

ARTICLE I - UNITED KINGDOM WAIVER
(Ornamental Pottery)

Report by the Panel of Experts
SECRET/105

The Panel of Experts appointed by the Intercessional Committee on 12 March 1959 (IC/SR.44) and composed of Mr. J. Cappelen, Chairman, M. J. Etienne and Mr. F. Stone, was asked, in accordance with the Intercessional procedures (BISD, Third Supplement, page 13) relating to cases arising under paragraph (d) of the Procedures annexed to the Decision of the CONTRACTING PARTIES of 24 October 1953 (BISD, Second Supplement, page 20), to make a speedy determination under that paragraph.

The United Kingdom notified the CONTRACTING PARTIES (SECRET/103 of 24 November 1958) of its intention to invoke the Decision of 24 October 1953, as amended by the Decision of 5 March 1955, in order to be free to apply a higher most-favoured-nation rate of duty on ornamental pottery without imposing a duty on imports from the territories listed in Annex A of the General Agreement.

Consultations under paragraph (b) of the Procedures mentioned above may be requested by a contracting party on the grounds both

- (i) that it has a substantial interest in the trade of the products concerned and
- (ii) that the increase in a margin of preference incidental to an increase of the most-favoured-nation rate of duty would involve likelihood of substantial diversion of trade in these products from that contracting party to suppliers within the preferential area as defined in Annex A to the General Agreement.

Consultations were requested by the Governments of Sweden, Italy and Germany. The Government of the United Kingdom replied that it did not consider Sweden had a substantial interest in the trade and that, while recognizing the substantial interest of Italy and Germany, it did not consider that there was likelihood of substantial diversion of trade under the terms of paragraph (b).

The Governments of Sweden and Italy withdrew their requests; the Government of the Federal Republic did not feel able to do so.

The United Kingdom therefore addressed to the CONTRACTING PARTIES a request for a speedy determination under paragraph (d) of the Procedures.

The Panel met several times in the course of which it heard the viewpoints of the representatives of the Federal Republic and of the United Kingdom.

The Panel gave careful consideration to the statements of both parties. On the basis of these statements the Panel considers that, while there might be a possibility, as a consequence of the increased margin of preference, of some diversion of trade in the products concerned from Germany to suppliers within the preferential area, as defined in Annex A of the General Agreement, the submissions were not sufficient to support a finding that there was a "likelihood" of "substantial" diversion and that, accordingly, the grounds in paragraph (b)(ii) have not been established.