

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Committee on Customs Valuation

SPECIAL MEETING OF 9 MAY 1985 ON ADEQUACY AND
EFFECTIVENESS OF THE AGREEMENT AND OBSTACLES TO
ACCEPTANCE WHICH CONTRACTING PARTIES MAY HAVE FACED

Draft Minutes

Chairman: Mr. R. Hochörtler

1. In pursuance of the CONTRACTING PARTIES' decision of 30 November 1984 on the MTN Agreement and Arrangements (reproduced in document VAL/W/27), this meeting was held to examine the adequacy and effectiveness of the Agreement and the obstacles to acceptance of it which contracting parties may have faced, providing an opportunity to non-signatory contracting parties to express their views in the discussion. 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.

2. The Committee heard a report on the informal meeting of observers and Parties held on 16 April 1985, the purpose of which was to carry out the Committee's agreement at its last meeting to hold informal consultations with observers in order to discuss questions relating to accession, including any problems in this regard (VAL/M/11, paragraph 12). Since the Committee's previous Chairman, Mr. J.-C. Renoue, who chaired the informal meeting, was unable to be present, the report was given by the representative of the secretariat on his behalf. The representative of the secretariat said that, even though the Committee's decision to hold these informal consultations had predated the decision of the CONTRACTING PARTIES, the aim had been to deal with essentially the same points. He recalled that a number of questions had been suggested by some delegations as basis for these consultations; these related to the intentions of observers vis-à-vis the Agreement, whether there were still problems regarding their accession that needed to be examined and what kinds of technical assistance would be most useful.

3. The representative of the secretariat said that the information given by observers in the informal meeting could be summarized as follows:

(i) As regard intentions vis-à-vis the Agreement:

- two observers, Poland and Turkey, had said they were hopeful that their countries would be in a position to sign the Agreement in the near future;
- the other observers present had reported that their authorities were still studying the Agreement and had not yet taken a definite view one way or the other.

(ii) As regards factors or difficulties influencing a decision on the accession, the following points had emerged:

- two observers had said that for them the decision was not a purely national one, but one that would have to be taken collectively or in a co-ordinated fashion by the regional groupings to which they belonged;
- an observer had said that in his country an important concern was the extent to which the Agreement gave customs adequate possibilities to deal with false invoicing and, as a related matter, its possible implications for government revenue in his country. In the experience of his country, even where the buyer and seller were not related in terms of Article 15 or the existence of such a relationship could not be established, collusion between the buyer and seller to provide a false invoice was a common practice;
- reference had also been made to the technical and administrative requirements involved in adopting the Agreement - for example, the need to adapt national legislation and procedures, and to train staff - although it had been recognized that the provisions on special and differential treatment, in particular the possibility of delayed implementation, were of considerable assistance in overcoming these problems;
- the need for fuller information on the GATT valuation system before a decision could be taken had been stressed.

(iii) As regards what could be done to meet these problems, a number of suggestions had been made by observers:

- several had referred to the importance of technical assistance, at the national and/or regional levels, to clarify the provisions of the Code and assist in training and the process of its implementation;
- an observer had referred to the interest of his country in learning from the experience of those developing countries already applying the Agreement;
- an observer had suggested that the Parties should investigate ways of guaranteeing the authenticity of invoice values through mutual administrative arrangements.

4. Representatives of Parties and the Chairman had taken the opportunity to inform the observers present of the very positive experience of Parties with the Agreement so far and of the various activities under the Code, in GATT, in the CCC and at the national level, relating to the points raised, including the technical assistance activities. Most of this information was summarized in document VAL/W/28. As to the question of the risk of fraud, it had been stated that Article 17 and paragraph 7 of the Protocol reaffirmed the rights of customs administrations. It had also been pointed out that all valuation systems were faced with problems of fraud and that it was possible to establish procedures to deal with such problems wherever

fraud was suspected. As regards implications for revenue, it had been recognized that the taxable base may be subject to some reduction compared to some other systems because of the exclusion of certain uplifts, but it had been pointed out that the conclusion reached in those Parties that had endeavoured to quantify this had been that the shrinkage was very small. Moreover, a value had to be put on the simplicity and the savings of administrative expenses that had resulted from the application of the Code and also on co-operation with other countries.

5. After giving the report, the representative of the secretariat drew the attention of the Committee to a letter received on 8 May 1985 from the Customs Administration of Belize which raised concerns about false invoicing similar to those mentioned by an observer during the informal consultations and put forward certain suggestions. Copies of the letter were made available to delegations.

6. The representative of Australia said that in the view of her authorities the main difficulties facing developing countries with acceding to the Agreement appeared to be technical ones, in the resolution of which technical assistance was most important. Given the high level of technical assistance efforts already committed, it was not clear what further could be done. However, if developing countries were able to specify more closely their needs, consideration might be given to a more co-ordinated assistance programme.

7. The representative of the European Communities said that technical assistance was readily available from many sources. Developing countries had only to ask for it.

8. The representative of Turkey confirmed that his authorities were hoping to be shortly in a position to accede to the Agreement. A final decision was expected in the near future. He was not aware of any substantive difficulties that had been identified during the course of examining the Agreement. Such difficulties as had been encountered were technical or administrative in nature.

9. The Committee took note of the statements made, the report on the informal consultations and document VAL/W/28. It agreed that the minutes of this meeting and document VAL/W/28 would be used by the secretariat in the preparation of the report required under sub-paragraph (b) of the CONTRACTING PARTIES' Decision. The Committee further agreed to invite the Technical Committee to examine the submission received from the Customs Administration of Belize, which raised a number of essentially technical issues.