

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Limited Distribution

METHODS OF VALUATION FOR CUSTOMS PURPOSES

Further Reports received from the Contracting Parties

Each contracting party was asked, in document L/81, to submit by 1 June 1953 a report on the steps taken to conform to Article VII of the General Agreement. The reports received before 7 August 1953 were distributed in L/81/Add.1. The statements received since that date are reproduced herewith:

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AUSTRIA

(Translation)

The tariff rates at present applied in Austria are almost exclusively specific rates. Application of ad valorem rates is regulated by the Austrian customs legislation. The related rules are fully compatible with the principles formulated under Article VII of the General Agreement.

Article VII, paragraph 2

According to paragraph 16 of the Austrian Customs Code, the price which could reputedly be fetched in the customs territory for a product of the same category and quality, exclusive of customs duty, is considered to be the value of the goods. Austrian regulations on the application of customs duties, stipulate that to verify the value for purposes of comparing it with the price which could reputedly be fetched under the above-mentioned conditions, the authorities shall base their computations on the prices paid by the purchasers of the greatest volume of such products in Austria.

Austrian legislation, therefore, aims at establishing prices according to objective criteria. There is no rule entailing preferential prices for products of national origin. Furthermore, under the Customs Code (paragraph 41), Austria does not recognize artificial or arbitrary values; that paragraph stipulates, notably, that the customs authorities may rectify the prices declared by subjecting them to a court of arbitration with a view to fixing the true values by levying duty. The procedure to be followed by the court of arbitration is regulated by the Customs Code (paragraph 41).

The paragraph referred to stipulates likewise that the value of the goods shall be declared by the person concerned. At the request of the customs authorities, the declaration shall be justified by an invoice and by the list of transport costs, insurance and such like, which had been entailed before customs clearance.

Article VII, paragraph 3

Austrian legislation is consistent with the provision of Article VII, paragraph 3.

Article VII, paragraph 4

Conversion rates of exchange to be adopted for foreign currencies are established in accordance with the Articles of Agreement of the International Monetary Fund.

The existing methods in Austria for customs valuation purposes are consistent with the provisions of Article VII of the General Agreement. Preparatory study with a view to extending the ad valorem tariff system to all goods is in progress.

CEYLON

At present all goods subject to ad valorem duties are taxable on the basis of their "true wholesale market value" which is defined in Section 159 of the Customs Ordinance as follows:

"true wholesale market value" shall mean,

- (a) the wholesale cost price, less trade discount for which goods of the like kind and quality are sold or are capable of being sold, at the time and place of importation without any abatement or deduction whatever except of the amount of the duties payable on the importation thereof: or
- (b) when such price is not ascertainable the cost at which goods of the like kind and quality could be delivered at such place without any abatement or deduction except of the duties as aforesaid.

The "true wholesale market value" as defined in (a) above accords with the "actual value" contemplated in Article VII (GATT) and instead of the "nearest ascertainable equivalent of the actual value", which, under the GATT Article is to be the basis of taxation when the actual value is not ascertainable, the alternative basis under the present method is the c.i.f. value to which (b) above refers. There have been no changes in procedure.

NEW ZEALAND

Customs Act 1913, Section 114

"Current domestic value" defined. - (1) When any duty is imposed on goods according to the value thereof or where for any other reason the value of any goods is to be determined for the purposes of the Tariff such value shall be taken to be the fair market value of such goods when sold for cash in the ordinary course of business for home consumption in the principal markets of the country from which the goods are exported at the time when they were so exported, with ten per centum added to such fair market value. Such fair market value is hereinafter in this Act referred to as the current domestic value:

"Provided that, where so indicated in the Tariff, the current domestic value of any goods shall be ascertained by reference to their value at the port of export to New Zealand in lieu of their value in the principal markets of the country of export, but otherwise in accordance with the provisions of this section.

"(2) No deduction of any kind shall be allowed from the current domestic value of such goods because of any special or sample discount, or because of any special arrangement concerning the export of the goods, or the exclusive right to the sale thereof within certain territorial limits, or because of any royalty payable upon patent rights but not payable when goods are so exported, or on account of any other consideration by which a special reduction in price has been, or might be, obtained.

"(3) If it is proved to the satisfaction of the Collector that any drawback of import duty or excise duty has been paid or allowed upon any parts, materials, or ingredients used in making any goods or that any import duty or excise duty has been actually paid upon the goods in the country from which they were exported, or would have been payable upon the goods in that country if they had been there entered for home consumption instead of being exported therefrom, the amount of that duty or drawback shall be deducted from the current domestic value of the goods as determined in accordance with the foregoing provisions.

"(4) When the current domestic value of any goods when sold for cash for home consumption as aforesaid depends in the ordinary course of business upon the quantity sold, such value shall be determined by reference to the quantity actually imported at one and the same time by the same importer from the same seller or supplier save and except that if the goods are imported under a bona fide contract or purchase made in the ordinary course of business and including a greater quantity of such goods than that which is actually imported at one and the same time, the current domestic value of such goods shall be estimated by reference to the aggregate quantity so included in that contract and imported or to be imported in pursuance thereof within a period not exceeding twelve months.

"(5) The determination of the Collector or, in the case of an appeal under the provisions hereinafter contained, the determination of the Minister, as to the existence and terms of any such contract as is referred to in the last preceding subsection, and as to the quantity by reference to which current domestic value of any goods is to be estimated in accordance with that subsection, shall be final and conclusive.

"117. Valuation of goods by Collector.- (1) Subject to the provisions of this section, the amount of the invoice, after deducting therefrom all reasonable and lawful deductions in respect of discount, freight, insurance, and other charges, may be accepted by the Collector as sufficient proof of the current domestic value of the goods for purposes of duty, and he may value the goods and assess the duty accordingly.

"(2) If the importer satisfies the Collector that the current domestic value of the goods for purposes of duty is less than the value as shown by the said invoice after making such deductions as aforesaid, the Collector shall value the goods at such lesser sum accordingly, and shall assess the duty on that value.

"(3) If the Collector has reason to believe or suspect that the current domestic value of the goods for purposes of duty is greater than the amount of the said invoice, after making such deductions as aforesaid, he may value the goods at such higher sum as he thinks proper, and assess the duty on that value accordingly.

"119. Valuation presumed to be correct. -Every valuation made by the Collector under this part of this Act (whether in accordance with

the invoice or not) shall be deemed and taken to be correct, and duty shall be payable in accordance therewith unless, on appeal to the Minister, under the provisions hereinafter contained, or in proceedings taken under this Act in a Court of competent jurisdiction, a different amount is proved to be the correct value of the goods for the purpose of ad valorem duty."

"120. Appeal to Minister from valuation. - (1) From any valuation made by the Collector under this Part of this Act (whether in accordance with the invoice or not) the importer may, if he thinks fit, appeal to the Minister.

"(2) Such right of appeal shall be exercised by giving to the Collector within fourteen days after the assessment of duty or within such further time as may be allowed by the Collector, and while the goods still remain subject to the control of the Customs, notice in writing that he appeals to the Minister.

"(3) On any such appeal the Minister shall, by himself or his lawful delegate, after giving a reasonable opportunity to the appellant to be heard, determine the true value of the goods for purposes of duty, and his decision shall, on all questions of fact, be final, except in the case of fraud.

"(4) The Minister may delegate his power of hearing and determining any such appeal to any person or persons, whether officers of the Customs or not, but otherwise all the provisions of this Act as to the delegation of powers by the Minister shall apply to any delegation under this section.

"(5) On any such appeal the burden of proving the true value of the goods shall be upon the appellant."

"121. Invoices in foreign currency. - (1) Where the invoice shows the value of the goods in any currency other than that in force in New Zealand the value in such last-mentioned currency shall be ascertained according to a fair rate of exchange, to be declared in case of doubt by the Minister. In any such case the Minister may fix the rate of exchange by reference to the banking rate of exchange, or the mintage rate of exchange, or a rate of exchange intermediate between the banking and mintage rates. For the purposes of this subsection the term 'mintage rate of exchange' means the rate of exchange computed with reference to the relative values of the sovereign and of the gold or silver monetary unit of the country of export, and the term 'banking rate of exchange' means the rate of exchange computed in accordance with the practice of bankers for the time being."

Customs Amendment Act 1921 Section 23

23. Special provisions as to valuation of goods for assessment of Customs duties. - (1) If it is, in the opinion of the Minister, difficult, inequitable or impracticable to determine the value of goods for the purposes of duty in accordance with the provisions of section one hundred and fourteen of the principal Act, either because such goods are not sold for use or consumption in the country of export, or because they are not ~~so~~ sold in the ordinary course of business, or in quantities similar to those imported into New Zealand, or because the exporter retains the property in such goods, or because the goods are not imported on the sale thereof, or because the goods are not imported in pursuance of a bona fide contract of purchase made in the ordinary course of business, or because there is no reliable means of estimating the value of such goods owing to a royalty being imposed on them, or because the goods are usually or exclusively sold or disposed of by or to agents, or are sold or imported in or under any other unusual or peculiar manner, conditions, or restrictions, either by way of limitation of purchases from or sales to any persons or associations of persons, or for any other reason, the Minister shall determine the current domestic value of the goods in such manner and at such sum as he thinks just, and shall assess the duty accordingly, and his assessment shall be final.

(2) The current domestic value of goods as determined in accordance with this section shall not exceed the price at which the goods are, in the country of exportation and at the time when they were exported, sold in the ordinary course of business for domestic consumption to the ultimate consumer, if such price can, in the opinion of the Minister, be ascertained:

"Provided that in the case of any goods being the produce or manufacture of a country not forming part of the British dominions, and being goods of a class or kind produced in some part of the British dominions, the Minister may, in the exercise of the powers conferred on him by the foregoing provisions of this section, determine a nominal value of those goods (whether such value is in his opinion the true current domestic value or not) if in his opinion the importation of those goods would, save for the provisions of this section, be likely to prejudicially or injuriously affect any industry or business established or carried on in New Zealand or elsewhere in the British dominions. The nominal value so determined shall be such that the cost of the goods to the importer, including the duty payable thereon, shall not exceed ~~by more than twenty per centum~~ the cost of similar goods, as determined by the Minister, including the duty thereon, imported from and being the produce or manufacture of some part of the British dominions. The nominal value fixed by the Minister shall be final, and shall, for the purposes of the assessment of duties, be deemed to be the current domestic value."

UNION OF SOUTH AFRICA

Act No. 35 of 1944, Chapter VI

Value for Duty Purposes

88. (1) For assessing the amount of duty payable on any goods imported into the Union and for the purposes of any declaration which may at any time be required in connection with such duty, the value of such goods shall be the domestic value thereof: Provided that in no case shall the value for purposes of duty be less than the free on board cost of the goods to the importer, including any agent's or buying commission in excess of five per cent.

(2) For the purpose of this section and of sub-sections (3) and (4) of section ninety-one any abnormal costs additional to the export price incurred by the importer as the result of a state of war, strikes, lock-outs, riots or civil commotions shall not be regarded as forming part of the free on board cost of the goods to the importer.

*(3) If the value of any goods according to the provisions of this section is in excess of ten pounds then, for the purpose of assessing the amount of duty payable, such value shall be calculated to the nearest one pound, and for this purpose the amount of ten shillings shall be deemed to be less than one half of one pound.

Definition of Domestic Value

89. (1) Subject to the provisions of this section and of section eighty-four, the domestic value of any goods imported into the Union shall be the market price at which, at the time of exportation to the Union, such or similar goods are freely offered for sale, for consumption in the territory from which such exportation takes place, in the usual wholesale quantities in the ordinary course of trade to all purchasers in the principal markets of that territory, including the cost of packages ordinarily used in those markets, plus the extra cost of packing and packages for export, carriage to the port of shipment or other place of final dispatch in that territory, and all other expenses* (other than such abnormal costs as are described in sub-section (2) of section eighty-eight) incidental to placing the goods on board ship or vehicle at that port or place, ready for export to the Union, but shall not include excise duties or sales taxes imposed by the government of that country.

(2) When goods are sold in the country from which they are exported to the Union under such conditions that no domestic value thereof can be calculated in terms of sub-section (1)*, or when goods exported to the Union are not sold for consumption in the country from which they are so exported, the Commissioner may determine a value which, subject to the right of appeal to the Minister, shall be deemed to be the domestic value of those goods.

* Act 32 of 1945.

Certificate of Domestic Value

90. In the event of any question arising as to the correctness of any certificate of domestic value given, or any statement of bounty paid or to be paid, made by the manufacturer or supplier in the country of export, or of any statement of freight charges paid or to be paid, made by the shipper or ship's agent in the country of shipment, a written certificate signed by a person in that country specially designated by the Minister, certifying such value, freight charges or bounty shall, for assessing the amount of duty or any other matters incidental thereto, be accepted as conclusive evidence of such value or freight charges or bounty, as the case may be, but subject always to the right of appeal to the Minister whose decision shall be final.

Commissioner May Require Valuation

91. (1) Notwithstanding anything to the contrary contained in this Chapter, the proper officer may, if he be not satisfied as to the correctness of the value for duty purposes declared to by the importer, require such importer to declare before him on oath to the truth of such declaration, according to the best knowledge and belief of the importer, and to adduce any documentary evidence he may possess in support thereof; and the proper officer is hereby authorized to administer such oath: Provided that if it appear to the proper officer (whether such oath as aforesaid has been required or not) that the goods have been declared at a value below the correct value thereof for purposes of duty, he may require the goods to be examined by two competent persons, one to be nominated by the Commissioner and the other by the importer.

(2) The two persons mentioned in sub-section (1) shall before entering upon the enquiry appoint an umpire, and shall then declare on oath before the proper officer what is to the best of their knowledge and belief the value of the goods for duty purposes, and if those persons do not agree, the umpire shall declare on oath before the proper officer what is to the best of his knowledge and belief the said value.

(3) If the two persons nominated in terms of sub-section (1) declare the same value then that value, or otherwise the value declared by the umpire, shall be the value of the goods for duty purposes, provided it is not less than the actual cost of the goods to the importer free on board at the place of despatch.

(4) If an importer after he has been required by the proper officer to make an appointment in terms of sub-section (1) fail to do so within three days, or if no declaration be made by the person appointed by the importer within three days of his appointment, then the value declared by the person appointed by the Commissioner shall be the value of the goods for duty purposes, provided it is not less than the actual cost of the goods to the importer free on board at the place of despatch.