

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

VAL/W/21/Rev.1  
29 November 1983

Special Distribution

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Committee on Customs Valuation

## THIRD ANNUAL REVIEW OF THE IMPLEMENTATION AND OPERATION OF THE AGREEMENT

### Background Document by the Secretariat

#### Revision

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 the document that the Committee had before it when undertaking its third annual review at its meeting of 10-11 November 1983, takes into account the points made during that review and the work of the Committee at that meeting as a whole. It is recalled that the second annual review document, covering the activities of the Committee in 1982, is VAL/W/12/Rev.1.

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## 1. ACCESSION TO THE AGREEMENT

Australia accepted the Agreement on 22 November 1982; the Agreement entered into force for Australia on 21 December 1982. South Africa accepted the Agreement on 1 June 1983; the Agreement entered into force for South Africa on 1 July 1983.

At its meeting of 10-11 November 1983, the Committee agreed on terms of accession of Botswana, pursuant to Article 22.3 of the Agreement.

## 2. COMPOSITION OF THE COMMITTEE ON CUSTOMS VALUATION

Chairman: Mr. J. Goizueta (Spain)

Vice-Chairman: Mr. M. Leflon (France)

### Signatories

Argentina <sup>1</sup>	Korea, Republic of
Australia	New Zealand
Austria	Norway
Brazil	Romania
Canada	South Africa
European Economic Community and its member States	Spain
Finland	Sweden
Hungary	Switzerland
India	United Kingdom for Hong Kong
Japan	United States
	Yugoslavia

### Observers

#### (i) Governments:

Bangladesh	Nigeria
Bulgaria	Pakistan
Chile	Peru
Colombia	Philippines
Cuba	Poland
Czechoslovakia	Portugal
Ecuador	Singapore
Egypt	Sri Lanka
Indonesia	Thailand
Israel	Trinidad and Tobago
Ivory Coast	Turkey
Malaysia	Zaire
Nicaragua	

<sup>1</sup>Subject to ratification

(ii) International Organizations:

Customs Co-operation Council (permanent observer)  
IMF  
UNCTAD

3. MEETINGS OF THE COMMITTEE

Since the second annual review, the Committee on Customs Valuation has held meetings on 3 March 1983, 10 May 1983 and 10-11 November 1983. Minutes of the first meeting are contained in VAL/M/6; the Note by the Chairman is contained in L/5468. Minutes of the second meeting are contained in VAL/M/7; the Note by the Chairman is contained in L/5490. Minutes of the third meeting will be issued as document VAL/M/8; the Note by the Chairman is contained in L/5583.

4. NATIONAL LEGISLATION PRESENTED

Since the second annual review, the following additional texts of national legislation have been submitted in accordance with the decision adopted by the Committee at its meeting on 13 January 1981 (VAL/M/1, paragraph 37):

European Economic Community	VAL/1/Add.2/Suppl.4
Romania	VAL/1/Add.8/Suppl.1
Australia	VAL/1/Add.14
South Africa	VAL/1/Add.15

Further replies to the revised checklist of issues (VAL/2/Rev.1) have been submitted by the following delegations:

Yugoslavia	VAL/2/Rev.1/Add.11
Australia	VAL/2/Rev.1/Add.12

At its meeting held on 10 May 1983, the Committee considered a number of points arising from the EEC and Romanian legislation (VAL/M/7, paragraphs 11-13). At its meeting in November 1983, the Committee undertook an examination of the Australian legislation; it also considered certain points regarding the implementation and administration of the Agreement by Canada and the United States. The Committee has agreed that it will undertake its examination of the South African legislation at its first meeting in 1984.

5. RESERVATIONS ENTERED

The situation remains as described in the 1981 background document (VAL/W/4/Rev.1, paragraph 5) except that Yugoslavia lifted its reservation under Article 21:1 of the Agreement and implemented the Agreement as from 1 April 1982 (VAL/M/4, paragraph 4).

At its meeting of 3 March 1983, the Committee heard statements on the Canadian reservation on acceptance of the Agreement.

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

At its meeting of 3 March 1983, the Committee agreed that in the context of Article 8.1(b)(iv) of the Agreement the English word "undertaken" was to be understood as meaning "carried out". The French and Spanish versions of the Agreement are not affected.

7. OTHER DECISIONS TAKEN BY THE COMMITTEE

The Committee has not taken any other decisions during the course of 1983.

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

The Committee had detailed discussions on the substance of revised proposals concerning decisions designed to clarify the treatment of interest charges for deferred payment in the customs value of imported goods (VAL/W/13/Rev.2) on the one hand and the valuation of computer software (VAL/W/14/Rev.1) on the other. It also examined some legal aspects in this connection, on the basis of a secretariat note (VAL/W/16). These proposals are to be further considered at the Committee's first meeting in 1984.

The proposal on the treatment of interest charges would provide that charges for interest under a financing arrangement entered into by the purchaser and relating to the purchase of imported goods shall not be regarded as part of the customs value provided that:

- (a) the charges are distinguished from the price actually paid or payable for the goods;
- (b) the financing arrangement was made in writing;
- (c) where required, the buyer can demonstrate that
  - such goods are actually sold at the price declared as the price actually paid or payable, and
  - the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when the finance was provided.

The proposal would apply regardless of whether the finance is provided by the seller, a bank or other natural or legal person. It would also apply, if appropriate, where goods are valued under a method other than transaction value.

The proposal on the valuation of computer software would provide that, in determining the customs value of imported carrier media bearing data or instructions, only the cost or value of the carrier medium itself shall be taken into account and that the customs value shall not, therefore, include the cost or value of the data or instructions, provided that this is distinguished from the cost or the value of the carrier medium.

The Committee considered at its meeting of 10-11 November 1983 a matter raised by the Technical Committee regarding the time standard for test values under Article 1.2(b) of the Agreement (VAL/W/18). The Committee requested the Technical Committee to pursue the formulation of an agreed text along the lines of that indicated in the report of the third session of the Technical Committee.

At its meeting of 10-11 November 1983, the Committee agreed to place a question raised by the Technical Committee relating to the linguistic consistency between the English, French and Spanish texts of the Agreement of the term "development" in Article 8.1(b)(iv) on the agenda of its first meeting in 1984.

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

No reports were received in this respect from the Parties.

10. TECHNICAL ASSISTANCE

This matter has continued to remain on the agenda as an important item of the Committee's work. Delegations from developed countries reported on technical assistance extended and expressed their willingness to assist developing countries, whether signatories or not, also in the future

The Committee was informed of an ASEAN seminar held in Manila in December 1982 and of a LAIA seminar held in Brasilia in April 1983 and of courses held in Australia, Austria, Denmark, the Federal Republic of Germany, Finland, Spain and the United States for customs officials from developing countries. The Committee was also informed of steps to enable customs officials from developing countries to spend some time with the customs administrations of certain Parties. The CCC and GATT secretariats also referred to their technical assistance activities.

All Parties and observers have in the discussions stressed the importance of training programmes and seminars which in their view make a significant contribution to the successful introduction and implementation of the new valuation system.

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

A detailed oral report on the work of the fifth session of the Technical Committee was presented by the observer from the Customs Cooperation Council at the Committee's meeting of 10 May 1983 (VAL/M/7, paragraphs 15-17). The Chairman of the Technical Committee presented to the meeting of the Committee of 10-11 November 1983 a detailed oral report on the work of the sixth session of the Technical Committee.

12. SUBSTANTIAL DIFFICULTIES ENCOUNTERED BY PARTIES IN APPLYING THE AGREEMENT

In its annual report to the CONTRACTING PARTIES adopted on 10 May 1983 (L/5491), the Committee concluded that no substantial difficulties had been encountered by Parties in applying the Agreement. All Parties recognized

that the new valuation system had resulted in a uniform, fair, and greatly simplified system for the valuation of imported products. A significant benefit of the new valuation system to both customs and the traders had been the greater certainty in determining the customs value of imported products and the amount of duties payable. Moreover, experience indicated that the new valuation system had saved time and money and improved the efficiency of the preparation and the processing of customs entries.

### 13. CONSULTATION AND DISPUTE SETTLEMENT

No Party has requested consultations under Article 19 of the Agreement, nor have the provisions of Article 20 been resorted to.

### 14. 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 have nominated persons who would be available to serve on panels: European Economic Community, Finland, Japan, Norway, Romania, Spain, Sweden, United Kingdom for Hong Kong, United States.

### 15. OTHER MATTERS DISCUSSED BY THE COMMITTEE RELATING TO IMPLEMENTATION

#### Use of various valuation methods by Parties

Following a discussion at the Committee's meeting in May 1981 on this matter (VAL/M/2, paragraphs 65-75), a number of Parties submitted information on the use in their countries of the various valuation methods provided for under the Agreement (VAL/W/5 and Addenda 1-8). Following exchanges of view at subsequent meetings on the desirability of collecting additional and more detailed information, including in regard to the volume of trade and the use by all Parties of an identical time period, the Committee decided at its meeting in November 1982 to request the Technical Committee to advise on methodologies for determining more precisely the use of the various valuation methods by Parties (VAL/M/5, paragraphs 19-22). The report of the Technical Committee, which was drawn up at the Technical Committee's fifth meeting, held on 7-11 March 1983, is in document VAL/W/17. At its meeting of 10 May 1983, the Committee had an initial discussion on the basis of this report (VAL/M/7, paragraphs 18-21), addressing both the methodology and timing of a new data collection exercise. 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.

### 16. ANNUAL REPORT TO THE CONTRACTING PARTIES

The Committee adopted its annual report to the CONTRACTING PARTIES at its meeting of 10 May 1983 (L/5491). The report meets the requirements in this respect of Article 26 of the Agreement and also responds to the request addressed to the Committee by the Council at its meeting of 20 April 1983 in taking action on the Decision on MTN Agreements and Arrangements contained in the Ministerial Declaration of 29 November 1982. The report therefore addresses the questions of the adequacy and effectiveness of the Agreement and obstacles to its acceptance by interested Parties.