ARTICLE XVIII: NOTIFICATION BY URUGUAY

Measures notified under Paragraph 11

1. The Provisional Agenda for the Ninth Session of the CONTRACTING PARTIES (G/84) includes an item (17(a)) entitled "Applications under Article XVIII - Notification of existing measures by Uruguay". The CONTRACTING PARTIES are required under the provisions of Article XVIII to take a decision by 16 December 1954 and this document is intended to review the history of the matter and to set out the information at present available to the secretariat.

2. Pursuant to the provisions of paragraph 11 of Article XVIII and of paragraph 5(c) of the Annecy Protocol of Terms of Accession, the Government of Uruguay notified the contracting parties on 30 July 1949 of certain protective measures affecting imports, not otherwise permitted by the Agreement, which it wished to maintain after becoming a contracting party. The notification was distributed in GATT/CP.3/40/Add.4 on 2 August 1949 and, for convenience of reference is reproduced in Annex A.

3. Under paragraph 12 of Article XVIII the CONTRACTING PARTIES are required, within twelve months of the date on which Uruguay became a contracting party (16 December 1953) to examine and give a decision concerning the measures enumerated in the above-mentioned notification. Paragraph 12 also requires that the Government of Uruguay, within sixty days of becoming a contracting party, should have submitted a statement of the considerations in support of the maintenance of the measures in question and the period for which it wishes to maintain them. On 24 December 1953 the Executive Secretary wrote to the Uruguayan Minister for Foreign Affairs drawing attention to the fact that the supporting statement was due by 14 February 1954 and expressing the opinion, based on the information given, that the provisions of Article XVIII would not be applicable to measures applied under the laws enumerated in sections 1 and 2 of the notification. The Executive Secretary's letter is reproduced in Annex B. The required statement has not been received.

4. The laws (in Spanish) which the Government of Uruguay submitted with its notification of 30 July 1949 can be seen in the office of the secretariat and will be available for use by the contracting parties in connection with any supporting statement received from Uruguay. It appears, however, that they would not provide an adequate basis for dealing with the Uruguayan notification in the absence of such a supporting statement.
"My Government considers this communication as constituting formal notification of the non-discriminatory protective measures affecting imports in force on 14 May 1949.

"The following report enumerates in each case the relevant laws and decree-laws and describes each protective measure and the goods or products affected thereby.

"The justification for, and purpose of these measures, introduced to support a particular branch of industry or agriculture, are clearly shown by their nature and scope. They constitute permissible methods adopted by Uruguay in legitimate defence of her economy. Uruguay has endeavoured by these measures and others of a different nature but of identical purpose to encourage production, stimulate labour, set up industries, utilize natural resources profitably, promote full employment and raise the general standard of living under appropriate conditions for the economic and social progress and development of the country.

"I take this opportunity to point out that Uruguay will be obliged to maintain this policy of protecting her basic interests for a considerable period, for which purpose fair and adequate means will be employed, to the extent required by the stage of her general development; without prejudice to the due fulfilment of any international obligations she has undertaken.

"The present notification comprises the measures detailed below:

"1. Articles similar to those of Uruguayan production
   (Law of 6 August 1931, Article 40)

   Empowers the Executive to impose by decree a duty of 48 per cent on all articles in respect of which it can be shown that they are similar to articles of Uruguayan production.

   Also empowers the Executive to impose, the general customs duties, plus any appropriate supplements, on the importation of articles included in the Raw Materials Tariff, provided it can be shown that similar articles are normally produced in Uruguay.

"2. Maximum tariff in relation to the customs treatment applied to articles of Uruguayan production or origin
   (Law of 20 August 1931, Article 2)

   Empowers the Executive as an exceptional measure, to increase customs duties and charges up to 100 per cent, on all or part of any products or
goods originating in countries which do not offer identical conditions of customs or administrative reciprocity, or which impose restrictions, or do not grant most-favoured-nation treatment, or do not apply the minimum tariff to all or any products or goods of Uruguayan origin or provenance. With the exceptions provided for by law, this represents the maximum customs tariff.

"3. Differential internal duties on imported articles similar to articles of Uruguayan production"

Wines


Alcoholic Beverages

(Decree-Law of 19 January 1943; Law of 31 July 1943; Law of 18 December, 1948, Article 9)

Matches

(Law of 12 January 1891; Law of 17 December 1892)

Perfumes, toilet articles, razor blades and tooth brushes

(Decree-Law of 27 December 1942)

Proprietary articles, medicinal soaps, mineral waters and patent products

(Law of 2 May 1910; Law of 16 January 1924)

Sera, vaccines, bacterial products, injectable, antiseptic and similar medicaments

(Law of 14 October 1926)

Tobacco, cigars and cigarettes

(Decree-Law of 11 September 1942)

Cigarette paper

(Decree-Law of 23 June 1942)

Playing Cards

(Law of 11 February 1919; Law of 27 February 1919)
"The provisions on internal duties, enumerated in paragraph 3 together with a list of articles to which they apply, impose differential percentages or surtaxes in the domestic market on imported products similar to articles of Uruguayan production.

"The text of each of the Laws referred to is attached to the present communication in six printed volumes, which will be deposited with the secretariat for consultation. A complete copy of the Law of 18 December 1948 is also attached hereto."
Letter from the Executive Secretary to the
Minister of Foreign Affairs of Uruguay,
dated 24 December 1953

"I have the honour to refer to the preliminary notification made by your Government on 30 July 1949 pursuant to paragraph 11 of Article XVIII of the General Agreement on Tariffs and Trade and paragraph 5(c) of the Annecy Protocol of Terms of Accession. The notification in question refers to the maintenance of certain non-discriminatory measures under Article XVIII, and has been reproduced in document GATT/CP.3/40/Add.4.

"Under paragraph 12 of Article XVIII any contracting party maintaining any such measure shall within sixty days of becoming a contracting party submit to the CONTRACTING PARTIES a statement of the considerations in support of the maintenance of the measure and the period for which it wishes to maintain it. The statement of the considerations should be drawn up along the lines of the questionnaire adopted for the purpose by the CONTRACTING PARTIES in 1949, the text of which is given on pp.63-65 of Volume II of Basic Instruments and Selected Documents.

"I have studied the preliminary notification in the light of the provisions of the General Agreement and I have come to the following conclusions which you will perhaps wish to take into account in preparing the above-mentioned statement. The measures in question are of three kinds:

"(i) The first of these measures imposes a duty of 48 per cent on articles similar to articles produced in Uruguay. If the Government of Uruguay has assumed an obligation under Article II of the General Agreement for any one of the articles liable to this duty, a waiver cannot be granted under the procedure laid down in paragraphs 11 and 12 of Article XVIII, as it is clearly stipulated in paragraph 13 of the same Article. On the other hand, if the imported articles liable to this duty are not included in the Uruguayan Schedule, there is nothing in the Agreement to preclude the imposition of such additional levy. In consequence, it would seem from the information given in your notification that the measure in question does not fall within the scope of paragraphs 11 and 12 of Article XVIII."
"(ii) The second measure refers to the imposition of the maximum customs tariff. As Uruguay is required under Article I of the General Agreement to apply most-favoured-nation treatment to the trade of all the contracting parties, this measure obviously cannot be considered as applying to the imports from any of the contracting parties.

"(iii) The final measures provide that differential internal taxes shall be imposed on certain imported articles and seem contradictory to the provisions of Article III. Three of the products concerned, namely tobacco, cigarettes and cigarette paper are included in the Uruguayan Schedule annexed to the General Agreement and, under paragraph 13 of Article XVIII, no release can be granted for these products through the procedure laid down in paragraphs 11 and 12 of the Article.

"From the above I conclude that any statement which may be submitted by your Government before 14 February next must refer exclusively to the internal taxes mentioned in Section 2 of your notification and applying to products which are not included in the Uruguayan Schedule. In this connection, I beg to draw your attention to certain passages on pages 62 and 63 of Volume II of Basic Instruments and Selected Documents. It is there stated that the CONTRACTING PARTIES consider that, if the maintenance of a measure incompatible with the provisions of Part II of the Agreement is permitted during the period of provisional application by virtue of paragraph 1(a)(ii) of the Annecy Protocol (i.e., if the maintenance of the measure is based on the mandatory nature of the legislation existing at the date of the Annecy Protocol) a request for release under Article XVIII will not be necessary, although the contracting party concerned will be entitled to submit such a request if it so desires."