon produce,
including shooks or fittings n.e.s.)

14 March 1958

subject to any limitations that have been agreed between Ceylon and the United Kingdom in the case of plywood chests, and between Ceylon, on the one hand, and the United Kingdom and the United States of America, on the other hand, with respect to glassware, and with the understanding that Ceylon will promptly notify the CONTRACTING PARTIES of the results of the negotiations conducted with the other contracting parties mentioned above.

(b) Cotton sarongs

10. The application of Ceylon with respect to cotton sarongs involved rather different considerations from those concerning the measures referred to above. After hearing the statement of the representative of Ceylon in justification of this request, the Working Party decided that the request clearly fell within the provisions of Article XVIII. The statement of the representative of Ceylon is reproduced in Annex A. The Working Party then took note of the following special circumstances in connexion with this request. Ceylon had obtained the original release from the CONTRACTING PARTIES on 13 August 1949 for a period of five years. It had not, however, adopted the measure permitted by that release (i.e. the application of the provisions of the Industrial Products Act) until 15 October 1952, that is, some three years and two months later than the date of the release. The reason for this was that at the date of the release Ceylon did not produce sufficient yarn derived from indigenous raw material to allow the industry concerned to rely upon local yarn, and it was not until later that this condition was satisfied. It was a condition of the earlier release that indigenous raw materials should be used.

11. Ceylon had, as stated in the first interim report of the Working Party (L/269) originally intended to ask for a renewal for a period of years from a current date, but during the proceedings of the Working Party, Ceylon amended its request and decided to ask only for the period of which it did not take advantage under the original release.

12. The release requested relates to an item which is not in the Ceylon schedule and which, therefore, falls under Part C of Article XVIII. In 1949, the CONTRACTING PARTIES dealing with the matter under paragraph 7 of Article XVIII, decided that the release should be given "for a period of five years".

13. In the light of these considerations, the Working Party felt that it would be reasonable for the period of release to run for five years from the date that the Industrial Products Act was first applied to cotton sarongs. The Working Party considers that if a decision were taken in this sense it could not assume importance as a precedent. Cases of delayed use of releases were unknown for countries other than Ceylon and as regards Ceylon the representative of that country assured the Working Party that it did not intend to utilize any of the releases granted to that country in the past under which controls had not yet been imposed, nor to apply for any extensions of a kind similar to the extension proposed in the case of sarongs.

14. The Working Party accordingly recommends that the CONTRACTING PARTIES should decide that the release granted by them to Ceylon in their Decision of 13 August 1949, covering cotton sarongs, should be available until 13 October 1957.

II. Application by Cuba

15. The Working Party considered the application by Cuba for an extension of the release granted by the CONTRACTING PARTIES with respect to a measure relating to henequen and sisal in their Decision of 10 August 1949 (L/221). The Cuban representative maintained that the protective measure was necessary mainly because of the weak competitive position of Cuba in the world market of this product. Cuba's competitors were certain countries in South American and Africa which had very low standards of living and where the wage level was about three or four times lower than that obtaining in Cuba. This was the only item in the whole of Cuba's imports which was subject to quantitative restrictions, and it was difficult for the government to consider the removal of that measure, especially as the protection was necessary in order to provide adequate incentive for needed foreign investment in this industry, and to maintain employment for the three thousand workers engaged in the industry. The employment problem was of particular importance at this time, in view of the significant reduction in sugar production. The Cuban representative concluded that his Government, though generally not in favour of using quantitative restrictions, was not in a position to indicate an early date by which the restrictions could be withdrawn.

16. The Working Party noted that the release originally granted to Cuba for this measure was made conditional upon the removal as early as possible of a formal element of discrimination which existed in the application of the quantitative import restriction concerned. The Cuban representative explained that up to the date of his application, it had not been possible to obtain the necessary action by the Cuban legislature, but he undertook to provide the Working Party with further information. He later informed the Working Party that the formal discrimination had been removed by Decree No. 245 of 10 February 1955, published in the Government Gazette of 12 February 1955.

17. The Working Party noted the fact that in L/221 of 2 September 1954, contracting parties were invited to indicate whether they had any objection to the extension of the release requested by Cuba. Since no contracting party had indicated such an objection, the Working Party considered that Cuba had complied with the provisions of paragraph 8(a) of Article XVIII, being persuaded by the statement of the representative of Cuba that the measure concerned is one for economic development and should therefore be granted a release in accordance with the provisions of the final sentence of paragraph 8(a) of Article XVIII.

18. Accordingly, the Working Party recommends that Cuba be granted an extension until 10 August 1959 of the release granted by the CONTRACTING PARTIES to Cuba in their Decision of 10 August 1949.

III. Recommendations concerning future procedures

19. The Working Party is of the opinion that in the event of any future applications under the existing Article XVIII, before the revised Agreement comes into force, the CONTRACTING PARTIES should consider an improvement and simplification in the procedures called for under the present Article. The terms of the present Article, particularly in paragraphs 3(b) and 8(b), require decisions by the CONTRACTING PARTIES at several points before the procedures have been fully complied with. This fact has necessitated a series of interim reports, on each of which the CONTRACTING PARTIES have had to act. In the future, these interim reports could presumably be rendered unnecessary if the CONTRACTING PARTIES were to decide at the time the Working Party is formed to delegate to it all preliminary decisions required under Article XVIII, reserving to the CONTRACTING PARTIES only the power to grant the final release after the procedures have been complied with and the Working Party has made its final recommendations.

20. As it is not known whether there will be any further applications under the existing Article, the Working Party does not suggest that the CONTRACTING PARTIES should take any decision in this matter at the current Session, but they do suggest that this problem be kept in mind in the event that it becomes necessary at any subsequent session to establish a Working Party to deal with applications under the existing Article XVIII.