

the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market.

Rebates of indirect taxes on exports do not constitute subsidies according to a note in annex I to article XVI:

The exemption of an exported product from duties or taxes borne by the like product when destined for domestic consumption, or the remission of such duties or taxes in amounts not in excess of those which have accrued, shall not be deemed to be a subsidy.

But remission of direct taxes or social welfare charges was defined to contravene article XVI:4 at the 17th session of the contracting parties as was overcompensation for indirect tax burdens:

(d) The exemption, in respect of exported goods, of charges or taxes, other than charges in connection with importation or indirect taxes levied at one or several stages on the same goods if sold in internal consumption; or the payment, in respect of exported goods, of amounts exceeding those effectively levied at one or several stages on these goods in the form of indirect taxes or of charges in connection with importation or in both forms.

Under article XVI:1, countries are required to notify each other of any practice considered as subsidies and to enter into discussions with countries feeling themselves injured by such practices. Article VI:3 permits countries injured by subsidies involving direct tax credits to impose countervailing duties.

2. TREATY OF ROME PROVISIONS RELATING TO BORDER TAXES

The rules governing the treatment of export tax rebates and import equalization charges among Common Market countries appear to be patterned fairly closely after GATT regulations. But they specify somewhat more clearly than does the GATT that by “* * * charges * * * applied * * * to like domestic products” only indirect taxes are meant. The relevant provisions are laid down in article 95:

A member state shall not impose, directly or indirectly, on the products of other member states any internal charges of any kind in excess of those applied directly or indirectly to like domestic products.

Article 96:

Products exported to the territory of any member state may not benefit from any drawback of internal charges in excess of those charges imposed directly or indirectly on them.

Article 97:

Any member states which levy a turnover tax calculated by a cumulative multistage system may, in the case of internal charges imposed by them on imported products or of drawbacks granted by them on exported products, establish average rates for specific products or groups of products, provided that such states do not infringe the principles laid down in Articles 95 and 96.

Where the average rates established by a member state do not conform with the above-mentioned principles, the Commission shall issue to the state concerned appropriate directives or decisions.