

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

VAL/19

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Committee on Customs Valuation

## FIFTH ANNUAL REVIEW OF THE IMPLEMENTATION AND OPERATION OF THE AGREEMENT

### Background Document by the Secretariat

Article 26 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade provides that "the Committee shall review annually the implementation and operation of this Agreement taking into account the objectives thereof".

The main objectives of the Agreement are those listed in the Preamble. The annual review of the Committee should cover the operation of the Agreement as a whole, as well as action by Parties to ensure proper implementation and operation of the Agreement in the light of its objectives and specific obligations.

This document, which is a revision of document VAL/W/31 that the Committee had before it when undertaking its fifth annual review at its meeting of 13 November 1985, takes into account the points made during that review and the work of the Committee at that meeting as a whole. The information in it was valid as of 6 December 1985.

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1. ACCESSIONS, ACCEPTANCES AND RESERVATIONS

(a) Status of accessions and acceptances

Portugal accepted the Agreement on 14 October 1985. Pursuant to its reservation on accession, Canada implemented the Agreement with effect from 1 January 1985. Otherwise the full information on the status of acceptances and accessions at Annex I of the background document for the Committee's last annual review (VAL/13) remains unchanged.

The number of signatories is thirty-four (EEC(10) plus twenty-three other countries plus Hong Kong). The acceptance of the Agreement by one country, Argentina, remains subject to ratification.

(b) Terms of acceptance

In regard to terms of acceptance, the special provisions available for developing countries have been invoked as follows:

(i) Article 21.1 (delayed application of the provisions of the Agreement)

Argentina	(1 January 1988 - see below)
Brazil	(23 July 1986)
India	(1 January 1986 - see below)
Korea, Rep. of	(5 February 1986)
Malawi	(22 December 1988)
Spain	(not later than 19 July 1986 - see below)

At the Committee's May 1985 meeting, Argentina requested a two-year extension of its period of delay in accordance with paragraph I:2 of the Protocol (VAL/M/13, paragraph 28). At its meeting of 13 November 1985, the Committee agreed that, taking into account the situation in regard to the ratification of the Agreement by Argentina, there was no objection to Argentina's intention to apply the Agreement with effect from 1 January 1988. The Republic of Korea and Brazil have said that they intend to

apply the provisions of the Agreement from February 1986 and 23 July 1986 respectively. Spain informed the Committee that it would lift its invocation of Article 21.1 before the end of 1985 and would apply the valuation legislation of the EEC with effect from 1 January 1986. India has sought an extension of its period of delay, pursuant to paragraph I:2 of the Protocol (VAL/17). In the light of a communication from a Party (VAL/18), this matter will be further considered at a meeting of the Committee on 13 December 1985.

(ii) Article 21.2 (delayed application of the computed value method)

Argentina  
India  
Korea, Rep. of  
Spain (see below)

Spain informed the Committee on 13 November 1985 that it would be withdrawing its invocation of Article 21.2 before the end of 1985.

(iii) Protocol, paragraph 3 (reservation concerning minimum values)

Brazil  
India

At the Committee's meeting of May 1985, Brazil outlined its proposals regarding its maintenance of minimum customs values on a transitional basis (VAL/M/13, paragraph 15). Brazil provided further information at the Committee's meeting of 13 November 1985. The Committee agreed to revert to the terms and conditions of such a reservation at its April 1986 meeting when further written details from Brazil would be available.

(iv) Protocol, paragraph 4 (reservation concerning reversal of sequential order of Articles 5 and 6)

Argentina  
Brazil  
India  
Malawi

(v) Protocol, paragraph 5 (reservation concerning application of Article 5.2 whether or not importer so requests)

Argentina  
Brazil  
India

(c) Accession of further countries

At its meeting of 9 November 1984, the Committee agreed that countries having observer status in the Committee would be invited to participate in informal consultations on the question of possible accession, including any difficulties or problems in this connection, to be organized by the secretariat, on the basis of a number of questions suggested by certain delegations. These consultations were held on 16 April 1985. A report on

them was presented to the Committee's special meeting held on 9 May 1985 (VAL/M/12, paragraphs 2-4). In addition to the information from observers summarized there, document VAL/W/30 contains the views subsequently presented by the observer from Ecuador. A communication was also received from Belize, which the Committee invited the Technical Committee to examine. At its meeting of 13 November, the Committee took note of the report of the Technical Committee on this matter (VAL/W/32) and agreed that the secretariat would communicate it to the Belize authorities.

The special meeting of the Committee on 9 May 1985 was held in pursuance of the CONTRACTING PARTIES' decision of 30 November 1984 on the MTN Agreements and Arrangements (reproduced in document VAL/W/27), which invited each Committee or Council of an MTN agreement or arrangement to examine in a special meeting the adequacy and effectiveness of the Agreement or Arrangement in question and the obstacles to acceptance which contracting parties may have faced, providing an opportunity to non-signatory contracting parties to express their views in the discussion. For this meeting, the Committee had before it a secretariat note, document VAL/W/28, reproducing what the Committee had previously said on these matters and providing information on subsequent relevant developments. The results of the meeting (VAL/M/12) were summarized in a report prepared by the secretariat consolidating the observations made and conclusions reached in the special meetings of the Committees and Councils of the MTN Agreements and Arrangements (MDF/12). This report was examined by a Working Group whose report (L/5832/Rev.1) was adopted by the Council at its meeting of 17-19 July 1985. In regard to the Valuation Agreement, this report states that "the members of the Group shared the favourable evaluation of this Agreement by the Committee on Customs Valuation" (L/5832/Rev.1, paragraph 26).

## 2. COMPOSITION OF THE COMMITTEE ON CUSTOMS VALUATION

Chairman: Mr. R. Hochörtler (Austria)  
Vice-Chairman: Mr. P. Nicora (France)

### Signatories

Argentina <sup>1</sup>	Korea, Republic of
Australia	Malawi
Austria	New Zealand
Botswana	Norway
Brazil	Portugal
Canada	Romania
Czechoslovakia	South Africa
European Economic Community and its member States	Spain
Finland	Sweden
Hungary	Switzerland
India	United Kingdom for Hong Kong
Japan	United States
	Yugoslavia

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<sup>1</sup> Subject to ratification

Observers

(i) Governments:

Bangladesh	Nigeria
Bulgaria	Pakistan
Chile	Peru
Colombia	Philippines
Cuba	Poland
Ecuador	Singapore
Egypt	Sri Lanka
Indonesia	Thailand
Israel	Trinidad and Tobago
Ivory Coast	Turkey
Malaysia	Zaire
Nicaragua	

(ii) International Organizations:

Customs Co-operation Council (permanent observer)  
IMF  
UNCTAD

3. MEETINGS OF THE COMMITTEE

Since the fourth annual review, the Committee has held three meetings, a special meeting (see section 1 above) on 9 May (minutes: VAL/M/12); a regular meeting on 9-10 May (minutes: VAL/M/13); and a regular meeting on 13 November 1985 (minutes: VAL/M/14 - to be issued). The Chairman's notes on the latter two meetings are documents L/5805 and L/5916.

4. NATIONAL LEGISLATION PRESENTED

Article 25 of the Agreement requires each Party to inform the Committee of any changes in its laws and regulations relevant to the Agreement and in the administration of such laws and regulations. At its first meeting the Committee agreed on procedures for the submission of the complete texts of national legislation (VAL/M/1, paragraph 37).

Since the fourth annual review, the following additional texts of national legislation, regulations and administrative procedures have been submitted:

Botswana	VAL/1/Add.16
Canada	VAL/1/Add.17 and Suppl.1-2
Czechoslovakia	VAL/1/Add.18
European Economic Community	VAL/1/Add.2/Suppl.6-8
Norway	VAL/1/Add.11/Suppl.2
South Africa	VAL/1/Add.15/Suppl.2
United States	VAL/1/Add.1/Suppl.4-5

At its second meeting, the Committee decided that Parties should provide written responses to a checklist of issues (VAL/2/Rev.1) concerning their national laws, regulations etc. (VAL/M/2, paragraph 52). Since the last annual review, replies to the revised checklist of issues have been submitted by the delegations of Canada (VAL/2/Rev.1/Add.14) and Czechoslovakia (VAL/2/Rev.1/Add.15).

A complete listing of national legislation and replies to the checklist of issues communicated to the Committee is at Annex I of this note.

At the Committee's meeting of 9-10 May 1985, Australia replied to two questions posed earlier on its legislation (VAL/M/13, paragraph 29). At its November 1985 meeting, the Committee took up the examination of the legislation of Canada, Czechoslovakia and Botswana. In regard to the Canadian legislation, certain questions were put and answers provided; the Committee agreed to revert to this matter at its April 1986 meeting when a document containing additional questions by Parties and replies by Canada would be available. After hearing statements on the Czechoslovak legislation, the Committee agreed to revert to this matter at its April 1986 meeting when additional information from the Czechoslovak authorities would be available. On the Botswanan legislation, the Committee had before it a document (VAL/16) containing comments by a Party and replies by Botswana; the Committee expressed appreciation of the action taken by Botswana to meet certain of the concerns raised.

At its meetings of 9-10 May and 13 November 1985, the Committee also reviewed the status of the application of the Decision on the Treatment of Interest Charges in the Customs Value of Imported Goods (VAL/6/Rev.1) and of paragraph 2 of the Decision on the Valuation of Carrier Media Bearing Software for Data Processing Equipment (VAL/8 and Add.1), on the basis of information made available by Parties in documents VAL/9 and Addenda (Decision on interest charges) and VAL/11 and Addenda (Decision on software). The Committee agreed that the secretariat produce a single document summarizing the status of application of these decisions by Parties, and that two questions relating to their implementation be added to the checklist of issues that Parties are requested to complete in connection with the examination of their national legislation.

It might also be noted that the Technical Committee has established procedures for the dissemination of information on publications relating to national legislation where the texts in question are not covered by the procedures of the Committee on Customs Valuation, and for the circulation of declaration forms for customs value. The Technical Committee also publishes an Index of rulings and conclusions on valuation questions issued by Parties. Details of information available through the Technical Committee are at Annex II of this note.

5. AMENDMENTS, INTERPRETATIONS, RECTIFICATIONS, ETC. OF THE TEXT OF THE AGREEMENT

During the year under review, the Committee settled a question relating to the linguistic consistency between the English, French and Spanish texts of the Agreement by inserting the following statement in the minutes, on the understanding that this would be without prejudice to rights and obligations under the Agreement and that members of the Committee could revert to the matter should the need arise. The Parties to the Agreement considered that the terms "development" in English, "travaux d'études" in French and "creación y perfeccionamiento" in Spanish in Article 8.1(b) are understood to exclude "research" in English, "recherche" in French and "investigación" in Spanish, as stated in paragraph 6 of VAL/W/24/Rev.1. However, one signatory, Argentina, considered that, as used in Article 8.1(b), the Spanish expression "creación y

perfeccionamiento" could not be interpreted as allowing any part of the value to be excluded from the "creación y perfeccionamiento" (VAL/M/13, paragraph 40).

Texts adopted by the Technical Committee in 1985 are listed in section 10.

A compendium of substantive and procedural decisions taken by the Committee on Customs Valuation, together with a listing of the texts issued by the Technical Committee as of 30 September 1984, is contained in document VAL/10.

6. OTHER DECISIONS TAKEN BY THE COMMITTEE

The Committee has not so far taken any other decision during the course of 1985.

7. POSSIBLE REQUIREMENTS FOR AMENDMENT, INTERPRETATION OR RECTIFICATION OF THE AGREEMENT

As mentioned in section 5 above, the Committee, at its meeting of 9-10 May settled the question relating to the linguistic consistency of the term "development" in Article 8.1(b)(iv) of the Agreement. No new proposal to amend, interpret or rectify the Agreement was made by a Party in the Committee in 1985.

8. LITIGATION IN NATIONAL OR SUPRANATIONAL COURTS ON THE TEXT OF THE AGREEMENT

No reports have been received in this respect since the Committee's last annual review.

9. TECHNICAL ASSISTANCE

Technical assistance aimed at providing information to assist countries in their consideration of joining the Agreement and at helping countries in their preparations for the application of the Agreement has continued to be a matter of high priority to Parties, the Committee on Customs Valuation and the Technical Committee. Technical assistance is being made available to both developing country Parties and other developing countries interested in the Agreement.

The information documents, prepared by the CCC Secretariat for the Technical Committee, describing technical assistance activities relating to the Agreement have also been circulated as Committee documents (VAL/W/29 and Rev.1) to facilitate the greater transparency of technical assistance activities in GATT circles.

A communication from Bangladesh drawing attention to its technical assistance requirements in connection with the Agreement is contained in document (VAL/15). At the Committee's meeting of 13 November 1985, some delegations indicated action underway to respond to Bangladesh's request.

10. INFORMATION AND ADVICE FROM THE TECHNICAL COMMITTEE, AND GENERAL REPORT ON THE TECHNICAL COMMITTEE

A detailed oral report on the work of the ninth session of the Technical Committee, held 4-8 March 1985, was presented by the observer

from the Customs Cooperation Council to the 9-10 May meeting of the Committee on Customs Valuation (VAL/M/13, paragraphs 31-35). At its meeting, the Technical Committee had adopted the following texts:

- Commentary on the treatment of tie-in sales;
- Advisory opinion on the meaning of the expression "sold for export" to the country of importation;
- Case study on restrictions and conditions in Article 1;
- Case study on the treatment of proceeds under Article 8.1(d).

These texts were approved at the June 1985 session of the Customs Cooperation Council.

A detailed oral report on the work of the tenth session of the Technical Committee, held 30 September-4 October 1985, was presented by the Chairman of the Technical Committee to the 13 November meeting of the Committee on Customs Valuation. At its meeting the Technical Committee had adopted the following texts:

- Commentary on the meaning of the term "restrictions" in Article 1.1(a)(iii);
- Explanatory note on consideration of relationship under Article 15.5 read in conjunction with Article 15.4.

A report on matters raised by a communication from Belize was also adopted for presentation to the Committee on Customs Valuation (see section 1(c) above).

The Committee on Customs Valuation took note of these reports on the work of the Technical Committee and expressed its appreciation for the continued valuable work of the Technical Committee.

#### 11. SUBSTANTIAL DIFFICULTIES ENCOUNTERED BY PARTIES IN APPLYING THE AGREEMENT

As in previous years of operation of the Agreement, no Party has reported any substantial difficulty with applying the Agreement.

#### 12. CONSULTATION AND DISPUTE SETTLEMENT

The secretariat is not aware of any Party that has requested consultations under Article 19 of the Agreement. The provisions of Article 20 have not been resorted to.

#### 13. PANELISTS

In accordance with paragraph 2 of Annex III of the Agreement which states that each Party shall be invited to indicate at the beginning of every year to the Chairman of the Committee the name(s) of one or two governmental experts whom the Parties would be willing to make available for panel work, the following Parties have nominated persons who would be available to serve on panels in 1985: European Communities, Finland, Japan, Norway, Romania, Sweden, United Kingdom for Hong Kong, and United States.



14. OTHER MATTERS RELATING TO IMPLEMENTATION

Use of various valuation methods by Parties

It will be recalled that, at its meeting of 10-11 November 1983, the Committee agreed that a new data collection exercise should be postponed until additional countries were applying the Agreement, and decided to revert to this question at an appropriate future meeting.

15. ANNUAL REPORT TO THE CONTRACTING PARTIES

The Committee adopted its annual report to the CONTRACTING PARTIES at its meeting of 13 November 1985 in accordance with the requirements of Article 26 of the Agreement (L/5912).

16. GENERAL APPRECIATION OF EXPERIENCE WITH THE OPERATION AND IMPLEMENTATION OF THE AGREEMENT

The Committee's examination of the adequacy and effectiveness of the Agreement at its special meeting of 9 May 1985 confirmed its previous conclusions that, taken as a whole, experience with the implementation and operation of the Agreement so far has been highly positive (VAL/M/12 and VAL/W/28).

ANNEX I

Information on National Legislation

Below are listed the references to the documents containing national laws, regulations etc. and replies to the Checklist of Issues (VAL/2/Rev.1) received from Parties.

<u>Signatory</u>	<u>National legislation</u>	<u>Replies to the Checklist of Issues</u>
Argentina	Not yet applying the Agreement	
Australia	VAL/1/Add.14 + Suppl.1	VAL/2/Rev.1/Add.12
Austria	VAL/1/Add.10	VAL/2/Rev.1/Add.3 + Suppl.1
Botswana	VAL/1/Add.16	Not received
Brazil	Not yet applying the Agreement	
Canada	VAL/1/Add.17 + Suppl.1-2	VAL/2/Rev.1/Add.14
Czechoslovakia	VAL/1/Add.18	VAL/2/Rev.1/Add.15
European Economic Community	VAL/1/Add.2 + Suppl.1-8	VAL/2/Rev.1/Add.6
Finland	VAL/1/Add.4 + Suppl.1	VAL/2/Rev.1/Add.5
Hungary	VAL/1/Add.6	VAL/2/Rev.1/Add.4
India	Not yet applying the Agreement	
Japan	VAL/1/Add.7	VAL/2/Rev.1/Add.8
Korea, Rep. of	Not yet applying the Agreement	
Malawi	Not yet applying the Agreement	
New Zealand	VAL/1/Add.12	VAL/2/Rev.1/Add.10
Norway	VAL/1/Add.11 + Corr.1 + Suppl.1-2	VAL/2/Rev.1/Add.7
Romania	VAL/1/Add.8 + Suppl.1	VAL/2/Rev.1/Add.9
South Africa	VAL/1/Add.15 + Corr.1 + Suppl.1-2	VAL/2/Rev.1/Add.13
Spain	Not yet applying the Agreement	
Sweden	VAL/1/Add.3	VAL/2/Rev.1/Add.2 + Suppl.1
Switzerland	VAL/1/Add.5	Not applicable
United Kingdom on behalf of Hong Kong	VAL/1/Add.9	Not applicable
United States	VAL/1/Add.1 + Suppl.1-5	VAL/2/Rev.1/Add.1
Yugoslavia	VAL/1/Add.13	VAL/2/Rev.1/Add.11

ANNEX II

Information relevant to the implementation and administration of the Agreement disseminated through the Technical Committee

A. Dissemination of information on national legislation, etc.

The Technical Committee has established procedures for the dissemination of information on national publications relating to the adoption and implementation of the Agreement other than those texts circulated to the Committee on Customs Valuation under the procedures relating to the notification of national legislation. The following Parties have informed the Technical Committee, in the CCC documents specified, of publications that they would make available on request:

<u>Party</u>	<u>CCC document number</u>
Australia	28.311
Canada	28.619 and 29.275
European Economic Community	27.182
Japan	27.182
New Zealand	29.939
Sweden	27.703
United States	27.292 and 28.109

B. Declaration forms

Declaration forms for valuation purposes of the following Parties have been circulated in the CCC documents indicated:

<u>Party</u>	<u>CCC document number</u>
Austria (provisional translation)	29.276
Canada	32.005, 32.459
European Economic Community	26.916
Finland	27.484
Japan	27.473
New Zealand	29.938
Norway	32.211
Sweden	28.225

C. Index of rulings

The Technical Committee has included in its compendium on the Agreement an index listing rulings and conclusions on valuation questions issued by countries applying the Agreement. Parties interested in a particular ruling can request the full text from the issuing administration.