

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Committee on Trade and Development

Ad Hoc Group on Legal Amendments to the General Agreement

THE USE OF IMPORT SURCHARGES BY CONTRACTING PARTIES

Note by the Secretariat

1. There have been nine cases in which contracting parties have notified the use of surcharges on imports. In every instance, the notification was made because the surcharges involved an addition to or an increase in duties bound by the contracting parties in GATT negotiations. In seven of these cases the reason given for the imposition of surcharges was related to balance-of-payments difficulties and the need to stabilize the economy. Six of the nine cases have involved less-developed countries. In five of these cases waivers were granted to authorize the maintenance of the surcharges. In the remaining case, the CONTRACTING PARTIES took note of the matter without formal action. In the case of the three developed countries no waivers were granted. In two of these cases the contracting party concerned was formally urged to remove the surcharges as early as possible. The matter is still pending in the remaining case. At present four less-developed and one developed country are maintaining surcharges on bound rates. Two less-developed countries are in the process of incorporating the surcharges within their tariffs, after obtaining the permission of the CONTRACTING PARTIES. A list of the documents relevant to the nine cases mentioned in this paragraph is annexed to this paper.

2. In past discussions involving the use of surcharges by less-developed countries for balance-of-payments reasons, the following arguments in one form or another have been advanced by them:

- (i) Surcharges were preferred to quantitative restrictions because they were administratively less cumbersome and were less likely to freeze the pattern of trade.
- (ii) The substantial revenues obtained from the use of surcharges were essential to the success of the countries' stabilization programme.
- (iii) The surcharges were placed both on bound and unbound items to avoid unfair discrimination between exporters.

3. The following reasons were also given by individual countries:

- (1) The conversion of surcharges to internal measures could aggravate industrial conditions, especially in situations where there were accumulation of stocks. The use of such internal measures in place of surcharges could also cause serious internal political difficulties.

(ii) Internal measures alone were not sufficient to restore equilibrium in balance of payments and additional measures to restrict imports were necessary.

(iii) In urgent situations, surcharges could be quickly imposed. Otherwise there could be disastrous delays in bringing a new law before parliament.

4. There has been no instance where a surcharge justified on balance-of-payments grounds was applied only to a few specific products. In the majority of instances, the surcharges have been applied to at least a majority of the items appearing in the import trade of the contracting parties concerned, and the rate of the surcharges has varied with respect to different products.

5. In at least one case a country has applied both quantitative restrictions and surcharges to the same items. The country concerned had explained that while surcharges had assisted in contributing to long-term stability, the surcharges had not proved sufficient to remedy the immediate situation. It was felt that the added imposition of quantitative restrictions would reinforce the effect of the surcharges. In the first waiver granted by the CONTRACTING PARTIES for the use of surcharges for balance-of-payments reasons, it was specified that should the country concerned, contrary to its expectations, resort to quantitative restrictions, the authorization to impose surcharges should cease to be operative as from the day it takes such action. This condition was not repeated in subsequent waivers.

6. The CONTRACTING PARTIES have in various instances noted the following considerations in authorizing the use of surcharges:

(i) In one or two instances, the use of surcharges represented a significant simplification over the system of restrictions previously in force.

(ii) The effect of the surcharges would be less restrictive than quantitative restrictions permitted under Articles XII or XVIII.

(iii) In addition to its direct effect on the level of reserves, the use of surcharges was in certain instances, necessary to ensure success of the government's stabilization programme.

7. The operative decision taken by the CONTRACTING PARTIES has been to waive the provisions of paragraph 1 of Article II, to allow the maintenance as an emergency measure of surcharges additional to the duties provided for in the relevant GATT schedule of the country concerned.

8. The decisions have provided that:

(i) The surcharges will be reduced and eliminated in line with the improvement in the country's balance-of-payments situation. Further, that they should in any case, be eliminated by a certain date. This time-limit has been approximately two years in the first instance, and in all cases has been extended for varying periods up to two years.

(ii) In applying the surcharges, appropriate measures will be taken to avoid unnecessary damage to the commercial and economic interests of other countries.

(iii) The contracting parties maintaining the surcharges will consult on the nature of its balance-of-payments difficulties, alternative corrective measures available, and the possible effect of surcharges on the economies of other countries.

(iv) If the surcharges are unduly restrictive, the affected contracting parties may make representations leading to intervention by the CONTRACTING PARTIES, and if necessary, authority may be granted to them to withdraw negotiated concessions.

(v) The International Monetary Fund will be consulted as in ordinary consultations under Articles XII and XVIII.

(vi) In reducing or eliminating surcharges, the contracting party concerned will endeavour to first remove the surcharges on bound items.

9. In all instances the text of the decision makes it clear that the obligations waived are those of paragraph 1 of Article II and consequently the effect of the waiver, as well as the terms and conditions under which it is granted, extends to bound items only. In a number of cases the items to be covered by the waiver are specified in a list attached to the decision, and the waiver applies to these items only. In most cases the maximum rates of the surcharge, as well as the products to which they can be applied, are specified.

ANNEX

Relevant References on the Use of Import Surcharges by Contracting Parties

- France
- Third Supplement, page 26
 - Fourth Supplement, page 20
 - Fifth Supplement, page 27
 - SR.12/5
 - Seventh Supplement, page 68
- Peru
- Seventh Supplement, page 37
 - Eighth Supplement, page 56
 - Tenth Supplement, page 50
 - Twelfth Supplement, page 54
 - L/827, L/828 and Add.1, L/876, L/898
L/1066, L/1334/Rev.1, L/1841, L/2408
 - IC/SR.39, SR.13/12, SR.15/12,
SR.17/9, SR.20/4, SR.22/10
- Chile
- Eighth Supplement, page 29
 - Ninth Supplement, page 38
 - Tenth Supplement, page 43
 - Eleventh Supplement, page 68
 - Twelfth Supplement, page 52
 - W.14/12, L/990, L/1581, L/2392 and Corr.1,
L/2393, L/2402
 - SR.14/12, SR.17/4, SR.19/9, C/M/24
- Nicaragua
- Eighth Supplement, page 52
 - Tenth Supplement, page 48
 - Eleventh Supplement, page 70
 - L/983, L/1108, L/1299, L/1565, L/1637,
L/1866, L/2256, L/2404
 - SR.14/9, SR.20/5, SR.22/5, C/M/23
- Ceylon
- Tenth Supplement, page 35
 - Eleventh Supplement, page 60
 - L/1427, L/1551, L/1824, L/1834, L/1885, L/1918,
L/2068 and Add.1
 - C/M/3, C/M/8, SR.22/7.
- Uruguay
- Tenth Supplement, page 51
 - Twelfth Supplement, page 59
 - L/1426 and Corr.1 and Add.1, L/1437, L/1569
L/1883, L/2016, L/2103, L/2411
 - SR.22/3

- Canada
- Eleventh Supplement, page 57
 - L/1805 and Add.1, 2 and 3, L/1878, L/1916
 - C/M/1, C/M/14, C/M/15, SR.20/7, SR.20/11
- India
- L/2060, L/2098, C/M/19
- United Kingdom
- L/2285, L/2292 and Add.1, L/2364, L/2395 and Corr.1
 - C/M/23, C/M/24, SR.22/9