

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

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Committee on Customs Valuation

**THIRTEENTH 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.

At its meeting of 12 October 1993, the Committee conducted its thirteenth annual review on the basis of document VAL/W/59. The present document takes into account the points made during that review and the work of the Committee at that meeting as a whole.

The information contained in this document covers the period from 10 November 1992 to 23 December 1993.

The contents of this document are as follows:

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1. ACCESSIONS, ACCEPTANCES, RESERVATIONS AND OBSERVER STATUS

(a) Status of accessions and acceptances

The number of Signatories is thirty-three.

Bolivia signed the Agreement on 27 January 1993, subject to ratification. Bolivia has invoked the provisions of Article 21 of the Agreement (VAL/45).

The Czech Republic (VAL/46) and the Slovak Republic (VAL/47) notified their acceptance of the Agreement on the same terms as those accepted by the Czech and Slovak Federal Republic. The Agreement entered into force for the two Republics on 1 May 1993 under an accelerated procedure.

Morocco signed the Agreement on 4 June 1993, and the Agreement entered into force on 4 July 1993. In its notification of acceptance, Morocco invoked the provisions of paragraphs 1 and 2 of Article 21, and paragraphs 4 and 5 of Section I of the Protocol (VAL/49).

Colombia signed the Agreement on 2 August 1993, and started applying it immediately on a provisional basis. Colombia has invoked the provisions of paragraphs 1 and 2 of Article 21 of the Agreement, and paragraphs 4 and 5 of Section I of the Protocol (VAL/51).

In accordance with the decision taken by the Council at its 16-17 June 1993 meeting (C/M/264, page 3), the Committee agreed that the Federal Republic of Yugoslavia (Serbia and Montenegro) could not be considered the automatic successor State to the former Socialist Federal Republic of Yugoslavia.

(b) Terms of acceptance

In regard to the 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)

Bolivia	
Colombia	
Morocco	(4 July 1998)
Turkey	(12 February 1994)

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

Bolivia	
Colombia	
Mexico	(10 March 1996)
Morocco	(4 July 2001)
Turkey	(12 February 1997)

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

India

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

Argentina	India	Morocco
Brazil	Malawi	Turkey
Colombia	Mexico	Zimbabwe

(v) Protocol, paragraph I:5 (reservation concerning application of Article 5:2 whether or not the importer so requests)

Argentina	India	Turkey
Brazil	Mexico	Zimbabwe
Colombia	Morocco	

(c) Observer status

In response to a request circulated in document VAL/W/58, Chinese Taipei was granted observer status in the Committee on 12 October 1993.

2. COMPOSITION OF THE COMMITTEE ON CUSTOMS VALUATION

Chairman: Mr. R. Tam (Hong Kong)
Vice-Chairman: Mr. E. Kim (Republic of Korea)

Signatories

Argentina	Korea, Republic of
Australia	Lesotho
Austria	Malawi
Bolivia ¹	Mexico
Botswana	Morocco
Brazil	New Zealand
Canada	Norway
Colombia ²	Poland ¹
Cyprus	Romania
Czech Republic	Slovak Republic
European Economic Community and its member States	South Africa
Finland	Sweden
Hong Kong	Switzerland
Hungary	Turkey
India	United States
Japan	Yugoslavia ³
	Zimbabwe

Observers

(i) Governments:

Bangladesh	Malaysia
Bulgaria	Nicaragua
Cameroon	Nigeria
Chile	Pakistan
China, People's Republic of	Peru
Chinese Taipei	Philippines
Côte d'Ivoire	Russian Federation
Cuba	Singapore
Ecuador	Sri Lanka
Egypt	Thailand
Indonesia	Trinidad and Tobago
Israel	Zaire

(ii) International Organizations:

Customs Co-operation Council (permanent observer)
IMF
UNCTAD

¹Subject to ratification.

²Applying on a provisional basis.

³"Yugoslavia" in this document refers to the former Socialist Federal Republic of Yugoslavia.

3. MEETINGS OF THE COMMITTEE

Since the twelfth annual review, the Committee has held two meetings on 5 May 1993 and on 12 October 1993. The minutes of these meetings are contained in documents VAL/M/31 and VAL/M/32, respectively.

4. NATIONAL LEGISLATION PRESENTED

(i) Texts of national legislation

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 twelfth review, the following additional texts have been submitted:

Argentina	VAL/1/Add.22/Suppl.3
Mexico	VAL/1/Add.25/Suppl.2

Following a request by certain delegations, legislations contained in documents VAL/1/Add.22/Suppl.2 (Argentina) and VAL/1/Add.25/Suppl.1 (Mexico) were translated into English and circulated in documents VAL/1/Add.22/Suppl.2/Rev.1 and VAL/1/Add.25/Suppl.1/Rev.1, respectively.

Annex I contains a complete list of national legislations that have been communicated to the Committee.

(ii) Checklist of issues

At its second meeting, the Committee had 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 had added two questions to the checklist (VAL/M/14, paragraph 55).

Since the twelfth annual review no further replies to the checklist of issues have been submitted. Annex I contains a list of the replies that have been communicated to the Committee.

(iii) Examination of national legislations

At its meeting of 5 May 1993, the Committee pursued its examination of the implementing legislations of Argentina, Romania and Mexico. An in-depth discussion was held on the Argentinian legislation on the basis of oral and written information provided by the Argentinian delegation. Clarifications were provided on a number of issues including on whose initiative "test values" were to be applied, the factors to be taken into account in connection with a relationship and the concept of "control" in a relationship. The Committee agreed to continue its examination of this legislation at its next meeting. Romania had notified Article 8 of the Romanian Government Decision No. 673/1991 to the Committee in 1992. This legislation established the cost-insurance-freight price of the imported good as the basis of customs valuation and the exchange rate to be used for the determination of the customs

value. The Committee concluded its examination of the Romanian legislation without further discussion. The Committee also decided to revert to the legislation of Mexico at its next meeting.

At its meeting of 12 October 1993, the Committee examined additional legislative information submitted by Argentina, which was circulated in document VAL/1/Add.22/Suppl.3. The Committee took note of the various comments made and agreed to revert to this agenda item at the next meeting. With respect to the Mexican legislation circulated in document VAL/1/Add.25/Suppl.2, the Committee was informed that written questions and comments had been submitted by various delegations to the Mexican delegation. Mexico stated that written answers had been prepared for most of the questions, and the various comments made had been studied carefully and would be taken into account in the forthcoming modifications to be introduced into Mexico's legislation. Clarification was also provided on a point raised by Hong Kong regarding the appearance in the Official Journal of Mexico dated 4 August 1993 of a list of reference prices in US dollars. The Committee took note of the various points raised and explanations furnished and agreed to revert to this agenda item at the next meeting.

(iv) Status of the application of the Committee Decisions

Information on 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), made available by Parties is summarized in document VAL/W/34/Rev.5. At the meeting of 11 May 1987, it was agreed that Parties which had not yet done so, should furnish the required information on the date from which the Decision on interest charges would be applied.

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

During the year under review the Committee has not dealt with any of these matters.

6. OTHER DECISIONS TAKEN BY THE COMMITTEE

At its meeting of 5 May 1993, following a request from the United States and some exchange of views, the Committee agreed to send back to the Technical Committee for further consideration, a case study adopted by the Technical Committee at its Twenty-Fifth Session and relating to the issue of "the price actually paid or payable".

7. 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 working document VAL/W/29/Rev.8 which reproduces information contained in CCC document 38.392.

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

(i) Meetings of the Technical Committee

Detailed oral reports on the work of the Twenty-Fifth (29 March-2 April 1993) and Twenty-Sixth (4-8 October 1993) Sessions of the Technical Committee on Customs Valuation of the Customs Co-operation Council were presented to the meetings of the Committee on Customs Valuation.

(ii) Texts adopted by the Technical Committee

The Technical Committee at its Twenty-Fifth Session adopted a case study on the "Application of the Price Actually Paid or Payable". However, at its meeting of 5 May 1993 the Committee on Customs Valuation agreed to send the case study back to the Technical Committee for further consideration (see paragraph 6).

The Technical Committee at its Twenty-Sixth Session adopted the aforementioned case study with certain amendments, and seven draft advisory opinions which illustrated the application of Article 8.1(c).

(iii) Information available through the Technical Committee

The Technical Committee has established procedures for the dissemination of information on publications relating to national legislations 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 contained in Annex II of this note.

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

9. SUBSTANTIAL DIFFICULTIES ENCOUNTERED BY PARTIES IN APPLYING THE AGREEMENT

During the period under review, no Party has reported any substantial difficulty in applying the Agreement.

10. 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.

11. PANELISTS

Paragraph 2 of Annex III of the Agreement 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 Party would be willing to make available for panel work. Only Sweden nominated a person who would be available to serve on panels in 1993.

12. OTHER MATTERS RELATING TO IMPLEMENTATION

(i) 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. The question was not taken up in 1993.

13. ANNUAL REPORT TO THE CONTRACTING PARTIES

The Committee adopted its annual report to the CONTRACTING PARTIES in accordance with the requirements of Article 26 of the Agreement (L/7324).

14. GENERAL APPRECIATION OF EXPERIENCE WITH IMPLEMENTATION AND OPERATION 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 create clearly improved conditions for the conduct of international trade. While some three-fourths (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 and Rev.2) received from Signatories.

<u>Signatory</u>	<u>National legislation</u>	<u>Replies to the Checklist of Issues</u>
Argentina	VAL/1/Add.22 + Suppl.1-3 + Suppl.2/Rev.1	VAL/2/Rev.2/Add.4
Australia	VAL/1/Add.14 + Suppl.1-4	VAL/2/Rev.1/Add.12 + Suppl.1
Austria	VAL/1/Add.10 + Suppl. 1	VAL/2/Rev.1/Add.3 + Suppl.1
Botswana	VAL/1/Add.16	Not received
Brazil	VAL/1/Add.20 + Suppl.1	VAL/2/Rev.2/Add.3
Canada	VAL/1/Add.17 + Suppl.1-3	VAL/2/Rev.1/Add.14
Cyprus	VAL/1/Add.26	VAL/2/Rev.2/Add.7
Czech Republic	VAL/1/Add.18 + Suppl.1/ Corr.1-2	VAL/2/Rev.1/Add.15 + Suppl.1
European Economic Community	VAL/1/Add.2 + Suppl.1-12	VAL/2/Rev.1/Add.6 + Suppl.1
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	VAL/1/Add.24 + Suppl.1	VAL/2/Rev.2/Add.6
Japan	VAL/1/Add.7	VAL/2/Rev.1/Add.8
Korea, Rep. of	VAL/1/Add.19 + Suppl.1-4 + Suppl.2/Corr.1-2 + Suppl.3/Corr.1	VAL/2/Rev.2/Add.1 + Suppl.1
Lesotho	VAL/1/Add.21 + Suppl.1	VAL/2/Rev.2/Add.2
Malawi	VAL/1/Add.27	
Mexico	VAL/1/Add.25 + Suppl.1-2 + Suppl.1/Rev.1	
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
Poland	VAL/1/Add.28	
Romania	VAL/1/Add.8 + Suppl.1-2	VAL/2/Rev.1/Add.9
Slovak Republic	VAL/1/Add.18 + Suppl.1/ Corr.1-2	VAL/2/Rev.1/Add.15 + Suppl.1
South Africa	VAL/1/Add.15 + Corr.1 + Suppl.1-3	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.1
Zimbabwe	VAL/1/Add.23	VAL/2/Rev.2/Add.5

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
Hungary	34.898
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, 36.625
Czech Republic	38.189
European Economic Community	26.916
Finland	27.484
India	35.197
Japan	27.473
Korea, Rep. of	34.294
New Zealand	29.938
Norway	32.211
Sweden	28.225
Yugoslavia	35.188
Zimbabwe	36.376

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 the Agreement on Customs Valuation - 1992
(US\$ billion)

	<u>Imports c.i.f.</u>	<u>Percentage Share</u>
Total World Imports of which:	2,961.03(1)	100.0
Signatories applying the Code:		
Argentina	14.87	0.5
Australia	43.73	1.5
Austria	54.14	1.8
Botswana	2.43	0.1
Brazil	23.07	0.8
Canada	129.15	4.4
Cyprus	3.31	0.1
Czech Republic	8.93(3)	0.3
EEC	631.76(1)	21.3
Finland	21.21	0.7
Hong Kong	123.43	4.2
Hungary	11.12	0.4
India	23.56	0.8
Japan	233.25	7.9
Korea, Rep. of	81.78	2.8
Lesotho	0.82(2)	0.0
Malawi	0.74	0.0
Mexico	62.07	2.1
New Zealand	9.20	0.3
Norway	25.91	0.9
Poland	16.67(3)	0.6
Romania	5.90(3)	0.2
Slovak Republic	3.63(3)	0.1
South Africa	21.12	0.7
Sweden	49.92	1.7
Switzerland	65.72	2.2
United States	553.92	18.7
Yugoslavia	11.75(3)	0.4
Zimbabwe	2.01(2)	0.1
Sub-total	2,235.12	75.5
Signatories which have delayed application of the Code:		
Bolivia	1.04(3)	0.0
Colombia	6.68	0.2
Morocco	7.35	0.2
Turkey	22.88	0.8
Sub-total	37.95	1.2
Total of Signatories	2,273.07	76.7

(1) Excluding trade between EEC member States.

(2) 1991 imports.

(3) Estimates.