

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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## THE URUGUAYAN IMPORT SURCHARGE

### Report of the Committee on Balance-of-Payments Restrictions

1. As requested by the Council, the Committee has re-examined the request by the Government of Uruguay for a further extension of the Decision of 8 May 1961 relating to its import surcharge. It may be recalled that when the matter was last examined in November 1971, the Committee considered that the data made available to it were inadequate for the formulation of a recommendation and that the Council, in concurrence with this view, took steps to grant a provisional extension of the waiver<sup>1</sup>, so as to afford time for a detailed and careful examination of the request on the basis of more complete data, which the Uruguayan authorities were requested to supply (see L/3618 and C/M/77).

2. When it convened on 21 June 1972 to carry out this assignment, the Committee had before it written material supplied by the Uruguayan authorities including: (a) a list of products and surcharge rates; (b) a paper supplementing the supporting document previously considered by the Committee (BOP/124); (c) a list compiled by the secretariat of items which appear to be bound under GATT and subject to the surcharges (BOP/124/Add.1 and Add.2). The Committee had also been supplied with a background paper on recent economic and financial developments in Uruguay prepared in the International Monetary Fund. An opening statement by the representative of Uruguay is reproduced in the Annex to this Report.

### Balance-of-payments position and prospects

3. The Uruguayan request for a further extension of the waiver was, as in the past, motivated by a need to restrain the increase in imports and to safeguard the balance of payments and the foreign exchange reserves. Pursuant to Article XV:2 of the General Agreement, the International Monetary Fund was invited to consult with the CONTRACTING PARTIES in this regard. The representative of the Fund, with reference to the Fund's written material, made a statement as follows:

"Uruguay's balance of payments showed deficits in 1970 and 1971 equivalent to SDR 35.5 million and SDR 38.2 million, respectively, as measured by the decline in the net international reserves of the banking system, and taking into account the allocation of SDRs. At the end of 1971, the net international reserve position of the banking system was negative and equivalent to SDR 66 million, including SDR 42 million in commercial arrears accumulated during 1971. The balance-of-payments

<sup>1</sup>This extension, by Decision dated 19 November 1971 (L/3632), was valid until 31 May 1972. A further extension of the waiver until 30 September 1972 has been approved by the CONTRACTING PARTIES (L/3728).

deterioration continued through the first quarter of 1972 with a further foreign reserve loss of SDR 12.5 million (or SDR 19.8 million before the allocation of SDRs). The Government of Uruguay, which assumed office on 1 March 1972, took a number of measures affecting the exchange and trade régime. A dual exchange rate system was introduced with a pegged commercial rate for exports, imports, and government transactions and a freely fluctuating financial rate for invisibles and tourism; the commissions on the sale of foreign exchange, which had been imposed in 1971, were eliminated and import surcharges were reduced. The exchange and trade system of Uruguay still contains a number of restrictive practices including payments arrears, limits on sales for tourism, special import deposit requirements, prescription of terms of payment, import prohibitions, and import surcharges. Also, transfers for profits, dividends, technical assistance payments, and amortizations of loans do not have access to the exchange market.

"The Fund believes that at the present time the general level of import restrictions and import surcharges of Uruguay which are under reference does not go beyond the extent necessary to stop a serious decline in its monetary reserves."

4. Members of the Committee expressed understanding and sympathy for the balance-of-payments difficulties facing Uruguay. In their view, however, the problems appeared to be of a structural nature and called for fundamental remedial adjustments beyond the mere curtailing of imports. In response to this comment and in reply to questions, the representative of Uruguay said that the new Government, which had taken office in March 1972, had introduced, within the framework of a general economic policy, a series of measures to combat inflation, to limit budgetary deficit and to control credit in the private sector. The economy was in need of massive capital investments and it was the aim of the Uruguayan Government ultimately to reverse the traditional sizeable outflow of capital. It was hoped that the specific measures taken would be beneficial to the economy and eventually help to restore external equilibrium. In addition to the structural problems, Uruguay had suffered from a short-fall in exports in 1970 and 1971, particularly in the meat, cattle and wool sectors which, compounded with problems of social unrest, had aggravated the situation.

5. Some members of the Committee wondered whether and to what extent the import surcharge really contributed to safeguarding the balance of payments, noting the Uruguayan statement that it had but minimum effects on imports. The representative of Uruguay explained that, since about two thirds of total imports were not subject to the surcharge, its incidence was felt only in regard to the remaining portion which comprised mainly less essential and luxury products. The surcharges, unlike import quotas and import licensing control, placed no quantitative limitation on these imports; and any effect that it might have had on total imports had been moderate, as might be seen in the steady growth of this total in the

past five years. On the other hand, the surcharge, especially on account of the variation in the rates used, certainly had an effect on the commodity pattern of imports; it served the purpose of diverting scarce foreign exchange resources from luxury to essential imports.

6. Some members of the Committee noted with satisfaction that the Government of Uruguay had enlisted the aid of the International Monetary Fund and the Inter-American Council for the Alliance for Progress in planning its stabilization programme.

7. In the light of the material before the Committee, further discussion with the Uruguayan representative, and the statement made by the Fund representative, members of the Committee generally indicated that they had no reason to question the Uruguay submission that action was needed to safeguard the balance of payments and the monetary reserves.

#### Administration of the import surcharge

8. The Committee recalled that one of the main issues which had been taken up by contracting parties when the question of extending the waiver was considered on previous occasions, was the "flag discrimination" feature of the surcharge system. Many contracting parties, while agreeing to the need and justification for the use of the surcharge by Uruguay for balance-of-payments reasons, considered it unjustified and economically unsound to draw a distinction between ships of national and foreign registration for purposes of applying this measure. Mainly on account of this objection, some contracting parties had in the past found it difficult to vote in favour of the decisions extending the waiver. It was further recalled that, in a previous report (L/3409, dated 7 July 1970) it had been ascertained that: (a) goods carried in vessels flying Uruguayan flag were exempted from the surcharge; (b) goods carried in vessels flying non-Uruguayan flag were subject to an additional 5 per cent surcharge; (c) goods carried on vessels flying non-Uruguayan flag at a time when cargo space was available on Uruguayan flag vessels would be subject to an additional surcharge of 10 per cent. At its meeting last November, one of the questions on which the Committee had felt itself to have been inadequately informed related to the actual state of the "flag discrimination" provisions in the legislation and their implementation.

9. The Committee welcomed the Uruguayan statement in the latest document (BOP/124 of 26 May 1972) that by virtue of Article 3 of Decree No. 177/972 of 2 March 1972 (see Annex III), the 5 per cent surcharge formerly applied on the carriage of goods transported in vessels flying non-Uruguayan flag had been lifted and that discrimination no longer existed in this respect. Some members wished to be assured, however, that this in fact meant that in the administration of the surcharge, no distinction whatsoever was now made between goods shipped in

Uruguayan and foreign vessels. The representative of Uruguay stated that no discrimination existed any longer in the administration of the surcharge between goods carried in vessels flying a foreign flag and those flying the Uruguayan flag.<sup>1</sup>

10. The Committee noted that the Uruguayan Government had established a Commission to study the maritime transport problem and to engage in the preparation of draft legislation on "freight reservation" and enquire as to the nature of such legislation. The representative of Uruguay explained that because freight costs represented a very substantial proportion of Uruguay's foreign exchange disbursement (\$28 million in 1970, compared to total export earnings of \$232 million) the Government was anxious to reduce this expenditure, for example as it had already done, through giving priority to ships of Uruguayan ownership in the transport of goods procured by, and for the use of, the Government. It was premature to forecast what draft legislation would emanate from the Commission.

11. Some members of the Committee recalled the view they had expressed at the November 1971 meeting that it was inappropriate and counter-productive for Uruguay to exempt from the surcharge imports from its LAFTA partners, especially as these exemptions vitiated the payments effects of the surcharge. The representative of Uruguay replied that his Government had no interest in granting non-reciprocal concessions to other member States of LAFTA; it had never done so in the past and there was no reason to expect it would ever do so.

12. Members of the Committee noted that the representative of Uruguay confirmed the accuracy of BOP/124/Add. 1 and 2 as far as GATT bound items were concerned. They furthermore expressed the hope that the consulting country would provide the Committee with a complete list of items subject to the surcharge, including those not bound in GATT, as modified by the latest decrees.

13. Noting that the surcharge had now been in effect for nearly twelve years, the Committee expressed the hope that the various measures taken by the Uruguayan authorities would have the desired effects so that early steps could be taken to remove the import surcharge and import restrictions. If a return to Uruguay's bound rates would afford insufficient protection for some items, it was noted that Uruguay could renegotiate its concessions on those items.

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<sup>1</sup>In this connexion the delegation of Uruguay addressed a communication to the Committee, giving an account of the developments concerning protection of Uruguayan shipping. The relevant thirteen decrees have been transmitted to the secretariat where they are available for consultation (see Annex IV).

Other measures affecting imports

14. The Committee was informed at this meeting that a temporary embargo on imports of capital goods, first introduced in May 1971 for a period of ninety days, had been prolonged until 30 June 1972. Asked whether this measure was likely to be further extended, the representative of Uruguay pointed out that under Uruguayan legislation existing since 1959, while imports were generally to be unrestricted, the administration was empowered to regulate imports by requiring a prior deposit, by imposing a surcharge and by "prohibiting, entirely or in part, for a period of six months that may be extended, imports of non-essential or luxury products and goods competing with national production" (BOP/R/45, page 17). Such measures were taken from time to time as required by circumstances. With regard to the prohibition of imports of capital goods, certain exceptions had been provided for, notably in regard to those considered to be essential to the economy.

15. In this connexion, the Committee recalled that at the last consultation under Article XVIII:12(b) with Uruguay in June 1970, the Committee had been informed that "there no longer existed in Uruguay any quantitative import restrictions" (BOP/R/45, paragraph 13). In view of the new development, the Committee considered that the Uruguayan Government should be requested to supply the CONTRACTING PARTIES with information on this prohibition and any future changes in the use of quantitative restrictions such as was required from contracting parties acting under Article XVIII:B. The Committee understood that the findings of the Fund, quoted in paragraph 3 above, embraced this prohibition as well as the import surcharge.

16. Some members of the Committee pointed out that, in addition to the surcharge, the normal customs duty and the quantitative restrictions, a number of other measures were in force which affected imports. Among these was the deposit requirement applied to different goods at different rates ranging up to twelve times the value of the goods imported. In view of the high cost of borrowing in the country, this would seem to amount to a substantial or even prohibitive barrier to trade. The representative of Uruguay replied that the measure was used mainly for the purpose of mopping up excess liquidity, immobilizing part of domestic purchasing power and thus helping to combat inflation. He agreed with members of the Committee that the deposits, which were refundable upon application after six months from the date on which they were made, could place a significant financial burden on importers which, depending on the availability of funds and lending terms prevailing on the domestic money market, could have a deterring effect on imports.

17. Members also referred to the consular fee and asked for clarification of some aspects of its application. The representative of Uruguay stated that this fee, charged at different rates according to the nature and quantity of the goods imported, was additional to the import duty. There was a special exchange rate for the consular peso which did not correspond to the current exchange rate for the Uruguayan peso. On average, consular fees amounted to 12.5 per cent of the value of the goods. The system was indeed complex and reflected past practices built up over a long period.

18. Members of the Committee commented that the various commercial policy measures that were in force, comprising the import duty, the import surcharge, the "aforos" (officially determined import values), the consular fee, the special deposit and the temporary import prohibition, would seem to be as extensive as they were cumbersome, confusing and burdensome to the trading community as well as to the administration. They suggested that, since the present system appeared to represent the accumulated legacies of successive administrations, the Uruguayan authorities might find it rewarding to carry out a general review of the whole system, with a view to streamlining and simplifying it, in order to lessen the burden to the Government and the trading community and reduce impediments to economic progress.

### Conclusions

19. In the light of the discussion and taking note of the findings of the International Monetary Fund quoted in paragraph 3 above the Committee:

- (a) concurred in the view that the Uruguayan import surcharge and restrictions, as applied at their present general level, are justifiable on balance-of-payments grounds;
- (b) took note of the statement by the Uruguayan authorities that there was no longer any discrimination relating to shipping in the administration of the import surcharge;
- (c) considered that while Uruguay should be allowed to maintain the surcharge to the extent necessary to meet the balance-of-payments difficulties, it should be urged to reduce and remove it as early as possible;
- (d) recommended that the Uruguayan Government develop a programme for adjusting its import régime so that a waiver of GATT obligations would no longer be needed; and
- (e) agreed to propose that, in order to allow time for such action, the present waiver be extended for a further period until mid-1974, on the understanding that the Uruguayan Government would furnish a progress report by 30 June 1973 on steps taken or planned along the lines suggested in paragraphs (c) and (d) above.

### Annexes

- I. Draft Decision.
- II. Opening Statement by the Representative of Uruguay.
- III. Decree 177/972 of 2 March 1972.
- IV. Communication from the Uruguayan delegation on Governmental Action Concerning Shipping.

ANNEX I

Draft Decision

Considering the Decision taken by the CONTRACTING PARTIES under paragraph 5 of Article XXV on 8 May 1961 to waive the obligation imposed by Article II of the General Agreement to the extent necessary to allow the Government of Uruguay to apply surcharges on imports of specified products not exceeding specified rates and incidence;

Considering that the above-mentioned Decision, as amended, has been successively extended and is valid until 30 September 1972;

Considering that the Government of Uruguay has requested a further extension of the Decision on the grounds that the surcharge is still needed as a means of safeguarding the balance of payments and the monetary reserves;

Having consulted fully with the International Monetary Fund under Article XI:2 and taken into account the assessment provided by the Fund; and

While urging the Government of Uruguay to develop a programme for adjusting its import régime so that a waiver of GATT obligations will no longer be needed;

the CONTRACTING PARTIES, acting pursuant to the provisions of paragraph 5 of Article XXV of the General Agreement and in accordance with the procedures adopted by them on 1 November 1956,

Decide to waive, subject to the terms and conditions laid down hereunder, the provisions of paragraph 1 of Article II of the General Agreement to the extent necessary to allow the Government of Uruguay to apply the import surcharges which were being effectively applied on 31 May 1972 under the relevant laws and decrees in force on that date, as a temporary measure taken as part of and in conjunction with its stabilization and development programme, to items specified in Schedule XXXI, it being understood that the surcharges shall be levied in a manner consistent with the provisions of Article I of the General Agreement.

Terms and Conditions

1. The import surcharges authorized by the present Decision shall be those existing on 31 May 1972 and neither the rates of the surcharges nor the basis for levying them shall be such as to exceed in incidence those being effectively applied on that date under relevant laws and decrees then in force. The Government of Uruguay shall transmit to the CONTRACTING PARTIES not later than 30 October 1972 a certified copy of all such laws and decrees and a certified list showing the products, by customs tariff number and commodity description, which are subject to the surcharges and the surcharge rates applying to them.

2. The import surcharges authorized under this Decision shall be applied only to the extent that the circumstances giving rise to their introduction shall justify their application and shall be progressively reduced or eliminated whenever possible.
3. In levying the surcharges authorized under this Decision, the Government of Uruguay shall take appropriate measures to avoid unnecessary damage to the commercial or economic interests of other contracting parties, and the impairment of regular channels of trade.
4. The Government of Uruguay shall submit before 30 June 1973 a report on action taken or planned to reduce or eliminate the surcharges authorized under this Decision.
5. If any contracting party considers that the effect of the surcharges maintained under this Decision is unduly restrictive and that damage to its trade is caused or threatened thereby, it may make representations to the Government of Uruguay, which shall accord sympathetic consideration to such representations and afford that contracting party adequate opportunity for consultation.
6. If such consultation does not lead to satisfactory results, the contracting party concerned may request the CONTRACTING PARTIES to invite Uruguay to enter into consultations with them. If, as a result of these consultations with the CONTRACTING PARTIES, no agreement is reached and if they determine that the effect of the surcharges is unduly restrictive and that serious damage to the trade of the contracting party initiating the procedure is threatened or caused thereby, the latter will be released from its obligations to apply to the trade of Uruguay concessions initially negotiated with Uruguay to the extent that the CONTRACTING PARTIES determine to be appropriate in the circumstances.
7. When the CONTRACTING PARTIES are called upon to enter into consultation with the Government of Uruguay under this Decision they shall consult fully with the International Monetary Fund to the extent provided for in paragraph 2 of Article XV of the General Agreement.
8. This Decision shall cease to have effect on the date on which all surcharges maintained under this Decision shall be eliminated, or on 30 June 1974, whichever date is the earlier.
9. Upon entry into force of the present Decision the Decision of 8 May 1961, as amended, whose validity has been extended until 30 September 1972, shall cease to have effect.

ANNEX II

Opening Statement by the Representative of Uruguay

The report of the Committee on Balance-of-Payments Import Restrictions on the extension of the waiver authorizing Uruguay to apply import surcharges (document L/3618) states in paragraph 12 that the representative of Uruguay undertook to supply the Committee with "an up-to-date list of products subject to the surcharges together with their corresponding rates and, as far as possible, the percentage of imports subject to each rate, and details on the specific questions asked on the subjects mentioned in this and other paragraphs".

At the meeting of the Council on 9 November 1971, the Chairman of the Committee, Mr. Abbott, specified the precise information required by the Committee, namely:

(i) A full list of the products liable to the surcharge, with an indication of those on which the customs duty of Uruguay was bound in Schedule XXXI; (ii) a list of the rates of surcharges in force and an indication of which rates applied to each product; (iii) an estimate as accurate as possible, of the volume of imports liable to the surcharges, both in total and for each rate in force, expressed also as a proportion of total imports; (iv) a clarification of the present legislation and administrative practices in force as regards the exemption from the surcharge, in whole or in part, of goods carried in Uruguayan ships and to what other ships any such exemption might apply.

Mr. Abbot's statement covered the points mentioned in the Committee's conclusions (paragraph 12), but in addition referred to the exemptions granted for national-flag ships (point (iv)).

In our view, this last reference clarifies the concluding part of paragraph 12 of the Committee's report, which is rather imprecise in regard to the scope of the information required.

Our delegation has supplied all the information requested, although we had to have recourse to the very efficient and competent services of the GATT secretariat in order to complete the list of products subject to surcharge and included in Schedule XXXI, comprising products on which the customs duties have been bound.

.. The Uruguayan delegation has presented a complete list of the products included in its customs tariff and, in collaboration with the secretariat, a list of the products included in Schedule XXXI of duty bindings and which are subject to surcharges. The first list is in the possession of the secretariat and is available for consultation. The second list has been circulated in document BOP/124/Add.2. Some difficulties were encountered in preparing this latter document, because the nomenclature used at the Annecy and Torquay

negotiations for the classification of goods in the customs tariff was different from that used in the customs code currently in force and, furthermore, neither of these corresponds to the Brussels Tariff Nomenclature.

The problem will not recur in the future, because Uruguay has now adopted the Brussels nomenclature and is at present engaged in bringing the two systems into concordance.

B. The above-mentioned list of products indicates the surcharges applicable in respect of each of them. As may be seen, the products subject to surcharge represent only 34 per cent of all products in the customs tariff. Furthermore, and as stated in the communication furnished by us and which was circulated in summary form in document BOP/124, the measure has not had the effect of limiting imports beyond a reasonable extent. The table on the first page of that document shows imports by Uruguay over the period 1967-1971. Over that period the total increase in imports reached 30 per cent and this must be considered reasonable, taking into account the limited number of exportable items, the keen competition which some of them (wool in particular) have encountered, and the internal difficulties through which the country is passing. In all probability, if import trade had developed without any kind of restrictions, such serious imbalance would have resulted in Uruguay's market, where demand for foreign manufactures is keen, that the country's economy and institutional system would have been seriously and perhaps irremediably compromised.

C. Our delegation also supplied a table in respect of imports in 1970, indicating the percentage corresponding to the various surcharge rates and the respective tariff headings. The table, which is reproduced in Annex I to document BOP/124, shows that 66 per cent of the total value of imports in the period indicated comprised products not subject to surcharges; that 93 per cent of the total value of imports represented products subject to surcharges of 0-10 per cent, while only 7 per cent of imports are subject to surcharges at rates exceeding 10 per cent. Within this group, a significant share comprises imports of motor vehicles which Uruguay, having no domestic production of these and no petroleum deposits, classifies as goods of a luxury character. If we consider that surcharges in excess of 150 per cent check imports to such an extent as to be tantamount to an import prohibition, only 0.26 per cent of total imports are affected thereby.

D. The last point of enquiry concerns the exemption in respect of national-flag ships. On this, there is little to be said and many conclusions to be drawn. Article 3 of Executive Decree No. 177/972 of 2 March last repeated Article 2 of Decree No. 536/971 and the 5 per cent surcharge referred to therein. That measure eliminated the tax advantage enjoyed by ships navigating under the Uruguayan flag. Likewise, the only two Uruguayan ships operating services to overseas ports have ceased requesting the flag. Only three ships registered for overseas routes now remain, and they are all exclusively engaged in services to ports in neighbouring countries, in other words, under the national legislation, they are engaged in coasting trade. At the same time, since last year,

Uruguay has had to face an increase equivalent to 28 per cent in general freight rates, plus a discriminatory surcharge of 6 per cent, in addition to the increases resulting from the dockers' strike in the United States Atlantic ports two years ago. We must recall by way of illustration that in 1970 Uruguay had to pay \$28 million in respect of maritime freight and insurance, while the total value of exports was \$232 million.

In conclusion, I should like to commend the very valuable work done by the IMF. Although we are not in agreement with certain details, we consider that the study constitutes a remarkable analysis and we congratulate the Fund officers for their work. We should also like to thank members of the GATT secretariat for their valuable assistance and to acknowledge once more their well-known ability and good will.

ANNEX III

MINISTRY OF ECONOMY AND FINANCE

Decree No. 177/972 - revoking certain provisions of Decrees Nos. 803/971 and 536/971 which had increased the surcharges on certain imports, and extending the suspension of imports of capital goods

Ministry of Economy and Finance

Ministry of Industry and Commerce

Montevideo, 2 March 1972

Having regard to Article 2 of Act No. 12670 of 17 December 1959 authorizing the Executive to establish surcharges on the importation of goods;

Whereas:

- (i) it is desirable to adjust the present scales of surcharges to the level and mode of functioning of the commercial exchange market, in order to avoid any perpetuation of inadequate régimes for affording protection to trade;
- (ii) the progressive liberalization of imports and a realistic policy in exchange matters will be compensatory factors in order that the level of public income in relation to foreign purchases may not be significantly affected;
- (iii) it is necessary to maintain a strict stabilization programme for the domestic price level which is affected, inter alia, by the scale of import surcharges;
- (iv) it is desirable that the suspension of imports of capital goods should remain in force until such time as a definitive régime is drawn up in this respect;
- (v) it is the intention of the Executive progressively to liberalize the import régime, but that while the relevant studies are being made it is necessary provisionally to maintain in force Decree No. 884/971 of 26 December 1971;
- (vi) it is important to make the re-adjustments resulting from amendment of the present scale of surcharges as soon as possible, and it is therefore desirable to extend the application of the new régime to imports covered by applications already filed, and this would, furthermore, place the entire sector on an equal footing;
- (vii) the new régime might cause distortion in the financial calculation made at the time when an application was filed, and it is therefore desirable to set a transitional period so that importers may cancel the applications concerned;

The President of the Republic

HEREBY DECREES AS FOLLOWS

Article 1. Article 1 of Decree No. 803/971 of 6 December 1971, raising to 300 per cent the surcharge on imports which until then had borne surcharges of 50 per cent or more, is revoked.

Article 2. Articles 2 and 5 of the Decree mentioned in the preceding Article are revoked.

Article 3. Article 2 of Decree No. 536/971 of 24 August 1971 and likewise the 5 per cent surcharge mentioned in that Article are revoked.

Article 4. The surcharges in force prior to Decree No. 803/971 of 6 December 1971 at the rates of 25 per cent, 50 per cent, 80 per cent, 110 per cent, 170 per cent and 250 per cent are replaced by surcharges at the rate of 10 per cent, 30 per cent, 60 per cent, 90 per cent, 150 per cent and 225 per cent respectively.

Article 5. The suspension of imports of capital goods imposed under Article 1 of Decrees No. 246/971 of 7 May 1971 and No. 599/971 of 21 September 1971 is extended until 30 June 1972.

The exceptions provided under Articles 2, 3 and 4 of Decree No. 246/971 of 7 May 1971, referred to above, continue in force.

The following paragraph is added to Article 2(c) of Decree No. 246/971: "Imports authorized by the Ministry of Economy and Finance for the installation of new industrial plants whose production is deemed to be of interest for the country, following a recommendation by the Ministry of Industry and Commerce, acting on a report by the Planning and Budget Office."

Article 6. In the case of goods listed as bearing a surcharge of 60 per cent or more, imports of which, under the provisions at present in force, are subject to the minimum payment established by Article 1 of the Decree of 14 April 1963, the said minimum is fixed at 10 per cent.

Article 7. The provisions of the preceding article shall not apply to imports covered by Article 46 of Decree No. 128/970 of 13 March 1970, Article 1 of Decree No. 119/971 of 3 March 1971, to which the minimum surcharge applicable shall continue to be 15 per cent.

Article 8. The provisions of Article 1 of Decree No. 884/971 of 28 December 1971 shall be applicable to goods bearing a surcharge of 30 per cent or more.

Article 9. The Directorate-General of Foreign Trade is hereby instructed to study the effects of the amendments to surcharges introduced by the present Decree in respect of goods negotiated within the framework of the Montevideo Treaty establishing LAFTA.

Article 10. Within fifteen days following the date of this Decree, the Bank of the Republic, at the request of the importers concerned, may proceed to cancel import applications filed prior to the date of this present Decree, without payment of the surcharge for cancellation laid down by Article 2 of the Decree of 14 July 1960.

Article 11. This Decree shall enter into force as from this date.

Article 12. This Decree shall be laid before the General Assembly, communicated, etc. - BORDABERRY, FRANCISCO A. FORTEZA, JORGE ECHEVARRIA LEUNDA.

ANNEX IV

PROTECTION OF SHIPPING UNDER URUGUAYAN FLAG

Communication dated 5 July 1972 from the  
Representative of Uruguay

1. Under Article 1 of the Decree of 13 June 1963, articles and goods imported in national-flag dry-cargo ships were exempted from 50 per cent of the surcharge established by the Decree of 14 April 1963, and under Article 2 they were exempted from the 6 per cent tax on transfers.
2. Article 1 of Decree 210/965 of 30 April 1965 replaced Article 1 of the previous decree and fixed the rate of exemption enjoyed by goods carried in national-flag ships at 33.33 per cent of the surcharges in force, that is to say, those established by Decree 465/964 of 24 November 1964.
3. Under Decree 438/967 of 17 July 1967, Article 4, the minimum surcharge was fixed at 10 per cent and it was provided (Article 5) that national-flag ships would be exempted from that surcharge.
4. Decree 539/969 of 30 October 1969 contained the following provisions:
  - (a) It was made compulsory to use national-flag ships for the carriage of merchandise and goods covered by fiscal exemptions (see Act No. 13.032 of 7 December 1961) and for the imports referred to in Article 1 of the Decree of 14 April 1963.
  - (b) When these goods were carried in ships flying other flags, a surcharge of 5 per cent was to be applied (Article 2).
  - (c) If carriage took place in ships flying other flags despite the fact that cargo space was available in national-flag ships, such carriage could be authorized subject to a surcharge of 10 per cent in addition to the appropriate surcharge (Article 3).
  - (d) The preceding provisions were not to be applied in cases where there were shipping agreements or freight rate agreements (Article 5), nor would they apply to other special cases enumerated in Article 6.
  - (e) This Decree repealed Articles 1 and 4 A of the Decree of 13 June 1963 as amended.
5. Decree 37/970 of 21 January 1970 suspended from 5 December 1969 until further notice Decree 539/969 of 30 October 1969, referred to in the previous paragraph. That Decree was therefore in force for one month and it was definitively repealed by Article 9 of Decree 311/970 of 30 June 1970 (see next paragraph).

6. Decree 290/970 of 17 June 1970 reinstated Article 1 of the Decree of 13 December 1969 as amended; this meant a return to the régime of Decree 438/967 of 17 July 1967 (10 per cent surcharge in the case of goods shipped in foreign-flag vessels).

7. By Decree 311/970 of 30 June 1970 it was provided that all imports made by sea, river or lake transport must be carried in national-flag vessels when such ships provided a regular service and they had cargo space available (Article 1). Exemptions from this requirement were made in the case of goods carried in ships of countries with which there were shipping agreements and in ships flying other flags covered by freight agreements (Article 2).

As already mentioned, Article 9 of this Decree repealed Decree 539/969 of 30 October 1969.

8. Decree 377/970 of 4 August 1970 confirmed the exemption provided under Decree 539/969 and rescinded Decree 311/970 of 30 June 1970 referred to in the previous paragraph.

9. Decree 510/970 of 20 October 1970 terminated the only protectionist provision then in force, that is to say Article 1 of the Decree of 13 June 1963 and the amendments thereto, namely Article 1 of Decree 210/965 of 30 April 1965 and Article 5 of Decree 438/967 of 17 July 1967 (see paragraph 6 above).

10. Under Decree 687/970 of 31 December 1970, there was a return to the régime of protectionism, and goods carried in national-flag vessels were exempted from the 5 per cent surcharge instituted by Decree 510/970 of 20 October 1970.

In addition, it provided for the consequential exceptions in the case of goods carried in ships belonging to countries with which agreements had been concluded or to companies covered by freight agreements.

Goods carried in ships other than those mentioned were to bear an additional surcharge of 5 per cent.

This Decree was to remain in force only for 180 days.

11. Under Decree 458/971 of 21 July 1971, Decree 687/970 of 31 December 1970 was extended for a further 180 days.

12. Decree 536/961 of 24 August 1971, replacing the 5 per cent surcharge by one of 15 per cent (Article 2), did not in fact affect the 5 per cent surcharge provided for in Decree 687/970 (see paragraph 10).

13. Under Decree 910/971 of 30 December 1971, the period of operation of Decree No. 458/971 of 21 July 1971 was extended until 30 June 1973, which in turn extended Decree 687/970 of 31 December 1970.

14. Lastly, Article 3 of Decree 177/972 of 2 March 1972 repealed not only the 15 per cent surcharge established by Article 2 of Decree 536/971 of 24 August 1971, but also "the 5 per cent surcharge referred to in that article". This surcharge is the one established under Decree 510/970 of 20 October 1970. Consequently, since all the surcharges established under this Decree of 20 October and subsequent Decrees have been withdrawn, the advantage enjoyed by goods carried in national-flag ships has been tacitly eliminated, as have been the surcharges borne by goods carried in ships flying other flags, since that advantage and the surcharge in question were based on the increased surcharges provided for in the Decree of 20 October 1970 and later Decrees.

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This question therefore went through two stages:

- I. The first stage was from 13 June 1963 to 20 October 1970, the date on which Decree 510/970 brought to an end the system of subsidies and surcharges established on the basis of the flag flown by the carrying vessel.
- II. The second stage began with Decree 687/970 of 31 December 1970 and ended with Decree 177/971 of 2 March 1972.