

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Limited Distribution

ANTI-DUMPING AND COUNTERVAILING DUTIES

Submission of Laws and Regulations

The following information has been received from the Governments of Chile and the United Kingdom,

CHILE

The representative of Chile announced, at the meeting of the Intersessional Committee on 24 to 27 April (IC/SR.31), that Chile has no legislation providing for the imposition of anti-dumping duties.

UNITED KINGDOM

The Government of the United Kingdom has transmitted for distribution to the contracting parties the text of the Customs Duties (Dumping and Subsidies) Act of 1957, as follows:

"An Act to authorize the imposition of duties of customs where goods have been dumped or subsidized, and for connected purposes. (17 April 1957)"

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"...with a view to affording protection against dumping and subsidies affecting imported goods ..."

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| "1. (1) Where it appears to the Board of Trade - | Cases where |
| (a) that goods of any description are being or have been imported into the United Kingdom in circumstances in which they are under the provisions of this Act to be regarded as having been dumped, or | customs duties may be imposed. |
| (b) that some Government or other authority outside the United Kingdom has been giving a subsidy affecting goods of any description which are being or have been imported into the United Kingdom, | |

and that, having regard to all the circumstances, it would be in the national interest, they may exercise the power conferred on them by this Act to impose and vary duties of customs in such manner as they think necessary to meet the dumping or the giving of the subsidy:

Provided that, where the Board of Trade are not satisfied that the effect of the dumping or of the giving of the subsidy is such as to cause or threaten material injury to an established industry in the United Kingdom or is such as to retard materially the establishment of an industry in the United Kingdom, the Board shall not exercise that power if it appears to them that to do so would conflict with the obligations of Her Majesty's Government in the United Kingdom under the provisions for the time being in force of the General Agreement on Tariffs and Trade concluded at Geneva in the year nineteen hundred and forty-seven.

(2) For the purposes of this Act imported goods shall be regarded as having been dumped -

(a) if the export price from the country in which the goods originated is less than the fair market price of the goods in that country, or

(b) in a case where the country from which the goods were exported to the United Kingdom is different from the country in which they originated, -

(i) if the export price from the country in which the goods originated is less than the fair market price of those goods in that country, or

(ii) if the export price from the country from which the goods were so exported is less than the fair market price of those goods in that country.

(3) References in this Act to giving a subsidy are references to giving, directly or indirectly, a bounty or subsidy on the production or export of goods (whether by grant, loan, tax relief or in any other way and whether related directly to the goods themselves, to materials of the goods or to something else), and include -

(a) the giving of any special subsidy on the transport of a particular product, and

(b) the giving of favourable treatment to producers or exporters in the course of administering any governmental control over the exchange of currencies where such treatment has the effect of assisting a reduction of the prices of goods offered for export,

but do not include the application of restrictions or charges on the export of materials from any country so as to favour producers in that country who use those materials in goods produced by them.

"2. (1) The power which the Board of Trade may exercise under this Act is a power by order to impose on goods of a description specified in the order a duty of customs chargeable on the import of the goods into the United Kingdom at a rate specified in the order.

Orders
imposing
duties.

(2) The matters by reference to which the description of goods in an order is framed shall include either the country in which the goods originated or the country from which the goods were exported to the United Kingdom.

(3) Subject to the provisions of the last foregoing subsection, an order under this section may include such provisions with respect to the description of the goods chargeable with duty and with respect to the cases in which duty is chargeable as may appear to the Board of Trade to be required for the purposes of this Act and, in particular, -

- (a) provisions limiting the description of the goods by reference to the particular persons or organisations by whom the goods were produced or who were concerned with the production of the goods in some specified manner,
- (b) provisions defining the rate of duty by reference to value or weight or other measure of quantity,
- (c) provisions directing that duty be charged for any period or periods, whether continuous or not, or without any limit of period, or at different rates for different periods or parts of periods, and
- (d) in connexion with the commencement, variation or termination of a duty, provisions authorizing repayments in respect of duty where it is shown that the prescribed conditions are fulfilled.

(4) Any duty chargeable under this Act on any goods shall be chargeable in addition to any other duty of customs for the time being chargeable thereon and, notwithstanding the provisions of subsection (2) of section one of the Safeguarding of Industries Act, 1921, or of paragraph (a) of subsection (2) of section one of the Import Duties Act, 1932, or of any other enactment (including, unless the contrary is expressly provided, any future enactment) the charge of duty under this Act shall not affect liability to customs duty chargeable under any other Act or the amount of any such duty.

11 & 12 Geo.5.
c.47
22 & 23 Geo.5.
c.8

(5) Section two hundred and fifty-nine of the Customs and Excise Act, 1952 (which charges duty on imported composite goods by reference to any dutiable goods used in their manufacture), shall not apply to a duty under this Act.

15 & 16 Geo.6.
c.44.

"3. (1) Where it appears to the Board of Trade that relief under this section should be available as respects a duty imposed by an order under this Act (being an order made to afford protection against dumping) they may, if they think fit, in that or a subsequent order under this Act apply the provisions of this section in relation to the duty.

Relief in
respect of
duties.

(2) Where this section applies in relation to any duty, the importer of any goods chargeable with the duty as being goods originating in or, as the case may be, exported from a specified country may apply to the Board of Trade for relief from the duty on those goods.

(3) If on an application so made the Board of Trade are satisfied that the export price of the goods from that country with the amount of the duty added to it exceeds the fair market price of the goods in that country, the Board shall notify the Commissioners of Customs and Excise of the amount of the excess, and the Commissioners shall remit or repay the duty up to that amount.

(4) An application under this section as respects any goods shall not be made more than six months after the duty has been paid on the goods, and in connexion with any such application the applicant shall furnish such information and evidence as the Board of Trade may require from him for ascertaining the said export price or fair market price.

(5) The foregoing provisions of this section shall have effect in relation to a duty imposed by an order under this Act (being an order made to afford protection against the giving of a subsidy) as if references to the fair market price in a country were references to the export price from that country increased by such amount (if any) as may be necessary to offset the effect of the giving of the subsidy.

(6) If a person for the purposes of an application under this section -

(a) makes any statement which is false in a material particular, or

- (b) produces any account, estimate, return or other document which is false in a material particular,

the amount of any duty remitted or repaid under this section on the application shall be recoverable as a debt due to the Crown and if the statement was made or the document was produced knowingly or recklessly that person shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both.

"4. (1) The Board of Trade may by order provide for the allowance of drawback in respect of all or any duties under this Act on the export of goods in such circumstances and subject to such conditions as that may specify,

Drawback,
etc., of
duties.

(2) The drawback may be in respect of duty paid on the goods or in respect of duty paid on materials used in the manufacture of the goods and the rate of the drawback may be determined in such manner and by reference to such matters as the Board of Trade may specify.

(3) Section twelve of the Finance Act, 1951 (which authorises relief from duty on temporary imports not qualifying for drawback), shall apply in relation to duties under this Act as it applies to duties under Part I of the Import Duties Act, 1932.

14 & 15 Geo.6.
c.43.

"5. (1) The Commissioners of Customs and Excise may require the importer of any goods to state such facts concerning the goods and their history as they may think necessary to determine whether the goods are goods originating in a country specified in an order under this Act or are goods exported from any country, and to furnish them in such form as they may require with proof of any statements so made; and if such proof is not furnished to their satisfaction or the required facts are not stated, the goods shall be deemed for the purposes of this Act to have originated in, or, as the case may be, to have been exported from, such country as they may determine:

Power to
require
information
from
importers.

Provided that the Commissioners shall require proof of the country in which goods originated in relation to any duty under this Act in the case only of goods exported from such countries as the Board of Trade may direct in relation to that duty.

(2) Where an order under this Act limits the description of goods in respect of which duty is chargeable under this Act or the cases in which duty is so chargeable so that the question whether any and if so what duty is chargeable on the goods depends on other matters besides the country in which the goods originated or from which they were exported, the Commissioners

may also require the importer to state such facts as they may think necessary to determine that question so far as regards those other matters and to furnish them in such form as they may require with proof of any statements so made; and if such proof is not furnished to their satisfaction or the required facts are not stated, those facts shall be deemed for the purposes of duty under this Act to be such as they may determine.

"6. (1) In relation to goods imported into the United Kingdom the export price from the country in which the goods originated or from which they were exported shall be determined as follows. **Ascertainment of export price.**

(2) If the goods are imported under a contract of sale which is a sale in the open market between buyer and seller independent of each other, and the Board of Trade are satisfied as to that fact, as to the price on that sale and as to such other facts as are material for this purpose, the export price shall be the price on that sale subject to a deduction for the cost of insurance and freight from the port or place of export in the said country to the port or place of import, and for any other costs, charges or expenses incurred in respect of the goods after they left the port or place of export, except so far as any such costs, charges or expenses have to be met separately by the purchaser.

(3) If subsection (2) of this section does not apply, the Board of Trade shall determine the export price by reference to such sale of the goods (or of any goods in which the first-mentioned goods were incorporated) as they may select with such adjustments as may appear to them to be proper.

(4) In this section the references to a sale in the open market between buyer and seller independent of each other shall be construed in accordance with paragraph 2 of the Sixth Schedule to the Customs and Excise Act 1952.

"7. (1) The fair market price of any goods in a country shall for the purposes of this Act be determined as follows. **Ascertainment of fair market price.**

(2) Subject to the next following subsection, the fair market price shall be taken to be the price at which goods of the description in question (that is to say, any identical or comparable goods) are being sold in the ordinary course of trade in the said country for consumption or use there, but subject to any necessary adjustments, whether for differences in conditions and terms of sale, for differences in taxation or otherwise, which may be required for the purpose of ensuring that the comparison between the fair market price and the export price is effectively a comparison between the prices on two similar sales.

(3) If it appears to the Board of Trade that goods of that description are not being sold in the said country, or not in such circumstances that the fair market price can be determined in accordance with subsection (2) of this section, the fair market price shall be determined by the Board by reference to any price obtained for goods of that description when exported from the said country, with adjustments made for the purpose mentioned in subsection (2) of this section, or, if the Board think fit, by reference to the cost or estimated cost of production of the goods the dumping of which is in question, with such additions in respect of selling cost and profit as may appear to the Board of Trade to be proper.

(4) No account shall be taken under this section of any application of restrictions or charges on the export of materials from any country so as to favour producers in that country who use those materials in goods produced by them.

"8. (1) Goods shall be regarded for the purposes of this Act as having originated in a country -

Construction
of references
to country of
origin, etc.

- (a) if those goods were wholly produced in that country, or
- (b) if some stage in the production of the goods was carried out in that country and the cost of carrying out such stages, if any, in the production of the goods as were carried out after those goods last left that country (but before the import of the goods into the United Kingdom) was less than twenty-five per cent of the cost of production of the goods as so imported, or
- (c) if some stage in the production of any components or materials incorporated in the goods was carried out in that country and the cost of carrying out such stages in production as were carried out after those components or materials last left that country to convert those components or materials into the goods as imported into the United Kingdom was less than twenty-five per cent of the cost of production of the goods as so imported.

(2) Where the export price of any goods from the country in which they originated is in question and some stage in the production of the goods, or of any components or materials incorporated in the goods, was carried out after they last left that country, the deductions to be made by the Board of Trade in the price by reference to which the export price is to be ascertained shall include a deduction for the cost of carrying out any such stage in the production of the goods and in the production of any

components or materials incorporated in the goods; and the fair market price shall be the fair market price shall be the fair market price of those goods or, as the case may be, of those components or materials, in the state in which they left that country.

(3) Any reference in this Act to the country in which goods originated shall be taken, in a case where there are two or more countries which answer to that description, as a reference to any of those countries.

(4) The Board of Trade may by regulations in a statutory instrument prescribe for the purposes of this Act -

- (a) the costs, charges and expenses to be taken into account in ascertaining costs of production or the cost of any stage in production,
- (b) the manner in which cost of production is to be ascertained in cases where different stages are carried out by different persons,
- (c) the manner in which the cost of different stages of production is to be ascertained.

"9. (1) In this Act -

"country" includes any territory,

"importer" has the meaning assigned to it by subsection (1) of section three hundred and seven of the Customs and Excise Act 1952,

and references to producing goods include references to growing or manufacturing goods and to the application of any process in the course of producing goods.

(2) In this Act references to the country from which goods are exported to the United Kingdom are references to the country from which they were consigned to the United Kingdom and goods which in the course of consignment from any country to the United Kingdom pass through or are transhipped in any third country shall not on that account be regarded for the purposes of this Act as having been exported from that third country.

"10. Anything required or authorized by or under this Act to be done by, to or before the Board of Trade, may be done by, to or before the President of the Board, any Minister of State with duties concerning the affairs of the Board, any secretary, under-secretary or assistant secretary of the Board, or any person authorized in that behalf by the President.

**Other
interpretative
provisions.**

**Provisions
as to Board
of Trade.**

"11. (1) Any power of making orders conferred on the Board of Trade by this Act shall include a power to vary or revoke an order so made and shall be exercisable by statutory instrument; and subsections (1) to (4) of section nineteen of the Import Duties Act 1932 (under which orders imposing a duty of customs require an affirmative resolution of the House of Commons and other orders are subject to a negative resolution of that House), shall apply in relation to orders under this Act as they apply in relation to orders under that Act.

Provisions
as to orders.

(2) As soon as may be after the end of each financial year (beginning with the year 1957-58) the Board of Trade shall lay before each House of Parliament a report as to the orders under which duties have been chargeable under this Act during that year, indicating the contents of those orders and their operation in that year in relation to goods which have been imported into the United Kingdom.

"12. This Act may be cited as the Customs Duties (Dumping and Subsidies) Act 1957."

Short title.

