

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Committee on Anti-Dumping Practices

DISCUSSION AT THE REVIEW SESSION OF THE DRAWBACK PROVISIONS OF ARTICLE VI OF GATT

Note by the Secretariat

1. Paragraph 4 of Article VI of GATT reads:

"No product of the territory of any contracting party imported into the territory of any other contracting party shall be subject to anti-dumping or countervailing duty by reason of the exemption of such product from duties or taxes borne by the like product when destined for consumption in the country of origin or exportation, or by reason of the refund of such duties or taxes."

2. At the Review Session in 1954/55 Denmark, Norway and Sweden, in identical proposals (documents L/273, L/275 and L/276), suggested that the paragraph should be amended to read (addition underlined):

"No product of the territory of a Member imported into the territory of any other Member shall be subject to anti-dumping or countervailing duty by reason of the exemption of such product from customs duties or indirect taxes actually borne by the like product, or actually borne by the material going into the manufacturing of the like product when destined for consumption in the country of origin or exportation, or by reason of the refund of such customs duties and indirect taxes."

3. The United Kingdom proposed the addition of the following interpretative note to paragraph 4 of Article VI (W.9/68):

"'Duties or taxes borne by the like product' mean duties or taxes levied on or in respect of the product itself at any stage in its production or distribution; the phrase does not include duties or taxes levied, e.g., on the salaries or wages of those making or selling the product or on the profits arising out of the manufacture or distribution of the product."

4. Sub-Group III-A of the Review Working Party III concluded in its final report (W.9/220, page 9) that "Certain proposals for amending or interpreting the text of paragraph 4 have not been adopted because it was agreed that they were unnecessary since they did not alter the meaning of the present text (Denmark, Norway, and Sweden - L/273, L/276 and L/275) (United Kingdom - W.9/68) (Germany - L/261/Add.1)¹".

5. The opinion of the Sub-Group as set out above was adopted by the Review Working Party and was ultimately adopted by the CONTRACTING PARTIES on 3 March 1955 (BISD, 3rd Supplement, page 223, paragraph 8).

¹The German proposal dealt with refunds exceeding the charges actually borne by like products for consumption in the home market.