

GENERAL AGREEMENT ON

RESTRICTED

VAL/37

1 February 1989

TARIFFS AND TRADE

Special Distribution

Committee on Customs Valuation

EIGHTH 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.

This document, which is a revision of document VAL/W/47 that the Committee had before it when undertaking its eighth annual review at its meeting of 11 October 1988, takes into account the points made during that review and the work of the Committee at that meeting as a whole. The information in it was valid as of 31 January 1989.

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1. ACCESSIONS, ACCEPTANCES AND RESERVATIONS

(a) Status of accessions and acceptances

The number of signatories is twenty-seven.

Mexico ratified its acceptance of the Agreement on 9 February 1988.
The Agreement thereby entered into force for Mexico on 10 March 1988.

Turkey ratified its acceptance of the Agreement on 13 January 1989.
The Agreement thereby entered into force for Turkey on 12 February 1989.

(b) Terms of acceptance

In regard to 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)

Malawi	(22 December 1988)
Mexico	(10 March 1993)
Turkey	(12 February 1994)

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

Argentina
India
Mexico
Turkey
Zimbabwe

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

In accordance with paragraph 4 of the Committee decision of 13 June 1986 (VAL/M/18), Brazil abolished, on 22 July 1988, the system of minimum values and reference prices applicable for valuation purposes to the products listed in VAL/W/36/Add.3. On 13 November 1987 Brazil had withdrawn a number of items (VAL/W/36/Add.2) from the lists of products subject to minimum values and reference prices contained in VAL/W/36 and Add.1 pursuant to consultations with another Party under paragraph 2 of the same decision.

India

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

Argentina
Brazil
India
Malawi
Mexico
Turkey
Zimbabwe

(v) Protocol, paragraph I:5 (reservation concerning application of Article 5.2 whether or not importer so requests)

Argentina
Brazil
India
Mexico
Turkey
Zimbabwe

2. COMPOSITION OF THE COMMITTEE ON CUSTOMS VALUATION

Chairman: Mr. A. Rodin (Sweden)

Vice-Chairman: Mr. D. Shark (United States)

Signatories

Argentina	Korea, Republic of
Australia	Lesotho
Austria	Malawi
Botswana	Mexico
Brazil	New Zealand
Canada	Norway
Czechoslovakia	Romania
European Economic Community and its member States	South Africa
Finland	Sweden
Hong Kong	Switzerland
Hungary	Turkey
India	United States
Japan	Yugoslavia
	Zimbabwe

Observers

(i) Governments:

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

(ii) International Organizations:

Customs Co-operation Council (permanent observer)
IMF
UNCTAD

3. MEETINGS OF THE COMMITTEE

Since the seventh annual review, the Committee has held two meetings, on 3 May and on 11 October 1988. The minutes of these meetings are contained respectively in documents VAL/M/22 and VAL/M/23. The Chairman's notes on these meetings are in documents L/6351 and L/6412, respectively.

4. NATIONAL LEGISLATION PRESENTED

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 seventh annual review, the following additional texts of national legislation, regulations and administrative procedures have been submitted:

Argentina	VAL/1/Add.22/Suppl.1
Australia	VAL/1/Add.14/Suppl.2
European Economic Community	VAL/1/Add.2/Suppl.10
India	VAL/1/Add.24
Zimbabwe	VAL/1/Add.23

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 last annual review, Zimbabwe and India submitted replies to the revised checklist of issues (VAL/2/Rev.2/Add.5 and 6).

A complete listing of national legislation and replies to the checklist of issues communicated to the Committee is at Annex I of this note.

The Committee has continued its detailed consideration of national implementing legislation. During the year it has concluded its examination of the legislation of Brazil and Zimbabwe.

The Committee has reviewed 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), on the basis of information made available by Parties (most recently summarized in document VAL/W/34/Rev.4). At the meeting of 11 May 1987, one Party noted that some Parties had not notified the date from which the decision on interest charges would be applied. It was agreed that Parties which had not yet done so, should furnish the required information.

It might also be noted that the Technical Committee has established procedures for the dissemination of information on publications relating to national legislation 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 at Annex II of this note. It might be noted that no changes have occurred since the 1987 annual report.

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

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

Texts adopted by the Technical Committee in 1988 are listed in Section 7.

6. 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 a working document (VAL/W/29/Rev.3) which reproduces information contained in CCC document 33.797. Further information was provided at the Committee meeting of 3 May by New Zealand (VAL/M/22, paragraph 32).

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

Detailed oral reports on the work of the fifteenth and sixteenth sessions of the Technical Committee on Customs Valuation, held 14-17 March 1988 and 3-6 October 1988 respectively, were presented by the Chairperson of that Committee to the meetings of the Committee on Customs Valuation of 3 May and 11 October 1988 respectively. At its March meeting, the Technical Committee adopted the following six advisory opinions.

- Treatment of a situation where the sale or price is subject to some condition or consideration for which a value can be determined with respect to the goods being valued

- Scope and implication of Article 11 of the Agreement
- Implications of Article 13 of the Agreement
- Application of Article 17 of the Agreement and paragraph 7 of the Protocol
- Quota charges paid by the buyer to the seller of the goods
- Quota charges paid by the buyer to a third person (e.g. a broker or an agent)

The texts of the first four advisory opinions were approved at the June 1988 session of the Customs Co-operation Council.

The Committee on Customs Valuation took note of these reports and expressed its appreciation of the continued valuable work of the Technical Committee. At the Committee's May meeting, a number of statements were made on certain points raised in the report on the work of the Technical Committee.

8. SUBSTANTIAL DIFFICULTIES ENCOUNTERED BY PARTIES IN APPLYING THE AGREEMENT

As in previous years of operation of the Agreement, no Party has reported any substantial difficulty with applying the Agreement.

9. 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.

10. 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 in 1988: Canada, the European Communities, Finland, Hong Kong, Japan, the Republic of Korea, Norway, Sweden and the United States.

11. OTHER MATTERS RELATING TO IMPLEMENTATION

(i) Private companies engaged in Customs Valuation

The Committee agreed to suspend this agenda item for the time being, on the understanding that it could revert to it at any time at the request of a Party.

(ii) 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 1988.

(iii) Proposal by India to the Negotiating Group on MTN Agreements and Arrangements

The Committee heard a presentation by the delegation of India on its proposal submitted to the Negotiating Group on MTN Agreements and Arrangements on the "burden of proof regarding transaction value (MTN.GNG/NG8/W/9, Section (ii) and the comments by some other Parties (VAL/M/22, paragraphs 24-40).

12. ANNUAL REPORT TO THE CONTRACTING PARTIES

The Committee adopted its annual report to the CONTRACTING PARTIES at its meeting of October 1988 in accordance with the requirements of Article 26 of the Agreement (L/6413).

13. 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 creating improved conditions for the conduct of international trade. While some two-thirds (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	VAL/2/Rev.2/Add.4
Australia	VAL/1/Add.14 + Suppl.1	VAL/2/Rev.1/Add.12 /Suppl.1
Austria	VAL/1/Add.10	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
Czechoslovakia	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.1-10	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	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.1-2 + Suppl.2/Corr.1	VAL/2/Rev.2/Add.1 + Suppl.1
Lesotho	VAL/1/Add.21 + Suppl.1	VAL/2/Rev.2/Add.2
Malawi	Not yet applying the Agreement	
Mexico	Not yet applying the Agreement	
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
Romania	VAL/1/Add.8 + Suppl.1	VAL/2/Rev.1/Add.9
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.11
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
European Economic Community	26.916
Finland	27.484
Japan	27.473
New Zealand	29.938
Norway	32.211
Sweden	28.225

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 Code on Customs Valuation - 1987
(US\$ billion)

	<u>Imports c.i.f.</u>	<u>Shares</u>
Total World Imports	2017.00 ¹	100.0
of which:		
Signatories		
applying Code:		
Australia	29.30	1.5
Austria	32.70	1.6
Brazil	16.60	0.8
Botswana	0.85	0.0
Canada	92.75 ²	4.6
Czechoslovakia	23.05 ¹	1.1
EEC	392.10 ¹	19.5
Finland	19.80	1.0
Hong Kong	48.45	2.4
Hungary	17.20	0.9
Japan	151.05	7.5
Korea, Rep. of	41.00 ³	2.0
Lesotho	0.50 ³	0.0
New Zealand	7.30	0.4
Norway	22.65 ²	1.1
Romania	9.70 ²	0.5
South Africa	15.35	0.8
Sweden	40.70	2.0
Switzerland	50.65	2.5
United States	424.10	21.0
Yugoslavia	12.60	0.6
Sub-Total	1448.90 ¹	71.8
Signatories which have delayed application of the Code:		
Argentina	5.80	0.3
India	16.60	0.8
Malawi	0.30	0.0
Mexico	12.75	0.6
Turkey	13.25 ³	0.7
Zimbabwe	1.15 ³	0.1
Sub-Total	49.85	2.5
Total of Signatories	1498.75 ¹	74.3

¹Excluding trade between EEC member States.

²Imports f.o.b.

³1985 imports, c.i.f.

Source: IMF, International Financial Statistics, July 1988
EUROSTAT, External Trade Monthly Statistics, April-June 1988
GATT, International Trade 1987-88.