

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

VAL/M/16

5 March 1986

Special Distribution

Committee on Customs Valuation

MINUTES OF THE MEETING HELD ON 23 JANUARY 1986

Chairman: Mr. R. Hochörtler (Austria)

1. The Committee on Customs Valuation met on 23 January 1986.
2. In regard to item A of the proposed agenda (GATT/AIR/2235), election of Chairman and Vice-Chairman, the Committee noted that the usual consultations on chairmanships of GATT bodies had not yet been completed and agreed therefore to deal with this matter at its next meeting.
3. The following agenda was adopted:

	<u>Page</u>
A. Enlargement of the European Communities	1
B. Indian request for an extension of period of delay pursuant to paragraph I:2 of the Protocol	2

A. Enlargement of the European Communities

4. The representative of the European Communities said that the Act of Accession of the Kingdom of Spain and the Portuguese Republic to the European Communities had entered into force on 1 January 1986. Accordingly, under the terms of Article 4 of that Act, Spain and Portugal had assumed obligations, as members of the Community, under all agreements and conventions entered into by the Community, including the Agreement on Implementation of Article VII of the GATT. As of 1 January 1986, Spain and Portugal had ceased to be individual members of the Agreement and the Committee on Customs Valuation in their own right and had become members within the Community. He added that the reservations entered into by Spain under the Agreement had ceased to have effect since 1 January 1986.

5. The representative of the United States, noting the statement that Spain and Portugal had ceased to be individual members of the Code and the Committee since 1 January 1986, wondered whether the provisions of Article 28 on withdrawal were of relevance.

6. The Chairman suggested that this was a matter that the legal service of the secretariat might be asked to look at. The Committee so agreed.

7. The representative of Spain confirmed the statement made by the representative of the European Communities.

8. The representative of Portugal also confirmed the statement made by the representative of the European Communities. As of 1 January 1986, Portugal had assumed the acquis communautaire, and would be part of the Community representation in the Committee and no longer an individual member. The decision to join the Code prior to accession had been to show Portugal's readiness to accept the disciplines of the Code.

B. Indian Request for an Extension of Period of Delay Pursuant to Paragraph I:2 of the Protocol

9. The Chairman recalled that, at the Committee's meeting of 13 December 1985, it had not been possible to reach an agreement on this matter. It had been agreed that all delegations would report the situation to their authorities, that further thought needed to be given to ways of resolving the difficulties and to the wider implications and that the Committee would meet again as soon as a chance of coming to an agreement existed. He said that, late in December 1985, he had received a letter from the Indian delegation in which the Indian delegation had indicated that it had received further instructions and had requested the convening of a meeting of the Committee as soon as possible with a view to reaching a decision on India's request. The Chairman said that, after receiving this letter, he had held consultations to establish that a chance of coming to an agreement existed. In the light of these consultations, he had circulated the following draft decision:

1. The Committee on Customs Valuation notes that India requires additional time to complete the legislative process and the training of customs officials.

2. The Committee accordingly decides, pursuant to paragraph I:2 of the Protocol, to extend the period of delay in the application by India of the provisions of the Agreement until 1 July 1987. It is the Chairman's understanding that India may request the reconsideration of this date if India makes a substantive case for further extension.

3. The Committee also 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.

4. The Committee notes that India will continue to afford adequate opportunity for consultations at the request of any other Party which considers that its trade is experiencing difficulties that would not have been experienced had India been applying the Agreement. It is the understanding of the Chairman that, if no mutually satisfactory solution is reached in bilateral consultations, it would be open to either Party to raise the matter in the Committee under Article 18.1 of the Agreement.

5. The Committee notes that information on the situation with regard to the application of the provisions of the Agreement will be provided to the Committee by India by 1 October 1986.

6. The Chairman noted that a number of delegations reiterated their offer of technical assistance to India under the Agreement for the training of personnel.

10. The Committee adopted this decision.

11. The representative of the United States said that his delegation was pleased that it had been possible to come to a satisfactory resolution of the issues raised with respect to India's request pursuant to paragraph I:2 of the Protocol. He then drew the Committee's attention to another issue which, while not addressed in the decision just adopted, he felt was relevant to India's application of the Agreement's provisions. He recalled that at the time India had accepted the Agreement, the Government of India had reserved the right to "... retain the system of fixed tariff values" - a reservation which may be entered into under paragraph I:3 of the Protocol "... under such terms and conditions as may be agreed to by the Parties to the Agreement". He said that it was the understanding of his delegation that currently India did not make use of established minimum values and that India had no plans for the reintroduction of a system of minimum values. As such, it was the view of his delegation that any eventual request by India for a reservation under paragraph I:3 of the Protocol would not be justified.

12. The representative of India confirmed the statement he had made in the course of informal consultations that, in accordance with paragraph (c) of India's terms of acceptance of the Agreement dated 11 July 1980, India continued to reserve the right to retain the system of fixed tariff values. However, India presently had no instance of the application of minimum values nor was there any proposal to establish minimum values on any commodity. In regard to paragraph 5 of the decision just taken, he said that it was his understanding that what was intended was that the information be provided at the regular autumn 1986 meeting of the Committee. This would enable the Indian authorities to provide a full exposition of the steps taken by the relevant authorities to implement the Agreement.

13. The Chairman noted that this understanding in regard to paragraph 5 of the decision was shared by members of the Committee.