

GENERAL AGREEMENT ON  
TARIFFS AND TRADE

RESTRICTED

MTN/3E/DOC/10/Add.18  
10 March 1975

Special Distribution

---

Multilateral Trade Negotiations

GROUP 3(e) - BASIC DOCUMENTATION

Inventory of Various Non-Tariff Barriers

Addendum

UNITED STATES

Customs and Administrative Procedures:

Product: (BTN)	Country or group maintaining measure:	Countries indicating an interest:
Ocean perch (ex 03.01)	United States	Canada

(a) Description:

Skin-on perch blocks for duty purposes are classified as fillets and are subject to a tariff of 1 7/8 cents or 2 1/2 cents per pound instead of 4/5 cent per pound under frozen blocks designation.

(b) Comments by other countries:

The requirement that fish in blocks be skinned does not appear to have any technological basis. At the time the regulation was put into effect, ocean perch were not exported in the form of blocks. Ocean perch are too small to be skinned and, now, while they meet the tariff classification in all other respects, they are discriminated against over other fish blocks. Since the duty of blocks is going to be abolished the discrimination will become more pronounced in the future. The representative of Canada stated that bilateral consultations had been held.

(c) Comments by country maintaining the measures:

United States tariff schedule definition of blocks specifies that products included in this category must be skinned. The problem is not an administrative matter on which there is flexibility to act, but a question of customs classification, and it is difficult to foresee a solution. When new products are coming out that have to be classified in the existing tariff schedules, these do raise problems. Rather than searching for an amendment of the tariff schedule, the importer may, in case it is needed, present a complaint concerning the customs classification of his products.

Product: (BTN)	Country or group maintaining measure:	Countries indicating an interest:
Products and preserves based on meat (ex 16.01, ex 16.02)	United States	Switzerland

---

(a) Description:

Technical and administrative matters:

Complicated procedures involving considerable incidental costs for the exporter can hinder exports to the United States of products and preserves based on meat.

- A very detailed indication is required of the ingredients contained in preserved products, according to requirements that are stricter than for domestic production, so that there is discrimination against the imported product.
- Special labels or packaging are required, and the imprinting on the lid of tins must comply with American standards.
- Monthly inspections of the manufacturing plant in the exporting country by a veterinary surgeon of the producing country and, once a year, by an official of the United States Department of Agriculture.

(b) Comments by other countries:

(c) Comments by country maintaining the measures:

The same standards apply without discrimination to local produce and to imports. For products based on meat, the requirements are based on the Wholesome Meat Act (see COM.AG/W/4/Add.3 and 4). The inspection systems of meat and packing plants should be equal to United States standards. The annual volume of imports into the United States shows that it is possible to meet the requirements. The Fair Packing and Labelling Act, which came into force in 1967, provides additional prescriptions of the requirements concerning labelling and packing of foodstuffs.

See item 337 of the Inventory of Non-Tariff Measures (MTN/3B/3).

Product: (BTN)	Country or group maintaining measure:	Countries indicating an interest:
Canned clams (ex 16.05)	United States	Japan

---

(a) Description:

American Selling Price (ASP)

(b) Comments by other countries:

Japan cannot but express here its great concern over the adverse effect of ASP on the export of canned clams although the problem of ASP itself is being discussed in the Committee on Trade in Industrial Products.

(c) Comments by country maintaining the measures:

Taking note of the concern regarding the ASP provisions for evaluation, the United States representative confirmed that the Administration had now before the Congress legislation that would, if passed in the form it was prepared, affect the change that the delegate of Japan desired.

See item 166 of the Inventory of Non-Tariff Measures (MTN/3B/2).

Product: (BTN)	Country or group maintaining measure:	Countries indicating an interest:
Refined cane sugar (ex 17.01)	United States	Canada

---

(a) Description:

Refined cane sugar for use in manufactured products which are to be exported can only be imported from a country in which the sugar cane from which the sugar was produced was grown.

(b) Comments by other countries:

The representative of Canada stated that this requirement prevented Canada from exporting refined cane sugar to the United States. This requirement is not legal; it is an extension through the regulations to quota-exempt sugar of a requirement in the Sugar Act which applies to sugar consumed in the United States. The quota-exempt facility is designed to enable United States food processors to be more competitive on world markets. Since Canadian refined sugar is competitive by international standards it would be advantageous to both countries if Canada were allowed to export to the United States. The representative of Canada indicated that bilateral consultations had been held with the United States to try to allow for some exports of refined cane sugar from his country on the basis of an assurance that such sugar was not processed from raw cane produced in countries with which the United States does not have diplomatic relations. The United States is not prepared to accept such assurances.

(c) Comments by country maintaining the measures:

This requirement is part of the United States Sugar Regulation. This Regulation stands from the United States Sugar Act which was in force until December 1974. The primary purpose of this requirement was to prevent the importation of sugar produced in countries with which the United States does not maintain diplomatic relations.

Product: (BTN)	Country or group maintaining measure:	Countries indicating an interest:
Confectionery, cakes and biscuits (17.04, ex 18.06, ex 19.08)	United States	Argentina Canada United Kingdom

---

(a) Description:

Canada: Section 402(a): as a general rule, dutiable value for 1,015 items in the "Final List" is to be based either on the export value or the foreign value (the prices for home consumption in the exporting country) of the product concerned, whichever is higher.

United Kingdom: import duties are based on the highest price at which products reach the market, rather than on individual invoices.

(b) Comments by other countries:

Canada: Continued use of Section 402(a) can and does result in an imposition of arbitrarily high values for duty purposes which bear little relation to actual transaction values of trade levels concerned.

United Kingdom: United Kingdom exporters have reported that even when they have been able to reduce their prices, the original rates of duty are still charged. The United States should assess import duty on the full value of the product, as sold or offered for sale on the United States market. This would require the removal of the products from the "Final List" or termination or modification of this particular system of valuation.

(c) Comments by country maintaining the measures:

See item 167 of the Inventory of Non-Tariff Measures (MTN/3B/2).

Product: (BTN)	Country or group maintaining measure:	Countries indicating an interest:
Chocolate (ex 18.06)	United States	Switzerland

---

(a) Description:Technical and administrative matters:

Complicated procedures involving considerable incidental costs for the exporter can hinder exports to the United States of chocolate.

- A very detailed indication is required of the ingredients contained in preserved products, according to requirements that are stricter than for domestic production, so that there is discrimination against the imported product.
- Special labels or packaging are required, and the imprinting on the lid of tins must comply with American standards.
- Inspections of the manufacturing plant in the exporting country once a year, by an official of the United States Department of Agriculture.

(b) Comments by other countries:(c) Comments by country maintaining the measures:

The same standards apply without discrimination to local produce and to imports. The requirements are based on the Food, Drug and Cosmetic Act. The Fair Packing and Labeling Act, which came into force in 1967, provides additional prescriptions of the requirements concerning labelling and packing of foodstuffs.

See item 337 of the Inventory of Non-Tariff Measures (MTN/3B/3).

Miscellaneous Charges and Taxes:

Product: (BTN)	Country or group maintaining measure:	Countries indicating an interest:
Cider and perry (ex 22.07)	United States	United Kingdom

---

(a) Description:

Classification of sparkling cider or perry for excise tax

Sparkling cider or perry is treated as a sparkling wine (such as champagne) with an excise tax of \$3.40 or \$2.40 per gallon. Still cider classed as a still wine of comparable strength, pays an excise tax of only 17 cents a gallon.

(b) Comments by other countries:

This disparate treatment, which is completely anomalous, effectively prevents the sale of our sparkling ciders and perries in the United States. (For customs duty purposes still and sparkling ciders are treated the same.)

(c) Comments by country maintaining the measures:

This excise tax, which is of the nature of a domestic consumption tax, is applied to the domestic and imported products at the same rate and in the same way.

See item 848 of the Inventory of Non-Tariff Measures (MTN/3B/5).

See document L/3389 Consolidated Document on the Examination of Practices of Contracting Parties in Relation to Border Tax Adjustments, pages 105 to 114 (Working Party on Border Tax Adjustments).

Product: (BTN)	Country or group maintaining measure:	Countries indicating an interest:
Whisky, gin, etc. (22.09)	United States	Canada European Communities United Kingdom

---

(a) Description:

United Kingdom: Discrimination against imported spirits arising from the method of measuring alcoholic content.

United States legislation on the assessment of internal revenue tax on spirits provides that the tax shall be charged on a proof gallon basis or, if the spirits are below proof strength at time of assessment, on a wine gallon basis. Under this system Scotch whisky and other spirits imported in bottle at the usual strength of 86° United States proof effectively pay a higher rate of tax than American domestic bottled spirits of the same strength, the latter being assessed when at proof (i.e. before dilution to 86° proof).

A similar distinction between proof and below-proof spirits is drawn for import duty purposes.

This system gives a margin of protection to United States domestic bottled whisky at 86° proof of \$1.85 per United States proof gallon (i.e. \$1.71 internal revenue tax and \$0.14 import duty) over and above the normal import duty of \$0.91 per proof gallon on Scotch whisky.

Canada: Measurement of alcoholic content for spirits imported in bottles.

(b) Comments by other countries:

United Kingdom: This matter was raised in the Kennedy Round without success and is now the subject of an action in the United States courts where an importer of Scotch and Irish whiskies claims that the discrimination is contrary to the United States-Irish Treaty of Friendship, Commerce and Navigation of 1950 and the 1815 Convention of Commerce between the United States and the United Kingdom.

EC referred specifically to cognac, rum and gin.

Product: (BTN)	Country or group maintaining measure:	Countries indicating an interest:
Whisky, gin, etc. (22.09) (cont'd)	United States	Canada European Communities United Kingdom

---

(c) Comments by country maintaining the measures: (cont'd)

This measure has been subject to bilateral consultations. It is not discriminatory in its form and is applied equally to local produce and imports. The tax may constitute a source of difficulty to exporters which is greater than for local producers who can orient their production in view of the taxation. The evaluation method has existed since 1917, and is covered by the provisions of the Protocol of Provisional Application. In 1951 the Government proposed to eliminate this regulation, but the proposal was not approved by the Congress.

See item 847 of the Inventory of Non-Tariff Measures (1970/5).

See document L/3389 Consolidated Document on the Examination of Practices by Contracting Parties in Relation to Border Tax Adjustments, pages 105 to 114 (Working Party on Border Tax Adjustment).

Other :

Product: (BTN)	Country or group maintaining measure:	Countries indicating an interest:
Agricultural products	United States	Australia Canada United Kingdom

---

(a) Description:

Federal Government procurement practices in the United States include preferences incorporated in the implementation of the "Buy American" Executive Order 10581.

(b) Comments by other countries:

United Kingdom: Preference is given to domestic products in purchases of chocolate and sugar confectionery and other foodstuffs by the armed forces. It appeared that, in respect of certain goods, there was a complete prohibition, irrespective of price.

Australia: This constitutes a serious barrier to Australian exports, to the United States.

(c) Comments by country maintaining the measures:

This particular regulation applies not only to agricultural products but to other products as well.

See item 60 of the Inventory of Non Tariff Measures (MTN/3B/1).