

APPENDIX I. GATT AND TREATY OF ROME PROVISIONS RELATING TO
TRADE ASPECTS OF NATIONAL TAXATION

1. GATT PROVISIONS ON BORDER TAXES AND EXPORT SUBSIDIES

a. Import equalization charge for "product" (interpreted to read "indirect") taxes as set forth in article III:2:

The products of the territory of any contracting party imported into the territory of any other contracting party shall not be subject, directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like domestic products. Moreover, no contracting party shall otherwise apply internal taxes or other internal charges to imported or domestic products in a manner contrary to the principles set forth in paragraph 1.

Article II prohibits import charges above rates agreed upon and bound in tariff negotiations, but a specific exception is made with respect to indirect taxes: article II:2 (a):

Nothing in this article shall prevent any contracting party from imposing at any time on the importation of any product:

A charge equivalent to an internal tax imposed consistently with the provisions of paragraph 2 of article III in respect of the like domestic products or in respect of an article from which the imported product has been manufactured or produced in whole or in part.

A similar exception is made in article VI which defines and prohibits dumping practices: article VI:1:

Due allowance shall be made in each case for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability.

and article VI:4:

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

b. Export tax rebates and subsidies. The GATT is generally opposed to export subsidies as stated in article XVI:2:

The contracting parties recognize that the granting by a contracting party of a subsidy on the export of any product may have harmful effects for other contracting parties, both importing and exporting, may cause undue disturbance of their normal commercial interests, and may hinder the achievement of the objectives of this agreement.

But there is no outright prohibition of export subsidies. Their existence for exports of primary products is explicitly recognized and condoned in article XVI:3 which, however, deplors the practice and states that it should not be used to obtain "more than an equitable share of world trade in that product." For other than primary products article XVI:4 holds that:

Further * * * contracting parties shall cease to grant either directly or indirectly any form of subsidy on the export of any product other than a primary product which subsidy results in