

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

VAL/28

23 December 1986

Special Distribution

Committee on Customs Valuation

SIXTH 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/38 that the Committee had before it when undertaking its sixth annual review at its meeting of 10 November 1986, 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 16 December 1986.

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1. ACCESSIONS, ACCEPTANCES AND RESERVATIONS

(a) Status of accessions and acceptances

Turkey accepted the Agreement on 5 February 1986, subject to ratification. Turkey invoked the provisions of paragraphs 1 and 2 of Article 21 and paragraphs 4 and 5 of Section I of the Protocol (VAL/21).

Document VAL/23 contains a communication from Hong Kong. In the light of this, Hong Kong became a Party to the Agreement on 23 April 1986.

Lesotho accepted the Agreement under the provisions of Article 22.3 on 30 June 1986, on the terms agreed by the Committee at its meeting of 30 April 1986 (VAL/M/17, paragraph 6; VAL/26). Lesotho did not invoke any of the special provisions for developing countries. The Agreement came into force for Lesotho on 30 July 1986.

Argentina submitted its instrument of ratification on 18 September 1986 (VAL/26); the Agreement thereby entered into force for Argentina on 18 October 1986. In a communication of 10 October 1986, Argentina reaffirmed its intention to apply the provisions of the Agreement with effect from 1 January 1988 and recalled that at its meeting of 13 November 1985 the Committee had agreed that there was no objection to this (VAL/26).

The question of the status of Spain and Portugal in the Agreement after their accession to the European Communities was discussed at the Committee's meetings of 13 December 1985 (VAL/M/15, paragraphs 27-30), 23 January 1986 (VAL/M/16, paragraphs 4-8) and 30 April 1986 (VAL/M/17, paragraphs 8-11). At the last of these meetings, the Legal Office of the secretariat gave an opinion on the matter, in response to a request from the Committee. On 12 June 1986, Portugal notified its withdrawal from the Agreement in its individual capacity, while reaffirming its desire to be

linked to the Agreement as a member of the European Communities (VAL/24). This withdrawal became effective on 11 August 1986. Spain has indicated its intention to withdraw from the Agreement in its individual capacity.

During the course of the year, three countries which had invoked the provisions of Article 21.1 for delayed implementation have started applying the provisions of the Agreement - Spain with effect from 1 January 1986 (VAL/20), the Republic of Korea with effect from 5 February 1986 (VAL/1/Add.19) and Brazil with effect from 23 July 1986 (VAL/22).

The number of signatories is twenty-six. The acceptance of the Agreement by Turkey remains subject to ratification. The delegation of Turkey reported on progress towards ratification at the 30 April and 10 November 1986 meetings of the Committee (VAL/M/17, paragraph 5).

(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 VAL/M/14, paragraph 58)
India	(1 July 1987 - see below)
Malawi	(22 December 1988)
Turkey	

In response to a request from India for an extension of its period of delay, under the provisions of paragraph I:2 of the Protocol (VAL/17), which was considered at the Committee's meetings of 13 November 1985 (VAL/M/14, paragraphs 47-54), 13 December 1985 (VAL/M/15, paragraphs 3-26) and 23 January 1986 (VAL/M/16, paragraphs 9-13), the Committee took the decision contained in paragraph 9 of document VAL/M/16, extending the period of delay until 1 July 1987 and containing a number of other provisions. In the light of paragraph 5 of this decision, the Committee took note at its meeting of 10 November 1986 of statements by India and other Parties on the situation in regard to the application of the provisions of the Agreement by India, and agreed to revert to this matter at its next meeting.

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

Argentina
India
Turkey

In the decision concerning the extension of India's period of delay before application of the provisions of the Agreement (see (i) above), the Committee notes that, under Article 21.2 of the Agreement, India will delay the application of Article 1.2(b) (iii) and Article 6 for a further period of two years after the application of all other provisions of the Agreement.

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

Brazil
India

At its meeting of 30 April 1986, the Committee considered proposals from Brazil for the retention on a limited and transitional basis of a specified list of officially established minimum values (VAL/M/17, paragraphs 38-40; VAL/W/36 and Add.1). At its meeting of 13 June 1986, the Committee took a decision, under which Brazil may retain such values listed in VAL/W/36 and Add.1 until 23 July 1988 and containing a number of other provisions (VAL/M/18, paragraph 3). At its meeting of 10 November 1986 the Committee considered questions regarding certain subsequent modifications to the list of products subject to such values (VAL/25), and took note of statements made in this connection. The Committee was informed that a Party had submitted to Brazil requests for the removal of items from the list, pursuant to paragraph 2 of the Committee's decision. Statements were made on India's reservation under paragraph I:3 of the Protocol at the Committee's meeting of 23 January 1986 (VAL/M/16, paragraphs 11-12).

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

Argentina
Brazil
India
Malawi
Turkey

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

Argentina
Brazil
India
Turkey

2. COMPOSITION OF THE COMMITTEE ON CUSTOMS VALUATION

Chairman: Mr. P. Nicora (France)
Vice-Chairman: Mr. Dong-Bai Kim (Republic of Korea)

Signatories

Argentina	Korea, Republic of
Australia	Lesotho
Austria	Malawi
Botswana	New Zealand
Brazil	Norway
Canada	Romania
Czechoslovakia	South Africa
European Economic Community and its member States	Spain
	Sweden

Finland
 Hong Kong
 Hungary
 India
 Japan

Switzerland
 Turkey¹
 United States
 Yugoslavia

Observers

(i) Governments:

Bangladesh
 Bulgaria
 Cameroon
 Chile
 Colombia
 Côte d'Ivoire
 Cuba
 Ecuador
 Egypt
 Indonesia
 Israel
 Malaysia

Mexico
 Nicaragua
 Nigeria
 Pakistan
 Peru
 Philippines
 Poland
 Singapore
 Sri Lanka
 Thailand
 Trinidad and Tobago
 Zaïre

(ii) International Organizations:

Customs Co-operation Council (permanent observer)
 IMF
 UNCTAD

3. MEETINGS OF THE COMMITTEE

Since the fifth annual review, the Committee has held five meetings, on 13 December 1985, 23 January 1986, 30 April 1986, 13 June 1986 and 10 November 1986. The minutes of these meetings are contained respectively in documents VAL/M/15, VAL/M/16, VAL/M/17 and VAL/M/18 and VAL/M/19 (to be issued). The Chairman's notes on them are in L/5944, L/5956, L/5991 and L/6007 and L/6088 respectively.

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).

¹ Subject to ratification

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

European Economic Community	VAL/1/Add.2/Suppl.9
Finland	VAL/1/Add.4/Suppl.2
New Zealand	VAL/1/Add.12/Suppl.1
South Africa	VAL/1/Add.15/Suppl.2
Czechoslovakia	VAL/1/Add.18/Suppl.1
Korea, Republic of	VAL/1/Add.19 + Suppl.1-2
Brazil	VAL/1/Add.20
Lesotho	VAL/1/Add.21

Copies in Spanish of the European Economic Community Regulations contained in documents VAL/1/Add.2/Suppl.1-9 have been supplied and issued during the course of the year.

At its second meeting, the Committee decided that Parties should provide written responses to a checklist of issues concerning their national laws, regulations etc. (VAL/M/2, paragraph 52). At its meeting of 13 November 1985, the Committee added two questions to the checklist (VAL/M/14, paragraph 55). Since the last annual review, replies to the checklist of issues have been submitted by the delegation of the Republic of Korea (VAL/2/Rev.2/Add.1 and Suppl.1), Czechoslovakia (VAL/2/Rev.1/Add.15/Suppl.1) and Lesotho (VAL/2/Rev.2/Add.2).

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

The Committee has continued its detailed examination of national implementing legislation. During the year it has considered the legislation of Brazil (VAL/1/Add.20, VAL/27), Canada (VAL/1/Add.17 and Supplements, VAL/2/Rev.1/Add.14, VAL/W/35), Czechoslovakia (VAL/1/Add.18 and Supplement, VAL/2/Rev.1/Add.15 and Supplement) and the Republic of Korea (VAL/1/Add.19 and Supplements, VAL/2/Rev.2/Add.1 and Supplement). At its next meeting, the Committee will revert to the legislation of Brazil, Czechoslovakia and the Republic of Korea and will take up the legislation of Lesotho.

The Committee has 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 and summarized in document VAL/W/34 and revisions, and has agreed to keep this item on its agenda for the time being.

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 has not dealt with any matter under this heading.

Texts adopted by the Technical Committee in 1986 are listed in section 10.

6. OTHER DECISIONS TAKEN BY THE COMMITTEE

Other decisions taken by the Committee during the course of 1986 are referred to in Section 1 of this note.

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

No new proposal to amend, interpret or rectify the Agreement was made by a Party in the Committee in 1986.

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

No new information on this matter has been provided to the Committee.

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.

Information on technical assistance activities relating to the Agreement is contained in documents VAL/W/29/Rev.1 and Addendum 1-2. Further information was provided at the 30 April 1986 meeting of the Committee by Australia and the Customs Co-operation Council (VAL/M/17, paragraphs 13, 14 and 16) and at its meeting of 10 November 1986 by the Republic of Korea, Argentina, Indonesia and Australia.

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

Detailed oral reports on the work of the eleventh and twelfth sessions of the Technical Committee, held 3-7 March and 6-10 October 1986 respectively, were presented by the Chairman of that Committee to the meetings of the Committee on Customs Valuation of 30 April and 10 November 1986 respectively. At its March meeting, the Technical Committee adopted the following texts:

- a set of examples to illustrate the advisory opinion on the meaning of the expression "sold for export to the country of importation";
- a study on the treatment of rented or leased goods;

These texts were approved at the June 1986 session of the Customs Cooperation Council. At its October meeting, the Technical Committee adopted the following texts:

- a case study on the treatment of leased goods;
- two additional examples to add to the advisory opinion on the meaning of the expression "sold for export to the country of importation";
- an advisory opinion on the treatment of quantity discounts.

The Committee on Customs Valuation took note of these reports and expressed its appreciation of the continued valuable work of the Technical Committee. At the Committee's November meeting, a number of statements were made on certain points raised in the report on the 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 nominated persons available to serve on panels in 1986: European Communities, Finland, Hong Kong, Japan, Norway, Sweden, and United States.

14. OTHER MATTERS RELATING TO IMPLEMENTATION

Private companies engaged in Customs Valuation

At its meeting of 30 April 1986, the Committee heard statements on the activities of private companies involved in the valuation of goods for customs purposes on behalf of governments (VAL/M/17, paragraphs 45-47). The Committee agreed to revert to this matter at its November 1986 meeting with a view to exchanging information on the implications for the operation of the Agreement and the accession of further countries. Parties having further information and experience in this connection were urged to make it available to the Committee. At its November meeting, the Committee had a further exchange of views on this matter. Widespread interest and concern was expressed by Parties. The Committee agreed to revert to this matter at its next meeting on the basis of detailed information on national experience in this regard to be made available by delegations before the end of March 1987.

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 November 1986 in accordance with the requirements of Article 26 of the Agreement (L/6094).

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

As in previous years, Parties have indicated general satisfaction with their experience with the operation and implementation of the Agreement, which has continued to contribute towards the realization of its objectives and to creating improved conditions for the conduct of international trade. While some two-thirds (see Annex III) of international trade is already subject to the provisions of the Agreement, this contribution would be enhanced by the adoption of the Agreement by more countries.

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 signatories.

<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	VAL/1/Add.20	Not yet received
Canada	VAL/1/Add.17 + Suppl.1-2	VAL/2/Rev.1/Add.14
Czechoslovakia	VAL/1/Add.18 + Suppl.1 + Corr.1	VAL/2/Rev.1/Add.15 + Suppl.1
European Economic Community	VAL/1/Add.2 + Suppl.1-9	VAL/2/Rev.1/Add.6
Finland	VAL/1/Add.4 + Suppl.1-2	VAL/2/Rev.1/Add.5
Hong Kong	VAL/1/Add.9	Not applicable
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	VAL/1/Add.19 + Suppl.1-2 + Suppl.2/Corr.1	VAL/2/Rev.2/Add.1 + Suppl.1
Lesotho	VAL/1/Add.21	VAL/2/Rev.2/Add.2
Malawi	Not yet applying the Agreement	
New Zealand	VAL/1/Add.12 + Suppl.1	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
Sweden	VAL/1/Add.3	VAL/2/Rev.1/Add.2 + Suppl.1
Switzerland	VAL/1/Add.5	Not applicable
Turkey	Not yet applying the Agreement	
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, 32.942
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.

ANNEX III

Trade subject to Code on Customs Valuation - 1984
(US\$ billion)

	<u>Imports c.i.f.</u>	<u>%</u>
Total World Imports of which:	1,681,434 ¹	100.0
Signatories applying Code:		
Australia	23,424 ²	1.4
Austria	19,631	1.2
Brazil	15,210	0.9
Botswana	n.a.	-
Canada	73,999	4.4
Czechoslovakia	17,080	1.0
EEC	307,048 ¹	18.3
Finland	12,443	0.7
Hong Kong	28,567	1.7
Hungary	8,091	0.5
Japan	136,942	8.1
Korea, Rep. of	30,631	1.8
Lesotho	n.a.	-
New Zealand	6,010	0.4
Norway	13,889 ³	0.8
Romania	9,959 ²	0.6
South Africa	14,956 ²	0.9
Sweden	26,408	1.6
Switzerland	29,467	1.8
United States	341,177	20.3
Yugoslavia	11,538 ¹	0.7
Sub-Total	1,126,472 ¹	67.0
Signatories which have delayed application of the Code:		
Argentina	4,583	0.3
India	13,501	0.8
Malawi	271	0.0
Turkey	10,822	0.6
Sub-Total	29,177	1.7
Total of Signatories	1,155,716 ¹	68.7

Source: UN, Monthly Bulletin of Statistics, January 1986
OECD, Foreign Trade by Commodities, 1984

¹Excluding trade between EEC member States.

²Imports f.o.b.

³1983