

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Sub-Committee on Non-Tariff Barriers

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VALUATION FOR CUSTOMS PURPOSES

Note by the Delegation of the EEC Commission

General scope and purpose of the negotiations

1. The customs valuation of imported goods can be considered as one of the most important barriers which might hinder and distort the result which the tariff lowering envisaged might be expected to yield. It serves as the basis for determining ad valorem duties and accordingly has a direct influence on the height of the tariff barrier.
2. In the opinion of the delegation of the Commission it is therefore inevitable that because of the incidence of the customs valuation, duty reductions of a scope such as that envisaged must be accompanied at least by harmonization of the systems applied by each of the contracting parties with regard to valuation for customs purposes. It seems inequitable that while certain countries participating in the conference apply a liberal system, others continue to apply systems which may raise the actual incidence of the duties shown in the tariff and carry many uncertainties because of elements which are arbitrary from the point of view of interested exporters in third countries. Indeed, the global reciprocity achieved in tariff reductions might be gravely jeopardized.

General request by the delegation of the Commission

3. The delegation of the Commission considers that the contracting parties taking part in the conference should reach agreement, on the basis of Article VII of GATT, in order to harmonize the various valuation systems.
4. It considers even that the best solution would lie in standardization on the basis of the Brussels Convention. That Convention, which is consistent with Article VII of the General Agreement, has to date been acceded to unanimously by eighteen member countries, while many third countries are preparing to do so. In these circumstances it would be desirable, to say the least, if countries participating in the conference whose customs tariff includes a large number of ad valorem duties, were to adhere to the above-mentioned Convention.

Particular requests by the delegation of the Commission

5. As indicated above, certain valuation systems which do not fully concord with the principles of Article VII of GATT can thus considerably distort the results of the negotiations. The delegation of the Commission has therefore begun to analyse them, but because of insufficient data has not yet been able to finish the general study. The requests which it makes at this juncture concern only the United States system; the Commission reserves the right, however, at an appropriate time, to present further requests relating to the systems applied in other countries now under study.

6. The United States valuation system is particularly complex; it comprises several alternative methods for the valuation of imported goods. Among them, the methods indicated below appear to be in contradiction either with the letter or at least with the spirit of Article VII of the General Agreement.

(a) American Selling Price system

7. This method applies in particular to imports of benzenoid products where there is any similar competitive article (in certain cases "like or similar") manufactured or produced in the United States, and to rubber-soled footwear, canned clams and knitted woollen gloves and mittens of a value not exceeding \$1.75 per dozen pairs.

8. Benzenoid products under headings 401.02 to 409.00 of the new tariff make up the greater part of the products subject to the American Selling Price system. According to this method, valuation is based on the "American Selling Price" i.e. the price (including the cost of all containers and coverings of whatever nature and all other costs incident to placing the merchandise in conditions packed and ready for delivery) at which such article produced in the United States is freely sold (in some cases "freely offered for sale") for domestic consumption to all purchasers in the principal market of the United States, in the ordinary course of trade and in the usual wholesale quantities, at the time of exportation of the imported article, or the price which the American producer would have received or was willing to receive for such article when sold for domestic consumption in the aforementioned conditions. Although based on a wholesale price, this American Selling Price can in practice correspond to a retail price.

9. This valuation method, based on the price in the domestic market of the importing country, can have a prohibitive effect, even if the rates of duty shown in the tariff are relatively low.

10. It is absolutely contrary to the principles set forth in Article VII:2(a) of GATT which states, inter alia, that the value for customs purposes should not be based on the value of merchandise of national origin.

11. Consequently, the delegation of the Commission requests the elimination of this method of valuation.

(b) Standard of strength

12. There is another element which, in the case of certain organic chemical products, increases still further the incidence of the tariff duties which had already been raised by the American Selling Price regulation. Note 6 to Schedule 4, Part 1, Sub-Part C states that the specific duties on certain dyes are to be based on standards of strength. This means that the degree of concentration of imported dyes has to be re-calculated on the basis of a standard percentage. According to the standard fixed by the Treasury, the real incidence of the specific duties shown in the tariff could also be raised considerably.

13. In order to be able to assess the real effect of this method of determining specific duties, the delegation of the Commission invites the United States delegation to communicate to it the texts of the administrative provisions and all other data relevant to this question.

(c) Method based on the value in the domestic market of the country of origin (Foreign value)

14. This method, which can be applied to about 500 products or groups of products ("final list" published by the Secretary of the Treasury on 20 January 1958), is based on the price at which such or similar merchandise is freely offered for sale for home consumption to all purchasers in the principal markets of the exporting country, in the usual wholesale quantities and in the ordinary course of trade, including the cost of all containers and coverings of whatever nature, and all other costs incident to placing the merchandise in condition, packed ready for shipment.

15. Prices established on the basis of this concept do not correspond to the actual export value in the sense of Article VII:2(b) of the General Agreement. First of all, no account is taken of differences which may exist in prices at the various stages of export trade as compared with those normally received on the domestic market of the exporting country.

Next, contrary to Article VII:3 of the General Agreement, prices determined according to this method can generally include the internal taxes applied within the country of origin, from which exported goods are exempt.

16. Consequently, the delegation of the Commission considers that this method should be replaced by another method consistent with the General Agreement.

17. Lastly, since this method specifies that account must be taken only of offering prices, and that the latter are rather limited under the conditions envisaged by its regulations, an alternative system often has to be applied under which the United States value (described below) of the goods must be taken as a basis.

(d) Method based on the value of the goods in the United States market ("United States value", applicable to products in the "final list")

18. In order to establish this value, the appraisers are required to take as a basis the domestic market price in the United States, with allowances made for:

- any commission usually paid, normal profit and general expense;
- the usual costs of transport and insurance;
- the ordinary duties and other Federal taxes currently payable.

Because of the fact that on the one hand ceilings are set for these allowances and on the other hand that these ceilings are fairly low, this method will often have the effect of establishing a somewhat arbitrary valuation for customs purposes and consequently of affording a greater degree of protection than that resulting from the "actual value" (or its nearest equivalent), as required by the General Agreement.

19. Consequently, the delegation of the Commission considers that at least the arbitrary elements of this method should be eliminated.

(e) Method based on the constructed value or cost of production

20. In connexion with these methods, the delegation of the Commission would like to have information regarding the application of this method.

21. In conclusion, it seems clear that for a large number of products, the method of valuation applied in the United States results in a higher basis of duties than that which would result from the actual price of the goods, thus affording a substantial margin of additional protection to the goods in question.

22. Apart from these considerations, the system is so complex that in itself it constitutes an obstacle to trade. It makes it impossible for either importers or exporters to determine with any certainty the valuation for customs purposes of their goods before customs clearance.