1. At its meeting from 23 to 26 March 1970, the Working Party on Border Tax Adjustments examined on an item by item basis the notifications made in the Committee on Trade in Industrial Products, listed in Section F of Part 5 of the Inventory of Non-Tariff Barriers.

2. As the Working Party had not yet finished its discussion (see Interim Report in December 1969 of the Working Party, document L/3290) on point 2 of its Terms of Reference - Consideration of Proposals and Suggestions with regard to the general problem of border tax adjustments - it did not endeavour to indicate possible solutions to the problems notified. The result of the examination has, therefore, a purely factual character.

3. Some countries were of the opinion that three types of notifications had emerged from their discussion in the Working Party:

   (a) The first type concerned notifications which apparently did not relate to the manner in which a border tax adjustment is applied, but rather, to the mere existence of certain taxes in a country for which the adjustment at the border was felt to be a non-tariff barrier because it limited the export possibilities of the notifying country. These notifications seemed to be made in the context of the exploration by contracting parties for concrete action with regard to reducing or removing barriers to international trade, in particular the reduction of tax rates in the countries notified. They concerned special excise taxes and sales taxes as applied to specific products including some of special interest to developing countries. Furthermore, those notifications which are recommended to be deleted, should also be classified under this type.

   (b) A second type of notification concerned problems that will eventually disappear or have already disappeared because the notified countries intend to change or have already changed over to another tax system, but will in fact be replaced by the problems created by the change-over itself. It was noted that this problem was being dealt with by the Working Party but that so far in this respect no solution had been found. It was felt, however, that the outcome of the discussion in the Working Party on this subject could have some influence as to the possible treatment of the notifications concerned.
(c) A third type of notification concerned the general problem of what border tax adjustments should be allowed by the GATT rules. They also concerned certain specific problems of how border tax adjustments are applied; the valuation basis of the tax adjustment; the discrimination by tax adjustments between imports from different origins or between imported and domestic products; border tax adjustments which are said to be inconsistent with the provisions of the General Agreement; the change-over by individual countries to a value-added tax system; tax discrimination on products of special interest to developing countries.

4. Many countries did not share the view that notifications could be classified under the proposed headings, because this classification implied an interpretation of the rules of the General Agreement concerning fiscal questions which they were unable to accept. They especially pointed out that it was not acceptable to regard taxes which were levied for revenue purposes, and for which adjustments were made at the border in accordance with the rules of the Articles of the General Agreement, as non-tariff barriers to trade. One group of countries added that, if this had been the general interpretation, the number of their notifications would have been considerably higher.

5. Some of the countries against which notifications were made are not members of the Working Party but were invited to assist in this examination. Since some of them were not represented at the meeting, the examination of the notifications against these countries had to be postponed.

6. The views expressed by the notifying and maintaining countries are recorded individually on the following pages. As some of the notified problems have already been dealt with by the Working Party during its previous examination on border tax adjustments practices, reference is made to existing documentation on these subjects, inter alia in the consolidated document on border tax adjustment practices document L/3389.
The representative of Argentina confirmed that the Argentina Law on Taxation expressly provides for the same tax treatment of domestic and imported goods. There was no difference between the rates of border tax adjustments on imports and the rates on domestic transactions. The application of the adjustments at the border were fully consistent with the rules of the General Agreement, and could not be considered as a non-tariff barrier.

The representative of the United States pointed out that even though the application of border tax adjustments did not contain a discriminatory element, the mere existence of such an adjustment may, however, still be regarded as a non-tariff barrier and it should correspondingly be classified as such.

Information on the system of sales taxes in Argentina may be found in the consolidated document on the examination of border tax adjustment practices, page 21.
The observations of the representatives of Argentina and the United States with regard to notification item number 518 are also valid for this notification.

Information on the system of excise taxes in Argentina may be found in the consolidated document on border tax adjustment practices, page 61.
The representative of the European Economic Communities stated that the EEC had re-examined this system. They had come to the conclusion that this notification dealt essentially with the question of the determination of the basis of the tax at the time when a good was sold by the wholesaler to the retailer. The title of the notification should, therefore, be modified accordingly and read "Determination of the basis for the wholesale tax". He asked for further information with regard to the motivation of the Australian Government to add the arbitrary rate of 20 per cent to the dutiable value of the goods, plus customs duty. Since the dutiable value of the imported goods was based on the f.o.b. price, he wondered whether upon determination of the tax basis, costs of freight and insurance were also taken into account and if not, whether the 20 per cent mark-up covered only the margin fixed for the wholesaler.

Furthermore, he would like to know whether an exporter selling directly to Australian retailers benefited from the same conditions as when selling to wholesalers. He noted that this question was closely related to the subject of customs valuation and that it was uncertain whether this tax valuation system really protected domestic production.

The representative of the United States considered the 20 per cent mark-up as an arbitrary measure, which could include protection of domestic industry. The notification could be classified as being of a specific nature concerning the basis for the adjustment of taxes at the border. It was felt by his Government that there was also a question of inconsistency with the provisions of the General Agreement. This problem could only be solved by abolition of the 20 per cent mark-up.

The representative of the EEC noted that since he was uncertain about the protective element in this system, he could not support this position.
The Australian delegate stated that the method of adding 20 per cent to the value for duty plus customs duty to arrive at a notional price for the taxable value of a good imported direct by a retailer or end-user was not discriminatory. He could not agree with the United States suggestion that the measure was inconsistent with GATT. For reasons previously stated, Australia regarded the system as being in conformity with the General Agreement. He undertook to ascertain whether additional information on the points raised by EEC was available.

Information on the system of sales taxes in Australia may be found in the consolidated document on border tax adjustment practices, page 22 and in Spec(68)88, pages 111-112.
The representative of Austria explained that the Austrian equalization tax applied to all imports. It was a cascade tax which was intended to be replaced by a tax on value added from 1 January 1972. The adjustment at the border was calculated as closely as possible in a cascade tax system to the turnover tax on domestic production. As to the question whether Austria should not tax those products not domestically produced, he referred to the relevant discussion in the Working Party.

The representative of Brazil stated that this notification was made because of the large export quantity involved, mostly only from Brazil. He asked whether the Austrian Government would be prepared to consider the question in the context of Part IV of the General Agreement.

The representative of the United States said that this notification could be classified as being of a general nature relating to the structural problem of border tax adjustments. It could also be classified under problems caused by border tax adjustments on products of special interest to developing countries.

The representative of the EEC reminded the Working Party of his position, that it was not possible for a government to exempt from internal taxation products not domestically produced. He added that in this regard the position of developing countries in relation to the EEC would not be improved since many of their products are also produced in the EEC.

Information on the tax system in Austria may be found in the consolidated document on border tax adjustment practices, page 8 and in document Spec(68)88, page 2.
In the absence of a representative from Barbados at the meeting further discussion was postponed.

In answer to a question as to the nature of this complaint, the representative of the United States said that this notification concerned the specific problem whether it is appropriate or not to include customs duties in the base for the valuation of the border tax.
The representative of Belgium referred to the consolidated document on border tax adjustment practices in which, on page 12, the Belgian tax system was fully explained.

The cascade system, which was at present in force, would be replaced by the tax on value added in 1971.

The United States considered this notification as relating to the structural problem of border tax adjustments, and it should also be taken up in the context of the change-over to a tax on value added system.
The representative of Belgium stated, that there was no discrimination in the application of excise tax. All imports were subject to the same tax that was applied on domestic products.

The representative of Brazil said that he was satisfied with the explanation and that he would recommend his Government to withdraw the notification.

Information on the Belgian excise tax may be found in the consolidated document on border tax adjustment practices, page 71.
The representative of the Netherlands stated that this notification concerned the turnover tax prevailing under the cascade system which had been replaced by the tax on value added since 1 January 1969. The notification was therefore no longer valid.

With regard to the complaints made by Peru, he explained that under the TVA domestic fish products were also subject to a tax rate of 4 per cent.

The representative of the United States agreed that deletion of this notification should be recommended, but it should be replaced by a notification concerning the problems caused by a change-over to a TVA system or the application of a TVA system as such.

Information on the Netherlands TVA-system may be found in the consolidated document on border tax adjustment practices, pages 50-52.
The representative of the Netherlands explained that excise taxes in his country were not based on c.i.f. duty-paid value, but were levied either on the basis of weight or contents of the product (e.g., alcohol, wine, beer) or on the basis of the retail price (e.g., tobacco, passenger cars). Imported and domestic products were equally taxed. He wondered why this complaint was particularly directed to the Netherlands, since nearly all countries, the United States included, applied excise taxes.

The representative of the United States replied that this notification did not criticize the application of the system of excise taxes as such, but was made because of the export interest involved in the products affected by the excise tax. In this respect, the adjustment for the excise tax at the border could be regarded as a non-tariff barrier, which limited the export possibilities of the United States. The problem could possibly be solved by decreasing the level of the excise taxes for those products which were of interest to the United States in exchange for appropriate concessions from them.

Several countries stated that this complaint did not relate to the border tax adjustment problem as studied by the Working Party. This complaint did not concern the application of an adjustment at the border but the application of a tax system itself, which exists in many countries.

The representative of the United States still regarded that excise taxes could have a non-tariff barrier effect, but recognized that this notification should rather be classified as not relating to the problem of border tax adjustments.
Neither the United States nor Brazil had anything specific to add to this notification.

The United States said that this notification could be classified as being of a general nature relating to the structural problem of border tax adjustments, as well as of a specific nature concerning the determination of the base for the adjustment of taxes at the border.
The representative of the United States noted that the information requested on this subject, as indicated in notification 527, had not yet been received. In the absence of a representative of Cameroon, he explained that the application by Cameroon of a different basis of valuation for imports from the EEC and the UDEAC countries could be considered as discriminatory.

The notification could be classified as of a specific nature concerning the valuation base for the adjustment of taxes at the border, as well as concerning an element of discrimination.

The delegate of France remarked that the question did not relate to the difference of the valuation base but to the difference of the customs duties. The duty is especially contemplated to reduce competition from abroad and may be decreased by tariff negotiations. It is, however, an essential element of the value and it is precisely this value which serves as the valuation base for the turnover tax. The mere fact that there is a preferential tariff, therefore, does not imply that the adjustment of the tax at the border is discriminatory.

The representative of the EEC added that the existence of these preferences was not questionable since they were covered by Article I, paragraph 2, of the General Agreement. Thus a State enjoying these preferences levies taxes on imported products on a base which contains freight and insurance costs but no customs duties. This principle was established by the GATT in 1947. The tax measures by Cameroon were, therefore, fully in accordance with the provisions of the General Agreement.

Information on the turnover tax system in Cameroon may be found in document Spec(68)88, pages 7-8.
In the absence of the Delegation of Uruguay the representative of Canada stated that, in his Government's view, this tax was a sales tax. Edible oils, however, were exempted from this tax in so far as they were used for the manufacture of foodstuffs other than oleomargarine.

He argued that this tax was in accordance with the provisions of the General Agreement and referred to a note by the secretariat on the GATT rules on border tax adjustments (document L/3039) which says, in paragraph 18, that at the discussion on the Havana Charter, from which many of the provisions of GATT are drawn, "it was agreed that, under the provisions of Article 18 (of the Havana Charter, which is Article III of the GATT) regulations and taxes would be permitted which, while perhaps having the effect of assisting the production of a particular domestic product (say, butter), are directed as much against domestic production of another product (say, domestic oleomargarine) of which there was a substantial domestic production, as they are against imports (say, imported oleomargarine)". The Canadian representative reminded the Working Party that this interpretation was not challenged at the Review Session of the General Agreement.

Since Uruguay was not represented at the meeting, further discussion had to be postponed.

Information on the Canadian tax system may be found in the consolidated document on border tax adjustment practices, pages 23-25.
Central African Republic - Discriminatory turnover tax

In the absence of a representative of the Central African Republic at the meeting, the discussion was postponed.
In the absence of a representative from Chad at the meeting, the discussion was postponed.
In the absence of a representative from the Congo at the meeting, the discussion was postponed.
In the absence of a representative from Dahomey at the meeting, the discussion was postponed.
The representative of Denmark noted that the Working Party had already had a thorough discussion on the application of a tax on value added. Extensive information on this discussion could be found in the consolidated document on border tax adjustment practices. There was no question of discrimination and the notification, therefore, could better be deleted.

The delegate of the United States said that this notification could be classified as being of a general nature relating to the structural problem of border tax adjustments as well as concerning the problem caused by the change-over to a value added tax system.

Information on the Danish tax on value added may be found in the consolidated document on border tax adjustment practices on page 53.
The representative of Denmark explained that his country had changed over to a tax on value added.

In the absence of a representative from Uruguay at the meeting, further discussion was postponed.
The representative of Denmark stated that the luxury tax on carpets had been abolished.

The representative of Pakistan maintained that a customs duty of 24 per cent and a tax rate of 10.5 per cent for carpets should be considered as being too high for exports from developing countries.
The representative of Finland had nothing further to add to what had already been stated in the Inventory. He suggested that the notification should be deleted.

The delegate of the United States considered this notification still of value and suggested that it should be classified as being of a general nature concerning the structural problem of the application of border tax adjustments.

Information on the Finnish turnover tax may be found in the consolidated document on border tax adjustment practices on pages 25-26, and in Spec(68)88, pages 126-128.
The representative of Finland stated that this tax could not be considered as discriminatory. The same tax was levied on domestic cars. The imports of United States automobiles had increased by 80 per cent despite the tax, which was levied purely for revenue purposes. The philosophy behind the higher tax on bigger automobiles was that people buying bigger cars are also able to pay more taxes. He requested that the notification be deleted.

The representative of the United States stated that the notification was maintained because the tax measure could be considered as a non-tariff barrier to a certain type of United States car which was exported to Finland. The notification could be classified as being of a specific nature concerning the base for the adjustment of the tax at the border for United States cars.

Information on the excise tax in Finland may be found in the consolidated document on border tax adjustment practices, pages 83-85.
The representative of the United States indicated that his Government regarded this excise tax as a non-tariff barrier to trade which, in the long run, might be removed in exchange for appropriate concessions. He did not consider this problem as a border tax problem.

Information on the Finnish excise tax may be found in the consolidated document on border tax adjustment practices, pages 83-85.
The representative of France pointed out that some modifications had been made in the application of the tax on value added which were put into effect on 1 January 1970. The contents of these modifications are reproduced in document Spec(70)38.

The representative of the United States emphasized their concern about modification in existing TVA rates, and made reference to the observations in this regard in the interim report of the Working Party, document L/3290. The notification could be classified as being of a general nature regarding the general problem of border tax adjustments, as well as regarding problems caused by a change-over to a tax on value added.

The representative of Brazil said that the notification also concerned problems caused by border tax adjustments on products of special interest to developing countries.

The representative of France underlined that the four tax rates applied in his country were non-discriminatory. Taxation is applied according to the categories of consumption in which the products fall. In this regard, no distinction is made between domestic and foreign products.

Information on the TVA system in France may be found in the consolidated document on border tax adjustment practices, pages 43 and 128.
The delegates of the United Kingdom and Canada maintained that this tax was discriminatory with respect to imported whisky and other grain spirits.

The representative of France replied that the aim of the tax was to protect public health. He added that excise taxes were never created to diminish consumption, which could be seen from the continuing increase in imports.

Information on the excise taxes in France may be found in the consolidated document on border tax adjustment practices on pages 73-75.
The representative of Gabon explained that his country applied an ad valorem tax of 10 per cent on all importations with the exception of imports from EEC and UDEAC countries which are taxed at 5 per cent.

The tax is based on c.i.f. duty-paid value. Owing to the situation that duties in regard to EEC and UDEAC countries are lower than in regard to other countries, the amount of tax levied on products imported from those countries is lower. This could not be regarded as discriminatory since these lower duties were justified by the General Agreement. The notification should, therefore, be deleted.

The representative of the United States said it was not his intention to suggest that the Government of Gabon carried on unjustified practices but the United States was of the opinion that this tax fell within the ambit of the contracting parties' examination of non-tariff barriers. The notification should be considered in this respect as an attempt to clarify the actual trade position rather than the background of the tax itself. The notification therefore did not relate to the problem of border tax adjustments as it was dealt with by the Working Party on Border Tax Adjustments.
The representative of Germany stated that this notification in fact related to all countries applying a tax on value added and on this issue there had been extensive discussion in the Working Party on Border Tax Adjustments. Information on the operation of the tax on value added could be found in the consolidated document on border tax adjustments and Annexes C, D and E to that document. He stressed that the tax on value added was a neutral tax system and not discriminatory and should not be regarded as a non-tariff barrier to trade.

With regard to the notification by Brazil, he explained that all imports were due to a tax on value added of 11 per cent, while for agricultural products the prevailing tax rate amounted to 5.5 per cent. These reduced tax rates were, inter alia, applied to fish, oilseeds, oleaginous fruit, flours or meals of oilseeds or oleaginous fruit, edible fats and oils, preserved meat and fish, raw skins and hides.

The tax base included customs duties and thus constituted an element of the amount of tax to be paid. It was a matter of course that if no customs duties or lower customs duties were levied, this amount would be less. It was universal practice to include customs duties in the tax valuation base because otherwise the proportionate level of tariff protection would be reduced.

The representative of the United States repeated that if there is no discrimination under a TVA system, this does not mean that there is no non-tariff barrier.

The representative of Yugoslavia said that in the absence of customs duties between members of the European Community, the tax valuation base was different for goods imported from one to another member country and that he considered this as an element of discrimination.

Information on the German tax system may be found in the consolidated document on border tax adjustment practices, pages 46-50, and in Spec(68)88/Add.2, pages 4, 20-22 and 26.
The representative of Germany pointed out that in accordance with a law of 23 December 1968 (Bundesgesetzblatt 1969, Part I, page 1) the tax on coffee extract had been reduced from DM 13.92 per kg. to DM 13 per kg. Any possible discrimination of imported goods had been removed.

The Brazilian representative stated that coffee exports were of great importance to the Brazilian economy. Restriction of these exports by unduly high tax rates caused problems to developing countries and the notification should therefore be categorized as a complaint with regard to border tax adjustments on products of special interest to developing countries.
The representative of the Federal Republic of Germany confirmed that a Zolländerungsgesetz of 22 July 1969 (Bundesgesetzblatt Part I, page 879) provides that the excise tax on imported spirits can be deferred for the same period as the excise tax on home-produced spirits. The notified problem had, therefore, been solved.

The representative of the United Kingdom stated that he would recommend his Government to withdraw the notification.
In the absence of a representative from Ghana at the meeting, the discussion was postponed.
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The representative of Greece stated that this tax was not discriminatory. He asked the United States representative for evidence in support of their notification that Greek taxes caused a barrier to trade of the United States.

The representative of the United States replied that according to his information, Greece imposed a 25 per cent surcharge on the basic turnover tax rate for imports because the surcharge presumably is equal to the 6 per cent payroll tax paid by domestic manufacturers. If so, this would appear clearly incompatible with the provisions of GATT.

Furthermore, it appeared that another surcharge of 20-25 per cent is imposed on imports in order to compensate for wholesalers' profits and handling charges but such charges are not taxable domestically. This also appeared to be incompatible with GATT provisions.

Finally, he enquired whether the payroll tax, as he understood it, was rebated on exports.

The representative of Greece promised to supply the requested information at a later stage.
The representative of Greece stated that certain domestic products were exempt from taxes or subject to lower tax rates in order to support some less-developed areas in Greece.

He said he would supply more information at a later stage.
The representative of the United States explained that this notification concerned the tax valuation basis used in Iceland, namely the uplift in the tax base to take into account the retail and the wholesale stage. In this respect, the notification could be classified as being of a specific nature.

Since Iceland was not represented at the meeting, further discussion on this notification was postponed.
The representative of India said that generally imported products were subject to the same excise duty as domestic products.

However, there was indeed different treatment of particular products which were manufactured by small-scale industries and cottage industries. These products were sometimes exempt from excise duty or subject to a lower rate in order to encourage the development of these industries and to increase employment especially in rural areas. For example, electrical batteries, which normally bear an excise duty of 15 per cent ad valorem, were exempt from excise duty if these batteries were produced in a factory in which not more than five workers were employed. This should, however, be understood as an exceptional measure because electrical batteries produced by large-scale industries would be liable to the full tax rate which is also valid for imported products. There was therefore some domestic discrimination but the reason for this discrimination was entirely justifiable. The tax rate for imported products, which are usually produced in modern large-scale industries in developed countries, should therefore be compared with the tax rate prevailing for products manufactured by large-scale Indian industries.

The representative of India requested that since no real discrimination was involved, the notification should be deleted. For the same reason, the word "discriminatory" appearing in the title of this notification should also be eliminated. Furthermore, it should be noted that this notification did not relate to the problem of border tax adjustment examined by the Working Party.

The representative of the United States took note of this statement and said that he would report to his Government that the different taxation of some products was not intended to discriminate against imports.
In the absence of the representative of Ireland at the meeting, the discussion was postponed.
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The representative of the United States pointed out that some questions had arisen from the description of the Italian turnover tax system in the consolidated document on border tax adjustment practices: which were the excise taxes that were added to the c.i.f. value to determine the taxable base for imported goods, and secondly, how were the ex-factory values determined on which the export rebates were based.

This notification could be considered as being of a general nature in respect of the structural problem of border tax adjustments and of a specific nature as far as the determination of the taxable base for the adjustments at the border was concerned.

The representative of Italy replied that the excise taxes concerned were on alcohol, coffee and coffee products, cocoa, oil products, vegetable oils, margarine, gas and electrical lamps, textile fibres, bananas, tobacco, records, matches and cigarettes. As to the second question, he would give an answer at a later stage.

Information on the Italian turnover tax may be found in the consolidated document on border tax adjustment practices on pages 15-17. Italy will change over to the TVA system in 1972.
The representative of Pakistan noted that the basis for the adjustment of the tax at the border included c.i.f. duty paid value and fees in regard to various items, while the levy of fees did not relate to any services rendered.

The representative of the United States said, that in his view the notifications concerned the general structural problem of border tax adjustments as well as the specific problem concerning the determination of the base of the valuation of the tax and that furthermore these taxes contained an element of discrimination between imported and domestic production.

The representative of Brazil added that both notifications also related to the problems caused by border tax adjustments on products of special interest to developing countries.

The representative of Italy stated that the question of statistical fees had already been dealt with by the Committee on Trade in Industrial Products and that this question had been discussed bilaterally with the United States. He said that his country was willing to discuss the matter bilaterally with other countries. As to the cascade tax system in Italy, extensive information could be found in the consolidated document on border tax adjustments. This tax system was not discriminatory. Italy, he stated, would change over to the TVA in 1972.

Information on the Italian cascade tax may be found in the consolidated document on border tax adjustment practices on pages 15-17; on the Italian excise taxes on pages 75-80.
On the question whether the Italian Law 639 of 5 July 1964 would be abolished when Italy changed over to the TVA system, the representative of Italy stated that he was not in a position to give a definite answer but the question was under consideration.

The representative of the United States considered that this notification related to the problem of the determination of the base for the tax adjustment at the border. He added that this notification did not reflect the concern of his Government with regard to the application of this law and referred in this respect to the views of his Government expressed at the discussion in the Working Party on Border Tax Adjustments.

Information on the application of the Italian Law 639 may be found in the consolidated document on border tax adjustment practices, pages 77-79.
The representative of Italy was of the opinion that this notification should be dealt with by the Committee on Agriculture as the notification did not concern a fiscal question. Other countries shared this opinion.

The representatives of Portugal and Yugoslavia considered that the practices of Italy with regard to these subsidies fell within the ambit of border tax adjustments and the competence of the Working Party. The question was whether the export rebates were rebates in excess of what actually should be refunded at the border in relation to domestic taxation or whether one could speak of pure subsidies on agricultural products.

The Working Party decided to inform the Committee on Trade in Industrial Products that most countries thought that this notification should be transferred to the Committee on Agriculture.
The representative of Italy stated that with regard to the notification made by Brazil, this notification was not quite clear and needed further clarification before he could give any explanation.

The representative of Switzerland said that his Government had received sufficient explanation on this notification and noted that since Italy would change over to the TVA system in 1972 the matter was of a temporary nature. However, it clearly illustrated the lack of any uniform and uncontested rules in the General Agreement for the treatment of taxes on exports.

The representative of Pakistan pointed out that imported cotton was taxed at 7.2 per cent while domestic cotton was only taxed at 4.8 per cent. This was an unjustified discrimination and contrary to the provisions of Article III of the General Agreement.

The representative of Italy replied that his Government was in the process of preparing a law which would eliminate this discrimination.
The representative of the United States noted that the additional information on the prevailing tax rates in the Ivory Coast requested for at the meeting of the Committee on Trade in Industrial Products had not yet been received. He considered that this information was still necessary for further clarification.

In the absence of a representative from the Ivory Coast at the meeting further discussion was postponed.
The Japanese delegation had submitted to the Working Party information on the internal tax on whiskies in document Spec(70)30. The information showed that whiskies are classified in three different classes, each of which is subject to a different tax rate. Whiskies, both home produced and imported, were classified according to value and quality.

The representative of Canada stated that in his view the classification was arbitrary and led to discrimination of imported whiskies by putting them in the highest taxable class.

This view was supported by the representatives of the United Kingdom and the United States. The representative of the United States added that this notification could be classified as concerning discrimination between imported and domestic products.

The representative of Japan pointed out that the classification is made according to price and quality and that domestically produced whisky is classified in the same way as imported whisky. There was no discrimination. Higher price stood for better quality, which is usually bought by wealthier customers with the ability to pay higher taxes. He could not agree with a classification of this notification of the kind proposed by the United States and stressed that this problem could not be regarded as a border tax adjustment problem.

Information on the Japanese excise tax may be found in the consolidated document on border tax adjustment practices, pages 96-98 and in Spec(68)88, pages 73-77.
The Japanese excise tax on cigarette lighters has been explained in document Spec(70)30.

In further explanation of the notification, the representative of Japan pointed out that, with a few exceptions, the excise tax in his country is levied when the manufacturer sells his product to the wholesaler. After this stage no further taxes are levied, even though value may be added to the product as a result of further elaboration by the wholesaler.

In Japan cigarette lighters are taxed above a certain value. However, at the production stage most lighters are only provided with a sufficient lighting function and are not yet suitable for sale. These lighters have a value below the fixed ceiling and thus are not taxed. Wholesalers further elaborate the cigarette lighters and add accessories to them which increase the value above the fixed ceiling. However, after this stage, as mentioned above, the lighters are not taxed further.

On the other hand, most imported cigarette lighters have already reached the final stage of production and are taxed because they have a higher value than the fixed ceiling.

This system of excise taxes was not intended to discriminate against foreign imports. It was not possible for the Government of Japan to tax goods after the production stage. Foreign lighters would not be taxed if their price were below the fixed ceiling. Taxation could be avoided if the foreign producer established a factory in Japan for producing cigarette lighters for further elaboration at a later stage.

The representative of the United Kingdom stated that he still regarded this tax system as discriminatory with regard to foreign cigarette lighters.
The representative of the United States considered that this notification concerned the general structural problem of the application of border tax adjustments.

In the absence of a representative from Madagascar at the meeting, further discussion was postponed.
The representative of the United States said that this notification was, on the one hand, of a specific nature concerning the taxable base for the adjustment at the border and, on the other hand, concerned a discriminatory element in the treatment of imports and domestic products.

In the absence of a representative from Mauritania, further discussion was postponed.
The representative of the European Economic Community stated that this notification concerned the same problem as had been notified against Australia (item number 519). The views of the Community, expressed with regard to the notification on the Australian determination of the taxable base for the adjustment at the border in relation to the local wholesale tax, were also valid for this notification.

In the absence of a representative from New Zealand, further discussion was postponed.

Information on the New Zealand sales tax may be found in document Spec(68)88, pages 154-157.
The representative of the United States said that these notifications could be considered as being of a general nature concerning the structural problem of the application of border tax adjustments.

In the absence of a representative from Niger at the meeting, further discussion was postponed.
The representative of the United States said that this notification concerned border tax adjustments which discriminate between imported and domestic products.

In the absence of a representative of Niger at the meeting, further discussion was postponed.
The representative of Norway pointed out that the notification regarding the Norwegian turnover tax system, mentioned in the Inventory under the item number 566, had become obsolete because his country had substituted this tax system on 1 January 1970 for a tax on value added.¹

The present tax rate on value added was 20 per cent and was levied on nearly all commodities. The former single stage (retail stage) tax rate had been 13.64 per cent. The tax on value added was applied to a larger number of goods than the turnover tax which would yield a larger revenue. Furthermore, the Government levied an investment tax of 13 per cent which, however, was not deductible and for which no compensation could be made at the border. In order to keep the total tax burden at the same level as when the single-stage tax system was applied, the Norwegian Government had reduced direct taxation.²

A description of the Norwegian tax reform and the law on the tax on value added had been distributed in documents Spec(69)166 and Spec(70)10 respectively.

The representative of the United States recognized that the former notification had lost its significance but wished to replace that notification by a notification concerning the problems caused by a change over to a tax on value added and the application of a system of TVA as such. Furthermore, he expressed his concern about the partial shift in the total tax burden from direct taxes, which are not adjustable, to indirect taxes which are adjustable at the border. Such a shift would favour the Norwegian balance of trade.

Information on the Norwegian tax on value added and the tax reform may, apart from the above-mentioned documents, be found in the consolidated document on border tax adjustment practices on pages 55-57 and Annex G to that document.

¹The Norwegian Act relating to Value-Added Tax, of 19 June 1969 (as amended by Act of 19 December 1969) is available at the secretariat.
The representative of Norway made a correction with regard to the second paragraph of item number 567 of the Inventory and stated that the existing tax rate had remained unchanged since 1 July 1968. The rate was 67 per cent on the first NKr 5,000 of the value and 100 per cent of the remaining value. The taxable base for imports was the value at importation plus customs duties and a small traffic fee. The system of progressive excise tax on passenger cars had been introduced in 1959.

For passenger cars which were registered taxis, there existed a system of refund of a part of the excise tax (more than 35 per cent of the taxable value). The excise tax for taxis was, therefore, not progressive.

There is no production of passenger cars in Norway, but other motor vehicles produced were taxed at the same rate as imported motor vehicles. The domestic taxable value was the producer's selling price. The Norwegian excise tax on motor vehicles was of a purely fiscal nature and not discriminatory.

The representative of the United States remarked that if customs duties were an element of the determination of the taxable base, imports from EFTA countries were favoured because Norway applied in the framework of the Stockholm Convention lower or no duties to the EFTA member countries. Only the traffic fee was applied at the same rate to imports from all origins. The notification should be considered as being of a general nature concerning the structural problem of the application of border tax adjustments and of a specific nature with regard to the determination of the taxable base for the adjustment at the border.
The representative of Norway said that there was no luxury tax on carpets in Norway.

The representative of Pakistan took note of this fact and stated that he would recommend his authorities to withdraw the notification.
The representative of Pakistan supplied further information on this item by stating that all manufactures both imported and locally produced were subject to the same tax rate of 15 per cent. There were a certain number of exemptions, which were applied equally to imports and domestic products. With regard to domestic production there were seventy items of a general nature which were exempted from the sales tax. Furthermore, there were seventy-five items of both general and specific nature, imported and locally produced products, which were also exempted.

The motivations for exemption of the sales tax were rather complex; they regarded to a large extent products of cottage industries and charitable institutions. There was no discrimination between imported and domestic products in exempting products from the sales tax.

The representative of the United States stated that if in fact there was no discriminatory element in the application of the sales tax with regard to imported products the notification had particular reference to the general structural problem of the existence of border tax adjustments.
The representative of Portugal made some corrections and supplied additional information to notification 569. He stated that all imported products were subject to a tax of 7 per cent or 26 per cent in the case of luxury products. Those rates were also applied to domestic products. There was, therefore, no discrimination between imported and domestic products.

He, furthermore, gave some information on the previously existing price increase of 40 per cent on imported products, levied on c.i.f. duty-paid value and taxes included. He stated that his Government, had by a Decree of 1966, exempted producers and wholesalers from paying this price increase. However, when retailers imported they were still liable to pay apart from the customs duties, the relevant tax rate plus the price increase of 40 per cent on the total of this value. In order to eliminate the existing discrimination between retailers on the one hand, and producers and wholesalers on the other hand, the Government of Portugal promulgated a Ministerial Decision in 1968 which placed the retailer in the same position as the producer and wholesaler and exempted him from paying the price increase. The condition was that retailers should follow an orderly book-keeping according to the legal requirements.

The representative of Portugal said that since the possible discrimination resulting from the system of the 40 per cent price increase had been eliminated, the Portuguese tax system concerned was entirely in accordance with the rules of the General Agreement.

The representative of the United States confirmed that this explanation reassured him. As the question of discrimination was now solved, he considered the notification regarded the general structural problem of the existence of border tax adjustments.
The representative of Portugal pointed out that this tax applied only to the sale of vehicles classified for customs purposes as "passenger vehicles" or "mixed passenger and goods vehicles" which were not subject to the transactions tax. It was levied at the time of sale and calculated as follows: the price to the public expressed in thousands of escudos was multiplied by a coefficient of 0.20. The resultant percentage was deemed to be the amount of the tax to be applied. The maximum was 30 per cent of the sale price of the vehicle.

The tax was applied without discrimination to vehicles assembled in the country and to vehicles from any GATT country including EFTA and Japan.

The representative of the United States considered this tax as concerning the general problem of the existence of border tax adjustments.
The representative of the United States said that this notification concerned the general structural problem of the existence of border tax adjustments.

In the absence of a representative from Rwanda at the meeting further discussion was postponed.
The representative of the United States said that on the one hand this notification concerned the general structural problem of the existence of border tax adjustments and on the other hand the specific problem of the determination of the taxable base for the adjustment at the border. He expressed the view that in this case a rather unusual base was used.

In the absence of a representative from Senegal at the meeting, further discussion was postponed.
The representative of South Africa supplemented the existing information on notification 573 of the Inventory by stating the main reasons for introducing the new sales tax in 1969/70 had been that the possibilities of increasing direct taxation had come to a limit; companies and private persons were already heavily taxed; customs duties and excise taxes had been decreased. These circumstances had resulted in a fiscal loss for the Government which amounted to £140 million per year. Since only 6 per cent of the population contributed two thirds of the national revenue in income tax, and corporation tax had already reached a level of 57 per cent, the Government had considered it impossible to increase further direct taxation. An increase of indirect taxation was the only possibility to reduce the fiscal loss and to safeguard sufficient revenue.

The representative of Canada considered the system of uplifting the price of imported goods for the purpose of assessing the sales tax as discriminating between domestic and imported products.

The representative of the United States supported this view. He added that this notification could be regarded as concerning the general problem of the application of border tax adjustments as well as concerning the problems caused by border tax adjustments which discriminate between domestic products and imports. If the assertion by the representative of South Africa that there was no discrimination in the assessment of the taxable base for the adjustment at the border were justified, this however did not eliminate the non-tariff barrier effect of the tax itself.
The representative of Spain stated that the tax adjustment at the border was made according to the rules of the General Agreement. There was no discrimination. Spain applied a cascade system and the adjustment at the border was made by averaging. The Spanish tax system had already been discussed in the Working Party on border tax adjustments and it had been explained that tax authorities endeavoured to calculate the average tax rate for the adjustment at the border with a view to arriving at full trade neutrality as far as possible in a cascade system.

The representative of the United States doubted whether the averaging of the tax rates at the adjustment at the border were trade neutral. He was of the opinion that this notification could first be considered as being of a general nature concerning the application of border tax adjustments. Secondly, it could be questioned whether the Spanish system of border tax adjustments was consistent with the rules of the General Agreement.

Information on the Spanish cascade tax system may be found in the consolidated document on border tax adjustment practices on pages 17-19.
The representative of Spain noted that this notification in fact dealt with the same problem as notification item number 574. The refund of domestic taxes at exportation was in accordance with the level of the tax borne by the domestic product.

Both the representative of the United States and the United Kingdom had doubts about the correctness of the calculation of the export rebate. The notification could on the one hand be considered as being of a general nature concerning the application of border tax adjustments, and on the other hand, as being of a specific nature with regard to the calculation of the base for the export rebate at the border. It could be questioned whether this export rebate was in accordance with the rules of the General Agreement.

The representative of the United States asked for further information about the calculation of the rebates, in addition to what had already been explained in the consolidated document on border tax adjustment practices with regard to question 9, on page 18.

The representative of Spain promised to supply additional information.
The representative of Sweden stated that his Government proposed to raise the value-added tax - in force since 1969 - from 10 per cent to 15 per cent of the selling price inclusive of tax. This measure would constitute part of a general tax reform, which, inter alia, aimed at a reduction of the tax burden for low incomes. Certain changes would also be made in the rates of taxation for capital, inheritance and gift taxes. The changes, which would not bring about a major difference in the total tax revenue of the Government, would be put into effect on 1 January 1971.

Information on the Swedish tax on value added may be found in the consolidated document on border tax adjustment practices, pages 57-59.
The representative of Pakistan found it illogical to maintain a sales tax on carpets as well as the tax on value added. In his view it unduly affected exports from developing countries and should be abolished.

The representative of the United States criticized the determination of the value on which the tax was based. In this regard the notification could be considered as one of a specific nature concerning the determination of the taxable base.

The representative of Sweden stated that the tax was not intended to be abolished. The tax did not discriminate against imports, it was levied on both imported and domestically produced carpets at a level of 20 per cent of the retail price.

Information on the specific indirect taxes in Sweden may be found in the consolidated document on border tax adjustment practices pages.
The representative of the United States stated that this notification could be considered as being of a specific nature and constituted a strong non-tariff barrier to trade.
In reply to a question posed by the representative of the United States, the representative of Sweden pointed out that the wholesale price constituted the special valuation base for this tax.

The representative of the United States said that this notification concerned border tax adjustments of a specific nature which constituted a non-tariff barrier to trade.
The representative of Sweden stated that as in many other countries tobacco is taxed in Sweden. He added that the tax on cigars was lower than the tax on cigarettes.

In the absence of the representative of Brazil, further discussion was postponed.
The representative of the United States said that in his view this notification concerned the general structural problem of the existence of border taxes on the one hand, and the problem of the valuation base for the adjustment on the other hand.

The representative of Switzerland replied that the existence of this tax could not be considered as constituting a structural problem. Furthermore the question of the determination of the valuation base for the tax should not be dealt with by this Working Party but belonged to the field of work of Working Group 2 of the Committee on Trade in Industrial Products which discussed problems with regard to customs valuation.
The representative of the United States stated that this notification concerned the general structural problem of the application of border tax adjustments.

In the absence of a representative of Togo at the meeting, further discussion was postponed.
The representative of the United States said that this notification concerned the general structural problem of the application of border tax adjustments.

In the absence of a representative of Togo, further discussion was postponed.
The representative of Switzerland stated that his Government did not attach
great importance to maintaining this notification and that he therefore wished to
withdraw it.
The representative of the United States regarded this notification as concerning the general structural problem of the application of border tax adjustments.

In the absence of a representative of Tunisia at the meeting, further discussion was postponed.
584: Tunisia - Consumption tax

The comments made for item number 583 are also applicable for item number 584.
The representative of the United States said that this notification could be considered as concerning the general structural problem of the application of border tax adjustments, as well as the specific problem of the determination of the taxable base for the adjustment at the border. The additional information which he had requested from the Government of Tunisia had not yet been submitted.

In the absence of a representative of Tunisia at the meeting, further discussion was postponed.
The representative of Turkey explained that this tax was not designed to protect domestic production but to put imports on an equal footing with domestic products. The tax was levied on all goods, locally produced or imported. Some exemptions existed but these were also applied to imported products. There was, therefore, no question of discrimination.

The valuation base for domestic products was the selling price, costs, taxes and fees included, and for imported products the c.i.f. duty-paid value, excluding the stamp duty. The difference in the tax base for imported products did not constitute a discriminatory element. In his view, this notification was not justified and should be deleted.

The representative of the United States stated that as a result of what had been said by the representative of Turkey the word "discriminatory" should be deleted from the title of this notification. According to the explanation by the representative of Turkey, he also thought that the words "pure guesswork" with regard to the calculation of the tax rate for imported goods should be deleted. He requested, however, some further detailed information on how this calculation was made. The notification concerned, first, the general structural problem of border tax adjustments; secondly, the specific problem of the determination of the taxable base, and finally, it could be questioned whether the tax was applied according to the rules of the General Agreement.

The representative of Turkey promised to supply further information. He could not agree with the classification of the tax made by the United States. There was no problem of border tax adjustments involved.
The Working Party decided to discuss the two notifications together.

The representative of the United Kingdom said that this tax was discriminatory.

The representative of the United States was not in a position to give a detailed description on the motivation for this tax. He recognized that there was a non-tariff barrier effect which kept bottled whiskies out of the United States and favoured unbottled whiskies, probably in favour of the bottling industries in the United States. He would ask for further information.

The representative of Canada supported the view of the United Kingdom. The notification could be considered as concerning border tax adjustments which discriminate between imported and domestic products; furthermore, it could be questioned whether this tax was in accordance with the rules of the General Agreement.

The representative of the United States replied that the law concerning this tax already existed before the United States acceded to the General Agreement and was thus covered by the protocol of provisional application of this Agreement.

The representative of the European Economic Communities referred, in a general statement, to the many notifications which had been made by the United States. He wished to express the view that, in fact, many of these notifications fell entirely beyond the ambit of the subjects dealt with by the Working Party. It was of no value to notify that tax systems existed in countries. Therefore, the number of notifications made by the European Communities had been very limited. However, if one considered that the mere existence of a tax constituted a non-tariff barrier to trade, the number of notifications made by the EEC would have been considerably larger, especially with regard to the United States.

Information on the United States' excise tax system may be found in the consolidated document on border tax adjustment practices, pages 105-115.
The representative of the United Kingdom said that he wished to withdraw the second sentence in the second paragraph of item number 589 of the Inventory. The notification as such should be maintained.
The representative of the United States said that this notification concerned the general structural problem of the application of border tax adjustments.

In the absence of a representative from Upper Volta at the meeting, further discussion was postponed.