

*cc/c*  
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Foreign and Commonwealth Office

London SW1A 2AH

Prime Minister

22 June 1984

*Agree to tell President Jayewardene next week that we do not regard ourselves as bound by the 1947 Defence Agreement to provide assistance against an external threat?*

*Dear Charles.*

Sri Lanka

As you know, President Jayewardene of Sri Lanka will be visiting London from 23 to 29 June, and the Prime Minister will be hosting a dinner for him on 27 June preceded by talks. The Foreign Secretary thinks that the Prime Minister should be aware of the consideration we have given on a contingency basis to our response to a serious deterioration of the inter-communal situation in Sri Lanka, leading in the worst case to an Indian military intervention. There is also a particular operational problem which needs to be considered in advance, arising out of the continued existence in force of a UK-Ceylon Defence Agreement dating from 1947.

*CIP  
22/6.*

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Relations with the Tamil minority and the Sinhalese majority in Sri Lanka remain tense following the major outburst of inter-communal violence in July last year. The All-Party Conference, convened by President Jayewardene in January, following mediation by the Indian Government, has made little progress in reconciling the Tamil demand for greater regional autonomy with the reluctance of the Sinhalese majority to make concessions in the face of continued terrorist violence. Should the Conference collapse, there is a real risk that there will be a further major explosion of violence between the two communities. We have been giving consideration to the various contingencies which might arise. Our conclusions are set out in the enclosed paper.

The UK-Ceylon Defence Agreement of 1947, of which I enclose a copy, was concluded when Sri Lanka obtained independence. It provides that the two governments "will give each other such military assistance for the security of their territories, for defence against external aggression and for the protection of essential communications as it may be in their mutual interest to provide." Neither Government has ever invoked this provision of the Agreement. The underlined words represent a qualification to the undertaking since we remain the judges of our interests, though acting always in good faith. British troops left the island

/between



between 1957 and 1962 at the request of the Sri Lankan Government. In 1960 the Sri Lankan Prime Minister stated that the Agreement was still in existence and spoke in terms which did not limit the Agreement's duration to the time required for the final withdrawal of British troops. In July 1983, the Government of Sri Lanka made informal enquiries about a measure of military help from us. They did not refer to the Agreement but since it refers only to external aggression this was not necessarily significant. We were able to forestall a formal request emphasising that our military resources world-wide were under strain. In October 1983, the Sri Lankan Finance Minister mentioned the Agreement to our Ministers, but only in passing.

On 7 April this year, against the background of considerable public speculation in Sri Lanka about a possible Indian military intervention in Sri Lanka's communal problem, President Jayewardene referred publicly to the Agreement as follows: "That Agreement is still there. We did not abrogate it. Even today, if an enemy tries to attack us, Britain will help us". However, although the President referred to the Agreement when speaking in his own language, he did not mention it in a parallel speech in English on the same occasion. Nor did he mention it to our High Commissioner when they met for an hour the following day, although the President mentioned the possibility of Indian aggression against Sri Lanka. It is possible therefore that the President may have hoped, rather naively, to brandish the Agreement as a deterrent to the Indians without provoking any reaction from us. Following President Jayewardene's statement, we instructed our High Commissioner at Colombo to seek an interview with him on 10 April to make clear the constraints on our ability to provide assistance under the Agreement. President Jayewardene told Sir John Nicholas that he wished to assure the British Government that there would never be any question of Sri Lanka invoking the Defence Agreement.

However, in spite of these assurances, we cannot be certain that the Sri Lankans will not revert to the Agreement in a further crisis. This would be very awkward in view firstly of the enormous practical difficulties - both in terms of cost and logistics - in providing military help at a time when our resources are already fully stretched. Secondly any military involvement would be seen as taking sides with the governing Sinhalese majority in a dispute which has already aroused strong emotions in this country, in particular in Parliament and among the substantial Tamil community. It might also put us in direct confrontation with the Indian Government, who have frequently expressed the hope that we would not provide any form of security assistance to the Sri Lankan Government at a time of severe inter-communal

/tension;



tension; Mrs Gandhi's latest letter to the Prime Minister on this subject echoes the same thought.

Moreover, the Agreement is anachronistic. It is our only bilateral defence agreement still in being with an independent country (although we have confidential arrangements with Belize and Kenya) which is more than just a commitment to consult; although the phrase "as it may be in their mutual interest to provide" can be accurately interpreted only as meaning that we are not obliged to assist if we regard it as not in our interests to do so. Indeed, until President Jayewardene's recent reference to the Agreement, we had regarded it as effectively defunct. Since then, however, we have confirmed in answer to Parliamentary questions that the Agreement still exists.

Accordingly, there would seem to be every advantage in our taking an early opportunity to divest ourselves of the Agreement, or to make clear that we do not consider it places any mandatory obligations on us to respond to a Sri Lankan request for assistance. President Jayewardene's visit from 23-29 June provides us with such an opportunity. There are two basic options. We could tell President Jayewardene either:

- (a) that we wished to terminate the Agreement; or
- (b) that in the event of an external threat arising from inter-communal problems, we would not consider ourselves obliged to provide assistance under it, but were prepared for it to remain formally in existence for the time being on the understanding that henceforth it would be regarded as essentially consultative.

Neither of these options is ideal. Both involve some risk of souring our relations with Sri Lanka, which would undoubtedly interpret our action as an attempt to renege on a long-standing agreement, at just the time at which the Sri Lankans might have needed it. President Jayewardene might also charge us with displaying considerable insensitivity to the delicate situation in which he finds himself. On the other hand, we are bound to look very closely at the terms of an Agreement entered into 37 years ago, now that the chances have increased that the Sri Lankans might invoke it. President Jayewardene's visit represents the best opportunity to put the point to the Sri Lankans in a sympathetic way.

If our approach were to come public, it would be seen as a vote of no-confidence in the President and could expose him to further pressures, both internal and external. This risk

/would



would be particularly acute with the first option, since it would be impossible to conceal formal termination of the Agreement. The second option would be easier to keep confidential, but would lack the degree of formality provided by the first, unless an oral approach to President Jayewardene were followed up by a confidential written communication setting out our attitude to the Agreement.

On balance, the Foreign Secretary inclines to the second option. Knowledge of an oral exchange between the Prime Minister and President Jayewardene, followed up with a letter to the President or one of his close advisers, could be kept to a limited circle within the Sri Lankan Government and would thus be less likely to leak. It would of course be in the Sri Lankans' own interest to keep the matter confidential. It would also appear less of a formal rejection of our close and long-standing relationship with Sri Lanka than would abrogation.

Sir Geoffrey Howe therefore suggests that the Prime Minister should raise the matter with President Jayewardene during their talks on 27 June on the lines suggested above, emphasising that Parliamentary and public opinion in this country would render it impossible for us to respond to a request for military assistance in any circumstances arising directly from the inter-communal troubles in Sri Lanka. This might be followed up with a confidential letter to the President himself or to one of his advisers, recapitulating the points made orally by the Prime Minister. This exchange would serve to place on record our understanding of our undertakings under the Agreement and could be drawn on if in the future there were any public controversy about our commitments under the Agreement, necessitating a public clarification by the government.

I am copying this letter to Richard Mottram (MOD).

*Yours ever,*  
*Len Appleyard*  
(L V Appleyard)  
Private Secretary

C D Powell Esq  
10 Downing Street



10 DOWNING STREET

Prime Minister

Not a very happy story:  
waiting until a commitment  
might be called before  
deciding to revoke it.

There is also the  
aspect of your visit. It won't  
exactly improve the  
atmosphere: though equally  
the visit might soften the  
blow.

We shall need to keep  
the situation in Sri Lanka  
under very careful scrutiny  
in the run-up to your  
visit.

C D P

SECRET



File

bc: Sir P. Cradock

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10 DOWNING STREET

*From the Private Secretary*

23 June 1984

SRI LANKA

The Prime Minister has considered the Foreign and Commonwealth Secretary's recommendation, conveyed in your letter to me of 22 June, that President Jayewardene should be informed that, in the event of an external threat to Sri Lanka arising from inter-communal problems, the United Kingdom would not consider itself obliged to provide assistance under the 1974 UK-Ceylon Defence Agreement.

The Prime Minister has commented that it would not be right simply to abrogate an agreement unilaterally - which is what both the options set out in your letter would in practice amount to - without discussion.

This would mean that while the subject should be raised with President Jayewardene, the problems explained and he could be given an indication of our intentions, it would be right also to undertake to consider his views before reaching a definite conclusion.

I should be grateful if you would ensure that the briefing for the Prime Minister's discussion with President Jayewardene takes full account of her comment.

I am sending a copy of this letter to Richard Mottram (Ministry of Defence).

Charles Powell

Len Appleyard, Esq.,  
Foreign and Commonwealth Office.

SECRET

CDD 5A  
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MINISTRY OF DEFENCE  
MAIN BUILDING WHITEHALL LONDON SW1  
Telephone 01-~~XXXXX~~ 218 2111/3

MO 5/17

3rd July 1984

*Dear Len*SRI LANKA

You kindly sent a copy to Richard Mottram here of your letter of 22nd June to Charles Powell, on the future of the UK-Ceylon Defence Agreement of 1947.

Although the Defence Secretary did not have an opportunity to see your letter, or the reply from No 10, before the meeting between the Prime Minister and President Jayewardene took place, the MOD does of course have a strong interest in this subject. As your letter pointed out there would be very severe practical difficulties in providing military help to Sri Lanka and the Defence Secretary therefore supports Sir Geoffrey Howe's view that it would be desirable to persuade the President that the 1947 Agreement should be regarded as essentially consultative.

He has noted that the matter will now come before OD, and our officials will no doubt be in touch over the preparation of a paper.

I am copying this letter to Charles Powell (No 10).

*Yours sincerely*  
*A Howe*

(S H LOWE)

L V Appleyard Esq

## SRI LANKA: CONTINGENCY PLANNING

## CONCLUSIONS

1. (i) In the event of a serious recurrent of inter-communal violence in Sri Lanka, even one leading to Indian military intervention, no major direct British interests are likely to be involved. Our interests in Sri Lanka are slight. On the other hand, we have major long-term interests in India. Furthermore, both countries are old friends and members of the Commonwealth and we have had fairly frequent discussions with both Governments about the problem, particularly over the past year.

(ii) We should avoid being drawn into the substance of the dispute because: firstly, it is intractable, with right and wrong on both sides; secondly, if we took sides against India we would place our major interests there at risk; and thirdly there would be conflicting parliamentary and public pressures reflecting the views of the rival communities in this country.

(iii) Our reasons for declining to provide limited military assistance to Sri Lanka in 1983 would remain valid. Furthermore, the provision of assistance at such a great distance would be expensive, would present major logistical problems, and would also be to the detriment of our defence commitments elsewhere. We should take early pre-emptive action to deter the Sri Lankans from invoking the 1947 Defence Agreement even at a time of desperation.

(iv) In a situation short of an overt Indian military intervention we should limit our actions to the sending of high-level messages urging restraint and the provision of humanitarian assistance as necessary. The objective should be to prevent an escalation.

(v) Even short of Indian intervention, there could be a role for the UN Secretary-General and/or the Commonwealth Secretary-General. We should propose that any action we took



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should be duplicated by the Ten who made a useful demarche in 1983.

(vi) If a direct Indian military intervention occurred we might need to go further. We should be prepared to put forward a draft UN resolution taking a balanced position between the two countries.

(vii) A prolonged Indian military intervention in Sri Lanka could lead to pressures for the aid programme to India to be used as a lever to bring about an Indian withdrawal and for military supplies to be cut off. There would be difficult decisions to take which cannot adequately be predetermined now. We should bear in mind our long term interests in India. Also that the Indian justification for intervening might have some validity.

#### BACKGROUND

2. The situation in Sri Lanka is precarious. In recent weeks tension has increased between the Tamil minority and Sinhala majority. So have incidents of Tamil terrorist attacks against the security forces. The kidnapping for ransom of an American couple, who were subsequently released, was an ugly new development. Considerable mutual suspicion exists between India and Sri Lanka. The Indians criticise the actions of the Sri Lankan security forces and (for example in Mrs Gandhi's recent message to the Prime Minister) place little faith in President Jayewardene's ability to control his extremists and push through a political solution. The Sri Lankans condemn Indian support for Tamil extremism which they consider was firmly established by the messages coming from Tamil Nadu which resolved the recent kidnapping and the equivocal role of the State Government.

3. The All-Party Conference reconvened in Colombo on 9 May and is due to remain in session at least until 1 June when its sub-committees will report back to the Conference plenary.

/However

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However, it is unlikely to make any real progress on the central issue of regional autonomy and might collapse if the Tamils maintain their present refusal to participate in the work of the sub-committees.

4. The possibility of Indian military intervention in the event of a major outburst of violence was assessed in a JIC paper circulated in mid-April (not attached for ease of handling). Mrs Gandhi could come under great pressure from the 50 million Tamil community in South India to take action in support of Sri Lankan Tamils. With a general election in India imminent it is possible she might see some attraction in a brief and successful military operation. But a relatively small-scale military intervention, with the limited objective of securing the Jaffna peninsula on the tip of the island, would involve formidable risks and problems. Furthermore the international, political, logistic and financial costs of such an action would be very severe. These last factors would be likely to weigh heavily against any temptation to intervene overtly.

#### British Interests

5. British commercial interests in Sri Lanka are not large. The British community is small and concentrated in the south of the island well away from the troubled areas. Our relations with the Sri Lankan Government are good and they have occasionally proved helpful in international affairs, particularly over the Falklands.

A 6. A 1947 Defence Agreement between the UK and Sri Lanka (attached) is still valid although it has never been invoked by either side. It provides for the two Governments 'to give each other such military assistance for the security of their territories, for defence against external aggression and for the protection of essential communications as it may be in their mutual interest to provide'. However after President Jayewardene had referred publicly to the Treaty on 7 April 1984 Sir J Nicholas made it clear to President /Jayewardene

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Jayewardene on instructions that he should not assume that we would be able to provide military assistance under the Agreement. The President said that there would never be any question of Sri Lanka invoking the Agreement. But we cannot assume that the Sri Lankans would abide by this assurance if Indian intervention faced them with a desperate situation.

7. An informal request for assistance to maintain internal order was put to us in July 1983 at the height of the inter-communal troubles. The Sri Lankans enquired tentatively whether we would be prepared to provide Gurkha troops to assist with internal security duties. Ministers decided that we should refuse on the grounds that to send troops would embroil us directly in Sri Lankan internal affairs, expose us to Parliamentary criticism in the UK, and bring us into direct confrontation with the Indian Government. Accordingly we replied that our military resources worldwide were under strain and that the terms of our agreement with the Nepalese precluded our supplying Gurkha troops. We also turned down a request for transport facilities to ferry Tamil refugees from the Colombo area to relative safety in the north of the island; we pleaded practical difficulties and our desire to avoid direct involvement. In neither case did the Sri Lankans refer to the Defence Agreement.

8. Since any inter-communal violence in Sri Lanka and our reactions to it would have repercussions in India any response on our part needs to take account of our interests in India. Our commercial interests there are very substantial. It is a large and growing market for both commercial and defence sales. British exports in 1983 exceeded £800 million and since 1975 India has bought British defence equipment worth over £1.25 billion. Sales of defence equipment worth a further £1.6 billion are currently under discussion. Although the UK and India differ on many important international issues, it is a

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major Western interest to prevent India, which is by far the most important country in the region, from coming further under Soviet influence. On the Sri Lanka question the Indians have shown themselves to be extremely sensitive to inaccurate reports of our providing military assistance or training to the Sri Lankans. They are of course aware of the 1947 Defence Agreement.

#### OTHER FACTORS AFFECTING OUR RESPONSE

9. These are as follows:

(a) Parliamentary and public pressure in this country. Tamils form the majority of the 26,000 strong Sri Lankan community in this country. Many are professional people. They are well-organised and vocal. A number of MPs from all parties have been sympathetic to their approaches. There is also a small number of MPs on the Left of the Labour Party who espouse their cause on the grounds of Marxist workers' solidarity. On the other hand, the Anglo-Sri Lankan Parliamentary Group is broadly supportive of the Sri Lankan Government (ie the Sinhalese); an all-party group of ten is due to visit Sri Lanka at the beginning of June. There would probably be general support for HMG providing humanitarian assistance to the victims of further inter-communal violence in Sri Lanka and exerting its influence to reduce tension both in Sri Lanka and between Sri Lanka and India.

(b) The Ten made a demarche to the Sri Lankan Government, at the suggestion of the French, at the time of the July 1983 riots. This proved a useful action to refer to subsequently in response to MPs' letters enquiring whether HMG had urged restraint on the Sri Lankan Government.

(c) We have kept in close touch with the US Government and should continue to do so. Apart from the Prime Minister, President Reagan was the only other recipient of a recent message from Mrs Gandhi. President

/Jayewardene

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Jayewardene is due to visit Washington in June (calling in London on his way back) and will undoubtedly hope to extract some overt demonstration of American support in order to strengthen his hand. The Indians are apprehensive (without reason as far as we know) about the Americans seeking base facilities in Sri Lanka in exchange.

(d) The Soviet Union has not been directly involved. But President Jayewardene insinuated, not very convincingly, that there were communist influences behind last year's disturbances. If the Indians went to the length of intervening, the Russians would give them political support which they could then contrast with any even-handed or 'anti-Indian' response by the West. They would probably support India in any debate in the Security Council.

(e) Since the Commonwealth Secretary-General had discussions with President Jayewardene and Mrs Gandhi in the margins of the 1983 CHOGM an early opportunity should be taken to discuss our concern with him and sound out whether he would be prepared to take a more active role if the need arose.

#### POSSIBLE SCENARIOS AND POSSIBLE ACTIONS BY HMG

10. We list below three possible scenarios covering escalating violence and Indian responses together with a list of actions we might consider taking in each case. Our actual response would of course have to be decided in the light of circumstances at the time. The objective at each stage should be to prevent the situation deteriorating further in the direction of the next scenario. Under all three scenarios it would almost certainly be necessary to provide humanitarian assistance to refugees in Sri Lanka and possibly India; this would be financed in the first instance from the ODA's disaster relief funds but if the problem persisted separate arrangements might have to be made.

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(a) A major explosion of inter-communal violence similar to that in July 1983 precipitated by Tamil terrorist activity. There might be attacks on Tamil communities in the centre and south of the island and in Colombo, as well as action by the security forces in the north. There would also be large numbers of Tamil refugees fleeing both to the north of Sri Lanka and across the north into India. There would be a major need for humanitarian assistance.

Possible Actions

(i) In the unlikely event of our receiving intelligence that such an outbreak was imminent we should, if possible, intervene with the Sri Lankan Government and, if appropriate, the Indian Government to head it off.

(ii) Prime Minister should send a message to President Jayewardene urging him to use his best efforts to contain the violence: Parliament would be informed.

(iii) We should consult our EC partners with a view to a co-ordinated demarche to the Sri Lankan Government on similar lines to the Prime Minister's message to President Jayewardene.

(iv) We should follow up the recent exchange of letters between the Prime Minister and Mrs Gandhi with a further approach urging that India exercise restraint in any response it might contemplate.

(b) A major inter-communal outbreak of violence as in (a) above followed by a major increase in Tamil terrorist activity in the north. Tamil terrorists already in the island would be reinforced by para-military trained compatriots from India and possibly also by Indian Government para-military or military forces operating clandestinely out-of-uniform who would join the terrorists in guerilla activities in an attempt to push Sri Lankan Government forces out of the north of the island. Over time such action might take on the  
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character of a popular Tamil rising against the Sinhala-dominated government.

Possible Actions

(i) Further stronger messages from the Prime Minister to President Jayewardene and Mrs Gandhi urging restraint; the message to Mrs Gandhi should reiterate the need to restrain Tamil extremists from operating in India.

(ii) A further joint demarche by the Ten both to Sri Lanka (if appropriate) and India.

(iii) Parliament to be informed that we were actively urging restraint on both sides and that the Prime Minister was in contact with President Jayewardene and Mrs Gandhi.

(iv) Discussion with Commonwealth Secretary-General on the possibility of his exercising a mediatory role between Sri Lanka and India depending on the outcome of the soundings referred to in paragraph 9(e) above.

(c) A major inter-communal outburst followed by overt Indian military intervention. This could be an invasion of brigade-size forces, which are to hand and could be deployed at short notice but would be risky unless rapidly reinforced. Or a larger scale invasion requiring considerable preparation which would be difficult to conceal. The Indian Government would almost certainly seek to justify such a move by asserting that their intervention was primarily to protect Tamils of Indian nationality, of whom there are many in Sri Lanka. The Indians might also point to the parallel of US intervention in Grenada and the reason given for it. If the intervention followed large scale killings of Tamils it might well attract some measure of public sympathy in Britain.

Possible Actions

(i) If, as would be probable, we obtained advance intelligence  
/of

of India's intention to intervene, we should, if possible, approach the Indian Government bilaterally to persuade them to hold back, co-ordinating our action as necessary with the US and (less valuable and harder to organise quickly) our EC partners. Any Old Commonwealth countries in possession of the same intelligence should also be consulted with a view to similar intervention.

(ii) Once knowledge of the Indian intervention became public we should call publicly (eg in a Parliamentary statement) on the Indian Government to withdraw its forces, balancing this with a call on the Sri Lankan Government to restore law and order and to respect human rights.

(iii) We should propose that the Ten make a statement on parallel lines. In consultation with the Commonwealth Secretary-General we might also propose that selected Commonwealth countries (for example Jamaica, Nigeria, Tanzania, Malaysia, Singapore, Australia, Canada, New Zealand) should take action individually along similar lines.

(iv) Action at the UN. If we decide to raise the matter at the Security Council or it were raised by one of the parties (or another country on Sri Lanka's behalf) - bearing in mind that India is currently on the Security Council - we should be ready with a draft resolution (text attached) including a request for the Secretary-General to use his good offices. Such an approach to the Secretary-General might be appropriate even if the Security Council had not debated the question. There might be a role for an observer mission.

(v) India and Sri Lanka should be encouraged to explore other means of restoring peace and security, for example, some mediation mechanism involving the Non-Aligned Movement or South Asian Regional Co-operation (SARC).

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(vi) We should take steps to pre-empt the Sri Lankans appealing to us for military assistance under the 1947 Defence Agreement by drawing their attention again to the provision in it that military assistance must be in the 'mutual interests' of the two Governments. In this way we would hope to avoid having to reject a formal Sri Lankan request for help (which would have to refer to the same provision). There is a strong case for taking such pre-emptive action with President Jayewardene at a high level when he visits London in June. (This is being considered separately).

(vii) If the Indian military presence in Sri Lanka became prolonged there could be pressure for the continuation of our bilateral aid programme to be used as a lever to get them out. This should be resisted since it would be ineffective with the Indians (who might have real problems in extricating themselves) and would do long term damage to our bilateral relations.

(viii) There might also be pressure for us to withhold supplies of defence equipment for India. If by then the general Memorandum of Understanding governing our supply of defence equipment to India had been signed it would be very difficult for us to impose an embargo. The existence of the MOU (which has been referred to in the press) could be given as the reason for our not doing so. Alternatively, particularly if it seemed that Indian intervention would be short term, we might be able to finesse the question by delaying certain key supplies on some technical pretext. If Indian intervention were prolonged and their pretext flimsy, we might be forced to consider an embargo. In doing so we should have to take account of the fact that such an action would do lasting damage to our prospects for selling defence equipment to India. We should therefore seek to ensure, if possible, that any embargo resulted from collective action either in the EC (difficult to achieve because of likely

/French

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French eagerness to continue arms sales to India) or the Security Council (difficult with India at present on the Council and the Soviet Union likely to use their veto in India's interests).

## DRAFT SECURITY COUNCIL RESOLUTION

The Security Council

Having considered the request .....

Recalling the purposes and principles of the Charter of the United Nations, in particular the principles of the sovereign equality of all its members, peaceful settlement of disputes, abstention from the threat or use of force, and non-interference in the internal affairs of other states;

1. Affirm that the sovereignty, political independence and territorial integrity of the Republic of Sri Lanka must be fully respected;
2. Calls also for the early withdrawal of foreign forces and other elements, the cessation of all forms of intervention in the internal affairs of the Republic of Sri Lanka, and the exercise of restraint by all parties;
3. Also calls on all parties to respect the human rights of the peoples of Sri Lanka;
4. Requests the Secretary-General to transmit this resolution to the countries concerned, to keep the situation under review, and to use his good offices to seek the early withdrawal of foreign forces;
5. Further requests the Secretary-General to report to the Council by .....
6. Decides to remain seized of the question.

2 B.



COLONIAL OFFICE

# CEYLON

Proposals for conferring on Ceylon fully  
responsible status within the British  
Commonwealth of Nations

*Presented by the Secretary of State for the Colonies to Parliament  
by Command of His Majesty  
November 1947.*

LONDON  
HIS MAJESTY'S STATIONERY OFFICE

ONE PENNY NET

Cmd. 7257

# CONSTITUTIONAL DEVELOPMENT IN CEYLON

statement in Parliament on the 18th June, 1947, it was indicated when Agreements on a number of subjects had been concluded on terms satisfactory to His Majesty's Government in the United Kingdom and the Ceylon Government, steps would be taken to amend the Constitution so as to confer upon Ceylon fully responsible status within the British Commonwealth of Nations.

2. Agreements (of which the texts appear in Appendices I, II and III of this paper) have now been concluded on the following matters of mutual concern:—

- (a) Defence;
- (b) External Affairs;
- (c) certain matters affecting Public Officers.

3. The steps necessary to confer upon Ceylon the new status mentioned above are:—

- (a) the enactment of an Act of Parliament on the lines of the Bill the text of which has now been published; and
- (b) the amendment of the Ceylon (Constitution) Order in Council, 1946, so as to bring it into a form suitable for a fully self-governing member of the British Commonwealth.

4. The principal alterations proposed in the Order in Council are as follows:—

- (a) in place of the Governor, there will be a Governor-General who, in the exercise of his powers and functions, will, generally speaking, act in accordance with the constitutional conventions applicable to the exercise of similar powers and functions in the United Kingdom by His Majesty;
- (b) the powers reserved to His Majesty to make laws for Ceylon in matters relating to Defence and External Affairs, and to amend and revoke the Order in Council, will be abolished;
- (c) the provisions for the reservation of bills for His Majesty's pleasure will be revoked.

## APPENDIX I.

### UNITED KINGDOM—CEYLON

#### DEFENCE AGREEMENT

Whereas Ceylon has reached the stage in constitutional development at which she is ready to assume the status of a fully responsible member of the British Commonwealth of Nations, in no way subordinate in any aspect of domestic or external affairs, freely associated and united by common allegiance to the Crown;

And whereas it is in the mutual interest of Ceylon and the United Kingdom of Great Britain and Northern Ireland that the necessary measures should be taken for the effectual protection and defence of the territories of both and that the necessary facilities should be afforded for this purpose;

Therefore the Government of the United Kingdom and the Government of Ceylon have agreed as follows:—

(1) The Government of the United Kingdom and the Government of Ceylon will give to each other such military assistance for the security of their territories for defence against external aggression and for the protection of essential communications as it may be in their mutual interest to provide. The Government of the United Kingdom may base such naval and air forces and maintain such land forces in Ceylon as may be required for these purposes, and as may be mutually agreed.

(2) The Government of Ceylon will grant to the Government of the United Kingdom all the necessary facilities for the objects mentioned in Article 1 as may be mutually agreed. These facilities will include the use of naval and air bases and ports and military establishments and the use of telecommunications facilities, and the right of service courts and authorities to exercise such control and jurisdiction over members of the said Forces as they exercise at present.

(3) The Government of the United Kingdom will furnish the Government of Ceylon with such military assistance as may from time to time be required towards the training and development of Ceylonese armed forces.

(4) The two Governments will establish such administrative machinery as they may agree to be desirable for the purpose of co-operation in regard to defence matters, and to co-ordinate and determine the defence requirements of both Governments.

(5) This Agreement will take effect on the day when the constitutional measures necessary for conferring on Ceylon fully responsible status within the British Commonwealth of Nations shall come into force.

Done in duplicate, at Colombo, this 11th day of November, 1947.

Signed on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland.

HENRY MOORE.

Signed on behalf of the Government of Ceylon.

D. S. SENANAYAKE.

## APPENDIX II.

### UNITED KINGDOM—CEYLON

#### EXTERNAL AFFAIRS AGREEMENT

Whereas Ceylon has reached the stage in constitutional development at which she is ready to assume the status of a fully responsible member of the British Commonwealth of Nations, in no way subordinate in any aspect of domestic or external affairs, freely associated and united by common allegiance to the Crown;

And whereas the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ceylon are desirous of entering into an agreement to provide for certain matters relating to external affairs;

Therefore the Government of the United Kingdom and the Government of Ceylon have agreed as follows:—

(1) The Government of Ceylon declares the readiness of Ceylon to adopt and follow the resolutions of past Imperial Conferences.

(2) In regard to external affairs generally, and in particular to the communication of information and consultation, the Government of the United Kingdom will, in relation to Ceylon observe the principles and practice now observed by the Members of the Commonwealth, and the Ceylon Government will for its part observe these same principles and practice.

(3) The Ceylon Government will be represented in London by a High Commissioner for Ceylon, and the Government of the United Kingdom will be represented in Colombo by a High Commissioner for the United Kingdom.

(4) If the Government of Ceylon so requests, the Government of the United Kingdom will communicate to the Governments of the foreign countries with which Ceylon wishes to exchange diplomatic representatives proposals for such exchange. In any foreign country where Ceylon has no diplomatic representative the Government of the United Kingdom will, if so requested by the Government of Ceylon, arrange for its representatives to act on behalf of Ceylon.

(5) The Government of the United Kingdom will lend its full support to any application by Ceylon for membership of the United Nations, or of any specialised international agency as described in Article 57 of the United Nations Charter.

(6) All obligations and responsibilities heretofore devolving on the Government of the United Kingdom which arise from any valid international instrument shall henceforth insofar as such instrument may be held to have application to Ceylon devolve upon the Government of Ceylon. The reciprocal rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of the application of any such international instrument to Ceylon shall henceforth be enjoyed by the Government of Ceylon.

(7) This Agreement will take effect on the day when the constitutional measures necessary for conferring on Ceylon fully responsible status within the British Commonwealth of Nations shall come into force.

Done in duplicate, at Colombo, this 11th day of November, 1947.

Signed on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland.

HENRY MOORE.

Signed on behalf of the Government of Ceylon.

D. S. SENANAYAKE.

APPENDIX III  
UNITED KINGDOM—CEYLON  
PUBLIC OFFICERS' AGREEMENT

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ceylon have agreed as follows:—

(1) In this Agreement:—

" officer " means a person holding office in the public service of Ceylon immediately before the appointed day, being an officer—

(a) who at any time before the 17th day of July, 1928, was appointed or selected for appointment to an office, appointment to which was subject to the approval of a Secretary of State, or who, before that day, had entered into an agreement with the Crown Agents for the Colonies to serve in any public office for a specified period; or

(b) who on or after the 17th day of July, 1928, has been or is appointed or selected for appointment (otherwise than on agreement for a specific period) to an office, appointment to which is subject to the approval of a Secretary of State; or

(c) who, on or after the 17th day of July, 1928, has entered or enters into an agreement with the Crown Agents for the Colonies to serve for a specific period in an office, appointment to which is not subject to the approval of a Secretary of State, and who, on the appointed day, either has been confirmed in a permanent and pensionable office or is a European member of the Police Force;

" the appointed day " means the day when the constitutional measures necessary for conferring on Ceylon fully responsible status within the British Commonwealth of Nations shall come into force;

" pension " includes a gratuity and other like allowance.

(2) An officer who continues on and after the appointed day to serve in Ceylon shall be entitled to receive from the Government of Ceylon the same conditions of service as respects remuneration, leave and pension, and the same rights as respects disciplinary matters or, as the case may be, as respects the tenure of office, or rights as similar thereto as changed circumstances may permit, as he was entitled to immediately before the appointed day, and he shall be entitled to leave passages in accordance with the practice now followed; but he shall not be entitled to exemption from any general revision of salaries which the Government of Ceylon may find it necessary to make.

(3) Any officer who does not wish to continue to serve in Ceylon, being an officer described in paragraph (a) of the definition of " officer " in Clause 1, may retire from the service at any time; and in any other case may retire from the service within two years of the appointed day. On such retirement he shall be entitled to receive from the Government of Ceylon a compensatory pension in accordance with the special regulations made under Section 88 of the Ceylon (State Council) Order in Council, 1931, in force on the appointed day; but an officer who leaves the Ceylon service on transfer to the Public Service in any colony, protectorate or mandated or trust territory shall not be entitled to receive such a pension.

(4) Pensions which have been or may be granted to any persons who have been, and have ceased to be, in the public service of Ceylon at any time before the appointed day, or to the widows, children or dependants of such persons, shall be paid in accordance with the law under which they were granted, or if granted after that day, in accordance with the law in force on that day, or in either case in accordance with any law made thereafter which is not less favourable.

(5) The Government of Ceylon will comply with any reasonable request which may at any time be made by the Government of the United Kingdom for the release of a public officer for employment in the public service elsewhere.

(6) This agreement will take effect on the appointed day.

Done in duplicate, at Colombo, this 11th day of November, 1947.

Signed on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland

HENRY MOORE.

Signed on behalf of the Government of Ceylon.

D. S. SENANAYAKE.