

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

TN.64/NTB/21

19 June 1964

Special Distribution

Sub-Committee on Non-Tariff Barriers

Original: English

THE USE OF ARBITRARY OR EXCESSIVE VALUES IN LEVYING CUSTOMS DUTIES (AMERICAN SELLING PRICE)

Note by the United Kingdom Delegation

A. Nature of the non-tariff barrier

1. The United States' system of valuation for duty purposes is in general complex, arbitrary and from the point of view of the importer frequently inequitable, but the method of valuation which, in the opinion of the United Kingdom, presents particularly serious problems and to which they wish to draw special attention is that of "American Selling Price".

2. The American Selling Price system is used mainly for valuing imported benzenoid products which compete with American benzenoid products, but also for certain other items (certain rubber footwear, canned clams and knitted woollen gloves). The American selling price may be two or three times the "export value"; it is meant to represent the United States wholesale price, but it can be as much as the United States retail price. A product which contains any quantity of a benzenoid (i.e. coal tar and allied) chemical, however small, is charged duty at the rate laid down for benzenoid mixtures. Valuation is based on the American selling price of the product in question if, for the chemicals, there is a "similar competitive" domestic product in the United States market or if, for the other items, there are "like or similar" domestic articles. For chemicals, similarity is defined as accomplishing results substantially equal to those accomplished by the domestic product when used in substantially the same manner. Existence or otherwise of a competing United States benzenoid chemical has to be decided at the time of import, which means that an unsuspecting importer may suddenly be called upon to pay a much higher rate of duty when a competing domestic product is newly put on the market.

B. Reasons for notifying the non-tariff barrier to the Sub-Committee

3. The American Selling Price system in the chemical field now covers almost all organic chemicals; it was designed decades ago to protect the infant United States chemical industry and results in duties which are often quite prohibitive, rising to as much as 120 per cent especially in the case of finished dyestuffs.

./.

This degree of protection is no longer appropriate to the large highly competitive American chemical industry of today based to no small extent on petroleum chemicals made from cheap raw materials (locally based natural gas or petroleum).

4. Moreover, while the legislation on benzenoid products predates the GATT, the American Selling Price is certainly in breach of the spirit of Article VII:2(a) which states that valuation for duty purposes should be based on the actual value of the imported merchandise and not on arbitrary or fictitious values.

C. Changes which the United Kingdom wishes to see made

5. The United Kingdom therefore urges the abandonment of the American Selling Price system of valuation and its replacement by a valuation method based on the value as defined in Article VII of the GATT.