

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

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Committee on Customs Valuation

**FOURTEENTH ANNUAL REVIEW OF THE IMPLEMENTATION
AND OPERATION OF THE AGREEMENT ON IMPLEMENTATION
OF ARTICLE VII OF THE GENERAL AGREEMENT
ON TARIFFS AND TRADE**

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 9 November 1994, the Committee conducted its fourteenth annual review on the basis of document VAL/W/62. 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 24 December 1993 to 6 December 1994.

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1. **ACCESSIONS, ACCEPTANCES, RESERVATIONS AND OBSERVER STATUS**

(a) **Status of accessions and acceptances**

The number of Signatories is thirty-four.

Peru accepted the Agreement on 2 March 1994, and in its notification of acceptance invoked the provisions of Article 21 and paragraphs 3, 4 and 5 of Section I of the Protocol (VAL/52).

Slovenia signed the Agreement on 7 November 1994, and the Agreement will enter into force for Slovenia on 7 December 1994 (VAL/53).

(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	(Agreement has not yet entered into force - it is subject to ratification)
Colombia	(Agreement has entered into force provisionally)
Morocco	(4 July 1998)
Peru	(1 April 1999)

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

Bolivia	(Agreement has not yet entered into force - it is subject to ratification)
Colombia	(Agreement has entered into force provisionally)
Mexico	(10 March 1996)
Morocco	(4 July 2001)
Turkey	(12 February 1997)
Peru	(1 April 2002)

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

India
Peru

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

Argentina	Malawi	Turkey
Brazil	Mexico	Zimbabwe
Colombia	Morocco	
India	Peru	

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

Argentina	India	Peru
Brazil	Mexico	Turkey
Colombia	Morocco	Zimbabwe

(c) **Observer status**

No requests for observer status were made during the period under review.

2. **COMPOSITION OF THE COMMITTEE ON CUSTOMS VALUATION**

Chairman: Mr. A. Constantinescu (Romania)
Vice-Chairman: Mr. M. Trainor (New Zealand)

Signatories

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

¹Subject to ratification.

²Applying on a provisional basis.

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

Observers

(i) Governments:

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

(ii) International Organizations:

Customs Co-operation Council (permanent observer)
IMF
UNCTAD

3. MEETINGS OF THE COMMITTEE

Since the thirteenth annual review, the Committee has held two meetings on 17 May 1994 and on 9 November 1994. The minutes of these meetings are contained in documents VAL/M/33 and VAL/M/34, 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 thirteenth review, the following additional texts have been submitted:

Argentina	VAL/1/Add.22/Suppl.4
EC	VAL/1/Add.2/Suppl.13
Mexico	VAL/1/Add.25/Suppl.3
Turkey	VAL/1/Add.29.

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).

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

(iii) Examination of national legislations

At its meeting of 17 May 1994, the Committee pursued its examination of the various implementing legislations. The Committee was informed that the entire Customs Code and the relevant articles and annexes from the Customs Code implementing provisions had been notified by the European Communities in accordance with paragraph 2 of Article 25 of the Agreement. These texts had been circulated in document VAL/1/Add.2/Suppl.13 and would be examined at the next Committee meeting. Questions were raised and clarifications provided on Argentina's legislation circulated in documents VAL/1/Add.22/Suppl.2/Rev.1 and Suppl.3. In addition, Argentina indicated that detailed written responses would be provided to the questions submitted very recently by the United States. The Committee took note of the statements made and agreed to revert to this item at the next meeting. With respect to the Mexican legislation circulated in document VAL/1/Add.25/Suppl.2, questions from Australia, Canada, United States and Hong Kong together with the responses had been circulated in documents VAL/W/60 and VAL/W/60/Add.1. The representative of Mexico informed the Committee that further modifications had been introduced to Mexico's customs legislation which essentially transformed the Mexican customs valuation system from a free-on-board to a cost-insurance-freight basis of valuation. These amendments were subsequently notified and circulated in document VAL/1/Add.25/Suppl.3. Several questions were raised on the legislation contained in document VAL/1/Add.25/Suppl.2 and the new amendments. Questions submitted by the United States on Mexico's legislation contained in document VAL/1/Add.25/Suppl.2 together with the responses were subsequently circulated in document VAL/W/60/Add.2. The Committee took note of the various points raised and the explanations furnished and agreed to revert to this agenda item at the next meeting.

At its meeting of 9 November 1994, the Committee was informed that, as promised at the last meeting and in accordance with paragraph 2 of Article 25, Turkey had notified regulations concerning customs valuation which were circulated in document VAL/1/Add.29. The Committee agreed to examine this document at the next meeting. Questions submitted by the United States on Argentina's legislation contained in documents VAL/1/Add.22/Suppl.2/Rev.1 and Suppl.3 together with the responses were circulated in document VAL/W/63. No further questions were raised on these texts. However, the Committee was informed that Argentina had notified additional legislation which was circulated in document VAL/1/Add.22/Suppl.4, and it agreed to revert to the examination of this text at its next meeting. A discussion on the amendments notified by Mexico, which were circulated in document VAL/1/Add.25/Suppl.3, took place. The Committee took note of the various points raised and explanations furnished and agreed to revert to this agenda item at its next meeting. As had been agreed at its last meeting, the Committee examined the texts submitted by the European Communities which were circulated in document VAL/1/Add.2/Suppl.13. Following clarification provided by the delegation of the European Communities to one general question, the Committee agreed to conclude its examination of this legislation.

(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

No other decision was taken by the Committee during the period under review.

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.9 which reproduces information contained in CCC document 38.991.

8. INFORMATION AND ADVICE FROM THE TECHNICAL COMMITTEE ON CUSTOMS VALUATION (HEREINAFTER REFERRED TO AS THE "TECHNICAL COMMITTEE"), AND GENERAL REPORT ON THE TECHNICAL COMMITTEE

(i) Meetings of the Technical Committee

The representative of the Customs Co-operation Council (CCC) informed the Committee that at its Eighty-Third/Eighty-Fourth Session, the Council of the CCC had decided to adopt a new informal name for the organisation - "World Customs Organization" (WCO) - to reflect the position of the Organization as the single international intergovernmental Organization dealing with customs issues. The Committee then took note of the detailed oral reports on the work of the Twenty-Seventh (21 -25 March 1994) and Twenty-Eighth Sessions (3-7 October 1994) of the Technical Committee on Customs Valuation of the WCO which were presented to the meetings of the Committee. Clarification was provided by the representative of the WCO regarding a point raised on the monitoring of the Ministerial Decision Regarding Cases where Customs Administrations Have Reasons to Doubt the Truth or Accuracy of the Declared Value.

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

(ii) Texts adopted by the Technical Committee

The Technical Committee at its Twenty-Seventh Session had adopted a commentary on the scope of the expression "right to reproduce the imported goods" within the meaning of the Interpretative Note to Article 8.1(c). However, the Committee, following a request from the European Communities, had agreed at its meeting of 17 May 1994, to request the Technical Committee to bring forward this commentary to the Technical Committee's Twenty-Eighth Session.

At its Twenty-Eighth Session, the Technical Committee inserted an additional paragraph, and adopted the commentary with that amendment. Also at this Session, the Technical Committee adopted two case studies relating to issues dealing with assists and royalties.

(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.

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 Canada nominated two experts who would be available to serve on panels in 1994.

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 1994.

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/7565).

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

As in previous years, Parties have indicated general satisfaction 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.1-4 + 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.1-13	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.1-3 + 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	VAL/1/Add.29	
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 ¹	29.938
Norway	32.211
Sweden	28.225
Yugoslavia	35.188
Zimbabwe	36.376

¹The Technical Committee at its Twenty-Eighth Session was informed that New Zealand had ceased the use of its declaration form on 1 January 1993. This decision to discontinue the use of the declaration form was due principally to the introduction by New Zealand of a paperless customs entry environment.

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 - 1993
(US\$ billion)

	<u>Imports c.i.f.</u>	<u>Percentage Share</u>
Total World Imports (1) of which	3,038.07	100.0
Signatories applying the Agreement:		
Argentina	16.77	0.6
Australia	45.52	1.5
Austria	48.58	1.6
Botswana	1.77	0.1
Brazil	27.74	0.9
Canada	138.68	4.6
Cyprus	2.59	0.1
Czech Rep. (2)	10.60	0.3
EEC (1)	570.52	18.8
Finland	18.03	0.6
Hong Kong	141.31	4.7
Hungary	12.63	0.4
India	22.76	0.7
Japan	241.62	8.0
Korea, Rep.	83.80	2.8
Lesotho (3)	0.70	0.0
Malawi	0.55	0.0
Mexico	66.59	2.2
New Zealand	9.64	0.3
Norway	23.96	0.8
Poland	18.83	0.6
Romania (4)	6.02	0.2
Slovak Rep. (5)	4.06	0.1
Slovenia	6.50	0.2
South Africa	20.02	0.7
Sweden	42.68	1.4
Switzerland	62.03	2.0
Turkey	29.43	1.0
United States	603.44	19.9
former Yugoslavia (4)	11.47	0.4
Zimbabwe (4)	1.78	0.1
SUB-TOTAL	2,290.61	75.4

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- (1) Excluding trade between EEC member States.
 - (2) Excluding trade with the Slovak Republic.
 - (3) 1992 instead of 1993.
 - (4) Secretariat estimates.
 - (5) Excluding trade with the Czech Republic.

ANNEX III (cont'd)

**Signatories which have delayed
application of the Agreement:**

Bolivia	1.21	0.0
Colombia (4)	7.90	0.3
Morocco	6.76	0.2
Peru	4.91	0.2
SUB-TOTAL	20.78	0.7
Total of Signatories	2,311.39	76.1

(4) Secretariat estimates.