WORKING PARTY ON BORDER TAX ADJUSTMENTS

DETAILED OUTLINE FOR EXAMINATION OF BORDER TAX PRACTICES

Revision

Paper by United States Delegation
as Amended by the Technical Group

I. Tax systems

A. Selective excise taxes

1. Are there selective excise taxes which apply to goods also subject to a general broad-based indirect tax?

2. Are there selective excises imposed on products not produced in economically meaningful quantities domestically, i.e. are they primarily import taxes?

3. Where excise taxes are imposed on goods used in connexion with the production or transport of other goods, or are imposed on goods used as raw materials or components of other goods, is there any adjustment at the border for these taxes with respect to final products which may or may not, themselves, be subject to these taxes?

1In response to the different questions under this heading countries are requested to specify if selective excise taxes are specific or ad valorem.

2The representative from the Community suggested that this question should be deleted in view of the fact that the Organisation for Economic Co-operation and Development's report contains the relevant information. With respect to non-OECD members similar information has been requested in the questionnaire sent to them.

3The Technical Working Group recommended that border tax adjustments should be defined for the purposes of the Working Party's examination as in the first sentence of paragraph 115 of the OECD Fact-Finding Report which reads:
"..... border tax adjustments are defined to cover all the fiscal adjustments which are necessary to put into effect the destination principle (i.e. to ensure that exports are relieved from the tax of the exporting country and that imported products sold to the consumer bear the same amount of tax in the importing country as similar domestic products)."
4. What is the valuation used for border adjustments on imports and on exports? Does the valuation for imports include the insurance freight and duty? Do the bases and rate applicable to specific duties on imported goods differ from those applicable to similar home-produced goods and if so, in what circumstances and to what extent?

5. Are the selective excises collected in the case of purchases by firms? By what mechanism can the firm avoid payment of these taxes?

6. In what circumstances are exported goods relieved from tax and in what circumstances is tax repaid?

7. If adjustments for imported goods are not made at the border but subsequently, at what stage are they made?

8. Is there a system of minimum exemptions from the adjustment for tourist purchases, small mail shipments etc., on exports and imports?

B. General consumption taxes

(a) Single stage taxes

Manufacturing, wholesale

1. For imports, if adjustments are not made at the border but subsequently, what is then the valuation basis? For exports in what circumstances are goods relieved from tax and in what circumstances is tax repaid?

2. When adjustments are not made at the border but subsequent to importation through a system of registered dealers, how is the list of registered dealers drawn up and changed? What are the qualifications for registration?

3. How does your system handle the tax on the raw materials and components forming part of specific goods and how does it handle the tax on the goods used in connexion with the production or transport of other goods, both with regard to home-produced goods sold on the home market and with regard to exports and imports?

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1The representative from the Community pointed out that this question is of a highly technical nature and should also be deleted.
4. Is it always possible to limit your single stage tax to one particular stage? How are retail transactions by wholesalers or manufacturers handled? How are capital goods treated?

5. Are there products not covered by the domestic tax which are, nevertheless, subject to an import border tax?

6. To what extent do the rates of border adjustments on imports and exports differ from each other or from the rates on domestic transactions?

7. Is there a system of minimum exemptions from the adjustment for tourist purchases, small mail shipments etc., on exports and imports?

Retail

1. Does the system of retail sales taxes completely avoid physical adjustments at the border? How are purchases across the border by final consumer handled?

2. What differentiation in sales tax liability exists between foreign and domestic goods once the foreign goods have entered the economy?

3. What is the evaluation basis for the imposition of a retail tax?

4. Does the Government maintain an effective control on what constitutes a retail sales transaction?

5. Are goods or services purchased by businesses for their own use subject to retail taxation? Is there a distinction in this respect between raw materials and components on the one hand, and capital equipment, auxiliary materials and services used in connexion with the production or transportation of goods on the other hand? Are border adjustments made on the exports of products produced by firms paying such taxes? Are there comparable import charges?

6. Are there products not covered by the domestic tax which are, nevertheless, subject to an import border tax?

7. Is there a system of minimum exemptions from the adjustment for tourist purchases, small mail shipments etc., on exports and imports?

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The representative from the Community suggested that this part of the question should be deleted as it is purely academic and as countries cannot reply to it in a concrete manner.
(b) Cascade taxes

1. How general is the tax? Does it cover services as well as goods? To what extent does it provide for exemptions, different techniques of taxation or differential rates of tax for certain classes of goods or services or individual products or for transactions at certain levels in the production process? Do the border adjustments on both exports and imports reflect these differences?

2. Are there products not covered by the domestic tax which are, nevertheless, subject to an import border tax?

3. Are there cases of products for which adjustments are made at the border at a rate different from the rate of domestic tax on comparable products? How is this practice justified?

4. To what extent does the treatment of exports at the border differ from the treatment of imports for similar goods? For example, might an export rebate be granted at a rate different from the corresponding import compensating tax? How are these differences explained?

5. Are goods or services purchased by businesses for their own use subject to tax? Is there a distinction in this respect between raw materials and components on the one hand, and capital equipment, auxiliary materials and services used in connexion with the production or transportation of goods on the other hand? Are border adjustments made on the exports of products produced by firms paying such taxes? Are there comparable import charges?

6. Are purchases by businesses from a related company treated differently from purchases from an unrelated company? How are intra-company transactions handled? Are these differences reflected in the border adjustments?

7. What general rules are used in determining the appropriate levels of border adjustments? If averages are used, how are these averages calculated?

8. Is it possible to identify and measure cases of over and under-compensation in the system of border adjustments?

9. How are goods valued for border adjustment purposes? Are export rebates calculated on a c.i.f. or f.o.b. basis? Are import compensating taxes imposed on a c.i.f.-duty paid value? What is the rationale for this treatment?
10. Is there a system of minimum exemptions from the adjustment for tourist purchases, small mail shipments, etc., on exports and imports?

(c) Tax on value added

1. What is the basis for valuation? F.o.b., c.i.f.-duty paid?

2. How general is the tax? On what portion of the commercial transactions of the economy is it collected? Are there sectors of the economy or classes of goods which are not taxed in the normal way? Are such differences reflected in the border adjustments?

3. Besides the TVA, which other taxes are subject to border adjustments?

4. Is there a system of minimum exemptions from the adjustment for tourist purchases, small mail shipments etc., on exports and imports?

5. In view of the fact that unpaid taxes at one stage are collected at subsequent stages, what need exists for a border adjustment on imports other than for sales across the border to final consumers?

6. Should a distinction be made between the technical and economic effects of the application of a tax on value added? If so, which is the relevant feature in the context of border tax adjustments?

C. Other tax-related border adjustments and export rebate schemes

1/1. What tax credits are given to exporters relative to increases in export sales?

1/2. Which tax credits or deductions are given for export sales promotion expenses?

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1 This question was suggested by the representative from the Community.

2 The representative from Japan, proposing the deletion of questions 1 to 5 stated that these questions would seem to be related to practices of such taxes as individual income tax or corporate income tax and are not related to "consumption taxes" that are regarded as taxes on goods as provided for and are eligible for border tax adjustments under the present GATT rules; and therefore these questions were outside the mandate of the Working Party. He also stated that the OECD Fact-Finding Report has not dealt with these questions and that there was need to concentrate on issues relevant to border tax adjustments. The representative from the Community regarded these questions as important, and stated that if practices referred to in these exist in some countries, the Working Party should know about them. The representative from the United States stated that he would not object to the deletion of these questions.
By what computation do export sales result in more rapid depreciation of capital equipment, temporary accumulation of untaxed company reserves, or other forms of tax deferral?\footnote{1}

How does the corporate income tax rate vary for export profits and domestic profits?\footnote{1}

How is the corporate income tax averaged to allow a given amount of tax rebate per unit of exported goods?\footnote{1}

What border adjustments are made for property taxes or inventory taxes?

Are social security or wage taxes assessed differently depending upon a firm's export or import volume?

What adjustments are made for other taxes? What other tax credits are given relative to exports or imports?

D. Overlapping indirect tax systems

1. To what extent are final products which are subject to selective excises also subject to a general broad-based indirect tax? Are border adjustments made for both?

2. To what extent are there selective excises in addition to a general tax imposed on business purchases of such things as machinery, fuel or general overhead items? Are border adjustments made for both?

The representative from Japan, proposing the deletion of questions 1 to 5, stated that these questions would seem to be related to practices of such taxes as individual income tax or corporate income tax and are not related to "consumption taxes" that are regarded as taxes on goods as provided for and are eligible for border tax adjustments under the present GATT rules; and therefore these questions were outside the mandate of the Working Party. He also stated that the OECD Fact-Finding Report has not dealt with these questions and that there was need to concentrate on issues relevant to border tax adjustments. The representative from the Community regarded these questions as important, and stated that if practices referred to in these exist in some countries, the Working Party should know about them. The representative from the United States stated that he would not object to the deletion of these questions.
II. Changes in border tax adjustments

1. In changing from one system of general indirect taxation to another, or in expanding the coverage of existing systems, are there types of transactions which had previously been subject to selective excises which become subject to the broad-based tax? Were border adjustments made for the excises? Are they made for the general tax on these transactions?

2. When a change is made in the level of border adjustments with no change in the level of domestic taxation in order to remove under-compensation, what criteria are used in determining the timing of such a change?

3. How are under-compensation and over-compensation determined and measured in order that they can be fully removed?

4. Are there reasons other than the elimination of under-compensation or over-compensation for making changes in border adjustments which are not associated with changes in internal taxation?

III. Miscellaneous

1. What is the budgetary cost of border adjustments on exports?\(^1\)

2. How much revenue is collected from import border adjustments?\(^1\)

3. What proportion of total taxation (including local taxes and social security contributions) is collected through taxes which are the subject of border tax adjustments?\(^2\)

4. Is the revenue obtained from border tax adjustments intended to compensate in a whole, or in part for government expenditure on social security?\(^3\)

5. What is the importance of indirect taxes other than consumption taxes which have an effect on production and distribution costs?\(^3\)

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\(^1\)These questions are irrelevant if the OECD definition of border tax adjustments is adopted as recommended by the Technical Group. It was also noted that it would be difficult in certain cases to obtain the relevant data many of which would at best have to be estimated and that in any case no valid comparison could be made between countries with different systems on the basis of such data. Reference was made in this connexion to paragraphs 86 and 115 of the Fact-Finding Report of the OECD.

\(^2\)This question was suggested by the representative from the United Kingdom.

\(^3\)These questions were suggested by the representative from the Community.