OUTLINE FOR EXAMINATION OF BORDER TAX PRACTICES

Replies by Delegations

Addendum

The Working Party agreed at its fifth meeting from 11 to 14 November 1968 that there was a need to dispose, as quickly as possible, of those questions not already discussed at previous meetings, short answers should therefore be prepared and, if delegations so wished, these could be submitted in writing in advance of its next meeting.

Further replies which are attached hereto have been received from the delegations of the Federal Republic of Germany and Sweden.

Further replies will be circulated in addenda to this document.
B. SELECTIVE EXCISE TAXES

1. As can be seen from the documents C(68)49 and Spec(68)88, specific indirect taxes are levied in Sweden on tobacco products, alcohol, beer, soft drinks, motor vehicles, jewellery, carpets, furs, chocolate, confectionery, cosmetics, perfume, toilet water, fuel oils, coal, coke and electric energy. The taxes are for several products levied at specific rates. Jewellery and knotted carpets are taxable at 20 per cent of the retail price including tax, chocolate and confectionery, perfumes, cosmetics etc. at 50 per cent ad valorem and furs at rates corresponding to 10 per cent ad valorem (excluding tax).

2. Some of the taxes mentioned under 1 cover also products not produced in Sweden in appreciable quantities, e.g. wine (included in a general taxation on alcohol), liquid fuels and coal (under a scheme of taxes on energy, also electric energy etc.).

3. No.

4. Special excise taxes are normally not collected at the importation stage except in cases when the importer is a final consumer or a non-registered dealer. The bases and rates for the taxation of imported goods depend on the systems applied for the products in question but to their effect, taxes on imported goods do not differ from those levied on similar home-produced goods.

5. No mechanism exists by which purchases by firms can take place free of special excise taxes.

6. Exports of taxable goods by manufacturers and dealers are free of special excise taxes. Taxes already paid on goods that are exported will however as a general rule not be repaid.

7. Goods that are imported by registered dealers are subject to excise taxes at the same stages as similar home-produced products.

8. Not applicable to Sweden.

9. Tourists are allowed to import free of tax and duty limited amounts of goods including such subject to special excises. No similar arrangements exist for tourists' purchases of goods in Sweden, with the exception of goods bought in tax-free shops at airports.

C. OVERLAPPING INDIRECT TAX SYSTEMS

1. Purchases of goods subject to selective excise taxes are also subject to tax on value added with the exception of fuels and electric energy, which are subject to energy tax and thus exempt from tax on value added.

2. See answers under IA and B.
II. CHANGES IN BORDER TAX ADJUSTMENTS

1. The change from a retail sales tax to tax on value added has not made any difference in the system of special excise taxes as described under I.B.

2-4. Not applicable to Sweden.

III. MISCELLANEOUS

General

1. No taxes in Sweden subject to border tax adjustments are intended for any special type of Government expenditure.

2. Taxes of the kind mentioned in the question have no significant effect on production and distribution costs.

3. No. Direct transports to or from other countries are exempt from tax on value added.

4. No.

5. Of total taxation in Sweden including local taxation and social security contributions about 27 per cent is collected through taxes that can be subject to border tax adjustments.

Other tax-related border adjustments and export rebate schemes

6. None.

7. No special deductions exist for export sales promotion expenses.

8. No.

9. No.

10. No.

11. The following investment incentives can be mentioned

(a) Accelerated depreciation

An initial allowance of 30 per cent and a special investment allowance of 10 per cent may be obtained at the assessment for income tax for the purchase of new plant and machinery.

These allowances may be given only in special at the discretion of the Government, depending on the state of unemployment. This legislation has not yet been used in practice.
(b) Allocations to special requirement funds

Business operating tax-payers, corporations included, may when selling their enterprise allocate the profits from the selling to a special acquirement fund. The allocation can in some cases be deducted for income tax purposes on permission by the Government.

(c) Allocations to special funds for the re-acquirement of buildings

Business operating enterprises selling their real property may - in order to postpone the income tax on the capital gain derived from the selling - allocate the amount of the capital gain to a special fund. The allocation may be deducted only if a guarantee by bank or a similar institution for the income tax corresponding to the allocation has been procured.

(d) Investment reserves for economic stabilization

In order to encounter the changes of the business cycles in such a way that the economic balance in public economy is maintained as far as possible Swedish corporations having income from agriculture or business are on certain conditions entitled to deductions for income tax purposes for allocations to investment reserves for forestry respectively for business activities.

The sum allocated may be deducted only if an amount equivalent to the tax payable on the allocated sum has been paid into an account in the National Bank.

12. Losses

Losses can be carried forward for six years; they may not be carried back.

13. Appreciation of assets

The provisions applying to appreciation of assets are applicable to all business enterprises whether corporations or not.

The starting point for the valuation of such assets as buildings, plant and machinery etc. is normally the historic cost.

The rate for depreciation of buildings varies from 0.6 per cent to 3 per cent per annum.

For the depreciation of plant and machinery there are two recognized methods:

(a) Plant and machinery can be written off according to a plan on a straight line basis over the estimated working life of the asset.
(b) Plant and machinery can also, after special permission, be written off on a book-keeping basis according to the accounts.

14. **Foreign taxes and losses**

A foreign tax paid by a Swedish corporation, whether an income tax or an indirect tax, is generally deductible by the corporation. If foreign operations are carried on by a Swedish corporation directly or through a foreign branch of the Swedish corporation, the Swedish corporation will be taxed on its earnings from those foreign operations. Any foreign taxes paid on the foreign income are deductible either by tax credit against the Swedish tax or in determining to amount of foreign income subject to Swedish tax, unless otherwise prescribed in a tax treaty. It must, however, be observed that several Swedish tax treaties provide that business profits earned through a foreign permanent establishment are taxable only in the country where the permanent establishment is located.

If a Swedish corporation chooses to carry on its foreign operation through the medium of a subsidiary incorporated abroad, the profits of such a subsidiary are not taxed by Sweden.

15. **Taxes on business capital**

Swedish corporations and Swedish economic associations are not subject to the Swedish net wealth tax. Foreign entities are subject to the tax unless a tax treaty gives exemption.

16. None.

17. None.

18. None.
B. SELECTIVE EXCISE TAXES

1. There are a number of excise taxes levied on specified products (alcoholic beverages, including beer; tobacco products, hydrocarbon oils; salt; sugar; tea; coffee; matches; illuminants; acetic acid; and playing cards). The tax base is established in terms of weight or volume or numbers or retail price or value, as the case may be.

2. Reference to 1 and to our reply to the GATT questionnaire on border tax adjustments (documents Spec(68)56 and Spec(68)88/Add.2).

3. Excise taxes are generally applied to imported goods at the same rate as is applied to home-produced goods. Imported goods are subjected to excise taxes at the time they are imported; those taxes are by nature single stage taxes. Certain exemptions from excise taxes are provided for cases where excisable imports are either shipped to a domestic manufacturing plant immediately after being imported or are used for purposes which, under the various excise tax laws, would entail exemption if the products involved were home produced.

4. It is only in the insignificant case of the illuminants tax that the value is the tax base. In this case the retail price as indicated in the sales lists is normally regarded as the tax value. The tax value of imported illuminants coincides with the tax value of home-produced goods.

5. Excise taxes are generally due on removal from the producer's premises, without regard to the purchaser. In the cases of imports, the provisions of customs legislation are applied mutatis mutandis. There are no special provisions for purchases by firms.

6. Goods liable to excise taxes are generally exempt from excise taxes if they are exported, under official supervision, directly from their producer's premises or via a bonded warehouse. Tax rebates on exportation are allowed to a certain extent only in respect of alcohol (spirits) tax, hydrocarbon oils tax and sugar tax. Details are given in our reply to the questionnaire document Spec(68)56.

7. Not applicable.

8. Not applicable.
9. There are certain exemptions for tourists and small shipments in line with the exemptions from customs duties in these cases. These exemptions are limited to specific quantities where the goods imported are subject to a heavy revenue tax (e.g. tobacco goods, alcohol). There are no special provisions concerning minimum exemptions in the cases of exports by tourists. But bonded warehouse facilities may be granted to firms selling goods at airports exclusively to tourists travelling by air.

C. OVERLAPPING INDIRECT TAX SYSTEMS

1. There are selective excise taxes which apply to goods also subject to the value-added tax. Reference to part B.

2. Reference to part B.

II. CHANGES IN BORDER TAX ADJUSTMENTS

1. As from 1 January 1968, the previous cumulative turnover tax and the transport tax (Beförderungsteuer) were replaced by the value-added tax. The new tax system does not affect the existing excise taxes, which continue to be in force.

2. Not applicable.

3. Application of average rates may lead to distortions of competition. If export refunds fail to offset the actual turnover tax burden of a product, international competitiveness of the product concerned is impaired. If, however, the average refund exceeds the taxes paid at previous stages, the additional compensation acts as an export premium on the product concerned. Similar effects exist in the application of average equalization tax rates on imported products. If the equalization tax is higher than the actual turnover tax charged on identical or comparable home-produced goods, the effect produced is of a protective character. If equalization tax rates on imports are lower than the actual turnover tax burden on identical or comparable home-produced goods, foreign goods will enjoy a competitive advantage in the domestic markets. The value-added tax system avoids all these weaknesses and distortions.

4. The main disadvantage of the cascade system is that it leads to distortions not only between national and foreign firms but also between national enterprises. The cascade system works in favour of integrated enterprises and is disadvantageous to firms of a lesser degree of integration, particularly small and medium-sized enterprises. In the Federal Republic of Germany, the change to the
value-added tax was also necessary for legal reasons, as the Federal Constitu­tional Court (Bundesverfassungsgericht) had ruled that the inequality of tax treatment as between integrated and non-integrated firms was not in conformity with the Basic Law of the Federal Republic. Finally, the change to the value-added tax system is in line with the objects of international conventions aiming at the expansion of world trade on a multilateral, non-discriminatory basis in accordance with international obligations.

III. MISCELLANEOUS

General

1. No.

2. Reference to our reply to the GATT questionnaire on border tax adjustments page 2, (I 1 c and d), page 20/22, (I 2 c).

3. Tax exemptions are provided for transportation across the border (paragraph 4 No. 5 UStG).

4. Customs legislation applies, i.e. the value is determined by application of the customs provisions with regard to valuation for customs purposes.

5. Proportion of total taxation collected through taxes which are subject of border tax adjustments.

Reference to OECD document 0(68)47 Part III page 69:

1965 Consumption taxes 29.4 - 1.9 per cent
Income taxes (customs duties) = 27.5 per cent
Taxes on capital etc. 3.5 per cent 37.6 per cent
Property taxes 1.4 per cent
Social security charges 29.2 per cent
Others 3.8 per cent

Proportion 27.5 : 72.5

For 1967, the proportion of consumption taxes (Steuern auf Einkommensver­wendung), not including customs duties, amounted to 29.9 per cent of the total revenue from taxes and social security charges (43.1 per cent of tax revenue).

Reference: Finanzbericht 1967 des BMF.
Other tax-related border adjustments and export rebate schemes

6. None.
7. None.
8. No such facilities are available.
9. The tax rate does not vary in this respect.
10. No tax rebate is allowed in respect of exported goods.
11. Investments abroad by German firms are encouraged by means of incentives, if the investments are made in developing countries. As a rule, no incentives are provided for investments in Germany. The only exceptions are those in respect of "special areas" (Berlin, areas adjoining the zonal border, coal-mining industry).
12. Tax is based on profits only. Losses may be set off in the following five years.
13. The appreciation of assets is based on the cost of their acquisition or production, less depreciation for wear and tear.
14. Under German tax legislation, credit against German corporate income tax may be allowed in respect of comparable taxes paid abroad. Most of the existing double taxation conventions provide for tax exemption of (a) the profits derived by a legally non-independent permanent establishment located abroad, and (b) of the dividends received by a German parent company from its foreign subsidiaries. The offsetting of losses when establishing taxable profits is permissible only where the losses concerned are those incurred by a legally non-independent permanent establishment in a country which has not concluded an applicable double taxation convention with Germany.
15. Net worth tax. The rate of tax is ordinarily 1 per cent of the current market value. Corporations are not permitted to deduct from their profits the amounts of net worth tax paid or payable. Individuals may claim no more than an allowance for "special expenditures" in respect of net worth tax paid.

Company tax (tax on transactions between a corporation and a shareholder which have the effect of strengthening the capital position of the corporation). The rate of tax is 2.5 per cent of the consideration made for the acquisition of membership rights in corporations, or of the nominal amount of loans which are in effect a substitute for needed equity capital. Partly deductible.
16. None.
17. No.
18. None.