

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

MTN/NTM/W/20/Add.6
22 October 1975

Special Distribution

Multilateral Trade Negotiations

Original: Spanish

Group "Non-Tariff Measures"

Sub-Group "Customs Matters"

CUSTOMS VALUATION

Addendum

1. At its meeting in May 1975, the Sub-Group "Customs Matters" agreed "that participants should transmit to the GATT secretariat in writing by 15 September 1975 specific suggestions, accompanied by notes explaining the objectives of these suggestions, for the elements that they wished to have included in any new set of international rules on customs valuation to be adopted in the context of the Multilateral Trade Negotiations" (MTN/NTM/4, paragraph 6 and GATT/AIR/1189).
2. This agreement was confirmed at the October 1975 meeting of the Sub-Group. The Sub-Group also agreed that the written submissions contained in MTN/NTM/W/20 and agenda would, inter alia, constitute the basis for the discussion at its next meeting.
3. A communication from Venezuela has been received and is reproduced hereunder.
4. Delegations who have not yet submitted their comments are invited to do so without delay.

Our Government wishes to present some remarks that it considers of special importance for our country in this matter and which are set forth below:

- (a) Definition of current product and speciality:
Inasmuch as adjustments calculated by commercial and/or financial linkage are imposed on specialities, the latter concept needs to be defined in order to differentiate it from its antonym (i.e. current product).

./.

- (b) Differentiation as between quantity and commercial level:
There is no economic reasoning indicating the possible practical differences for the purpose of accepting simultaneously rebates granted in respect of both commercial level and quantity. It is constantly found that the commercial level corresponds implicitly to quantity; thus, the greater the quantity, the higher the economic level of the purchaser is presumed to be, and this must be so since what interests the manufacturer is to place his goods as soon as possible.
- (c) Rules affording protection to developing countries against decapitalization through over-invoicing:
Valuation practice has permitted the accumulation of evidence affording technical proof that over-invoicing is a demonstrable occurrence in international transactions, primarily in the case of operations effected between subsidiaries and their parent companies. Such practice becomes significant where subsidiaries are established in a country for the purpose of overcoming customs barriers, and to that end rely on imports of semi-manufactures which generally enjoy total or partial exemption from duty. In this way, it is possible on the one hand to evade tariffs, scale down earnings prior to income tax, inflate purchase prices, collect royalties elusively, etc.; on the other hand, the result is loss of revenue, over-priced products, and decapitalization in the country.

It should be noted that the spirit in which the rules regarding the collection of ad valorem duties have been formulated is directed toward an entirely fiscal objective, and that for countries such as ours the fiscal concept has to be combined with national development interests.