GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED
VAL/M/24
30 June 1989

Committee on Customs Valuation

MINUTES OF THE MEETING OF 21 MARCH 1989

Chairman: Mr. A. Rodin (Sweden)

1. The Committee on Customs Valuation met on 21 March 1989.

2. The following agenda was adopted:

A. Election of officers

3. The Committee re-elected Mr. A. Rodin (Sweden) Chairman, and elected Mr. P. Cheung (Hong Kong), Vice-Chairman for 1989.

B. Accession of further countries to the Agreement

(i) Turkey

4. The Chairman stated that the Government of Turkey had deposited its instrument of ratification of the Agreement with the Director-General on 13 January 1989. Under the terms of Article 24, the Agreement had entered into force for Turkey on 12 February 1989. Turkey would delay the application of the Agreement for a period of five years in accordance with Article 21.1 of the Agreement (VAL/36).

5. The representative of the United States asked for a status report on the preparation of the implementing legislation in Turkey.

(ii) Mexico

6. The representative of Mexico said that the new law on customs matters published on 1 July 1982 in the Official Journal of the Federation superseded the previous customs valuation law and the law on customs risks. The provisions on customs valuation were contained in Chapter 3, Articles 432-454 and those on customs regulations in Chapter 3, Articles 117-132.

C. Report on the work of the Technical Committee

7. The Chairwoman of the Technical Committee on Customs Valuation gave an oral report on the seventeenth Session of the Technical Committee on Customs Valuation, held in Brussels from 14-17 March 1989, the full report of which is contained in CCC Doc. 35.250.

8. In connection with intersessional developments, the Chairwoman said that the Technical Committee had been informed that, in accordance with a proposal of the Policy Commission of the Council, the Valuation Directorate had requested the views of members on the possibility of creating a valuation data base at the Council headquarters, and on obtaining information on the use of computers in valuation by members. Most countries which had responded had seen little utility for such a data base and had pointed out the possible difficulties which could arise under national laws governing the confidentiality of commercial data. At present, relatively few administrations had computerized valuation systems.

9. With regard to the administrative measures for introduction and application of the Agreement, the Technical Committee had taken note of Doc. 35.197 which contained the Valuation Form adopted by the Indian Customs Administration. The Technical Committee had decided to collect and publish summaries of the rulings, issued by the members applying the Agreement, that were contained in this document, on an annual rather than semi-annual basis, to ensure better use of the resources of the members and of the Council.

10. In the area of technical assistance, the Technical Committee had taken note of Doc. 35.210 which contained revised information. The Committee had been informed that the Council had been represented at a Valuation seminar which had been organized in Lusaka (Zambia) on 4-8 November 1988 by the Secretariat of the Preferential Trade Area for Eastern and Southern African States in collaboration with the Customs Co-operation Council. The EEC and the Austrian Administration had provided financial support. The seminar had been attended by twenty-nine officials from thirteen countries in the region. Two Council officials had presented papers on the Agreement on Customs Valuation and its budgetary and economic implications. They had also presented a comparison between the Agreement and the BDV. A representative of UNCTAD/FALPRO had also presented a paper. The Council had been represented at a seminar on the Agreements on Customs Valuation and on Import Licensing, organized in Mexico City from 6-10 March 1989, in co-operation with the GATT secretariat. The objective of the seminar had been to provide Mexican officials with information about these instruments and their implementation.

11. Turning to the technical questions examined by the Technical Committee, the Chairwoman said that the Technical Committee had held a discussion on the circumstances in which the instruments of the Technical Committee could be taken up for modification and, as a corrolary to this issue, on the organization of the work of the Technical Committee. These questions had arisen due to the fact that three different issues for consideration at the sixteenth Session of the Technical Committee had related to instruments which, although already adopted, had been brought back for amendment or even complete revision. The Committee had agreed that any request for amendment should be made in writing and duly substantiated. Finally, the revision of an instrument already published would require at least two-thirds of the votes of members present. The Technical Committee had decided that instruments approved at the present session would not be submitted to the next meeting of the Committee on Customs Valuation, since the proximity of the date of the two meetings had not afforded the time necessary for administrations to study a final text. It had been felt that a period of time should be allowed after finalization of an instrument by the Committee until the instrument had been submitted to the Council or to the Committee on Customs Valuation. No specific time had been foreseen for this review period. As regards the organization of the work of the Committee in the future, when an issue was raised, the secretariat would prepare a general document analyzing the problem and offering different solutions. Written comments would also be invited at that stage. As a next step, the Committee would examine the document and take a decision as to whether an instrument was necessary. The Committee would also give direction to the secretariat on the type of instrument and its content.

12. Continuing her report on the technical questions, the Chairwoman said that the Technical Committee had also examined the following matters:

- Application of Article 1, paragraph 2(a). The Technical Committee had held a discussion on a paper submitted by a Member Administration in a question and answer format, enquiring to what extent and in which

circumstances customs would examine related party transactions. Various amendments had been proposed. The Secretariat had been instructed to redraft the document in the form of a commentary for the next session.

- Meaning of the expression "activities undertaken by the buyer on his own account after purchase of the goods but before importation". The Technical Committee had examined a draft commentary on this question and had decided to use information contained therein as a basis for two separate documents. The first document would be a new draft commentary bearing the same title and incorporating certain paragraphs of the document under consideration and the amendments proposed. The other document would be on the application of Article 8.1(b) incorporating the remaining paragraphs.

- Conversion of currency in cases where the contract provided for a fixed rate of exchange. At the request of a Member Administration, the Technical Committee, in view of the problems encountered by some administrations, had re-opened the discussion on a previously adopted Advisory Opinion on the conversion of currency in cases where the contract provided for a fixed rate of exchange. After agreeing upon an amendment, the Technical Committee had adopted the new text of the Advisory Opinion. In accordance with the decision of the Technical Committee regarding the instruments adopted, this Advisory Opinion was not being submitted to the present meeting of the Committee on Customs Valuation in order to allow administrations time to examine the final text.

- Determination of the amount for commission or profit and general expenses for use in the deductive value method. In accordance with the previously taken Decision, a Working Group had met prior to the seventeenth Session of the Technical Committee to examine issues relating to Article 5. The Technical Committee had been informed regarding the conclusions of the Working Group and had decided to incorporate them into a draft commentary to be considered at its next session.

- Buying Commission. The Technical Committee had examined a draft commentary on buying commissions identifying the rôle of the intermediaries in question and the documentary evidence required. Due to time constraints, the Technical Committee had not been able to complete its discussion on the document and had decided to revert back to it at its next session.

In addition to the above-mentioned technical questions, the Technical Committee had held a preliminary discussion on the subject of insurance premiums for warranty and had instructed the Secretariat to prepare a preliminary report on the question during the inter-session.

13. The Technical Committee had unanimously elected Dr. D.E. Zolezzi (Argentina) as Chairman and Mr. R. Karpoja (Finland) and Mr. T. Lobred (United States) as Vice-Chairmen.

14. The eighteenth Session of the Technical Committee was scheduled to take place on 2-6 October 1989.

D. Information on implementation and administration of the Agreement

(i) Argentina

15. The representative of Argentina said that the implementing legislation of Argentina consisted of Law 23311 (VAL/1/Add.22/Suppl.2) and Decree 1026 (VAL/1/Add.22). The provisions of the Agreement had been integrally set out in Law 23311. Article 18 of Decree 1026 stated that Law 23311 and Decree 1026 reflected the Agreement integrally, in derogation of all provisions in the previous legislation which were not compatible with the new law.

16. In response to a question by the European Economic Community, the representative of Argentina said that the provisions implementing valuation methods and certain other matters in the Agreement had entered into force with Law 23311. In accordance with general legal provisions and traditions in Argentina, Law 23311 and Decree 1026 had entered into force on the day following their publication in the Official Bulletin. Law 23311 had entered into force on 16 July 1986 and Decree 1026 on 25 June 1986. Both Law 23311 and Decree 1026 were applied as of 1 January 1988, the date Argentina had begun the implementation of the Agreement in accordance with the relevant provisions of the Agreement.

17. The representative of the European Economic Community said that the special valuation treatment of baggage provided for in Article 500 of Law 22415, which contained the Customs Code of Argentina (VAL/1/Add.22/Suppl.1), appeared to derogate from the provisions of the Agreement, in particular those of the General Interpretative Note concerning the sequential application of the valuation methods. The representative of Argentina said that Article 500 was part of the Customs Code of 1981 which preceded Law 23311. Decree 1001 of 1982 established that the values referred to in Article 500 were subsidiary and only applied on the assumption that the passenger did not establish the truth or accuracy of the declared value with an invoice. In practice, one hundred per cent of the operations carried under the luggage régime were valued on the basis of the transaction value of imported goods. In response to a question by the representative of the United States, the representative of Argentina said that Article 500 of the Customs Law, implemented by Article 14 of Decree 1026, was compatible with the provisions of the Agreement. Therefore, it had not been superseded by Law 23311.

18. The representative of Australia said that there was no reference to Articles 2.3 and 5.1 of the Agreement in Decree 1026 (VAL/1/Add.22); Article 13 of the Decree concerning rights of appeal without penalty referred to paragraph 3 of Article 11 of the Agreement. Reference to related parties in Article 9 of the Decree was limited to the provisions of Article 15.4(h) of the Agreement. According to the statement under item 1(2)(i) of the checklist of issues (VAL/2/Rev.2/Add.4), Article 9 of

the Decree did not specify the relationship between persons other than those considered to be related within the meaning of Article 15.4(h) of the Agreement. In response, the representative of Argentina said that the text of the Agreement had been incorporated in its entirety in the domestic law, thus superseding all earlier enactments or legislation. The Articles of Decree 1026, pointed out by the delegation of Australia, were implemented by Law 23311. Article 9 of Decree 1026 spelled out the cases in which the relationships could be taken to relate to members of the same family in terms of Article 15.4(h) of the Agreement. The determination of this relationship was not left to the judgement of the customs administrations.

19. The representative of the United States said that her authorities were still in the process of reviewing the implementing legislation of Argentina.

(ii) India

20. In response to a question by the representative of the European Economic Community, the representative of India recalled that, when the Committee had agreed to the request by India for an extension of the delay in the application of the Agreement, it had also noted that under Article 21.2 of the Agreement, India would delay the application of Article 1.2(b)(iii) and Article 6 of the Agreement for a further period of two years after the application of all other provisions of the Agreement (VAL/M/16, paragraphs 9-10). India had been applying the Agreement with effect from 16 August 1988. The provisions of Article 1.2(b)(iii) and Article 6 would be applied from 16 August 1990.

21. The representative of the European Economic Community noted that paragraph 3 of the Protocol implied that a system of minimum values could only be applied concurrently with the provisions of the Agreement if they were in force prior to implementation of the Agreement. He asked the delegation of India to confirm that India renounced its reservation under paragraph 3 of the Protocol. The representative of India said that India had not made use of minimum values for more than four years. Notwithstanding the existence of enabling provisions in the statutes, his authorities did not have the intention of applying minimum values in the near future. The enabling provisions would be revoked after India had gained sufficient experience with the implementation of the Agreement.

22. The representative of the European Economic Community stated that neither the Customs Act 1962 nor the Customs Valuation (Determination of Price of Imported Goods) Rules 1988 contained any specific provision requiring the Customs Department to give written explanations about valuation matters. He asked how the importer's rights under Articles 1.2(a), 7.3 and 16 of the Agreement were guaranteed in Indian law. In connection with the same matter, the representative of the United States pointed out that according to the answer to question 12 in the checklist of issues (VAL/2/Rev.2/Add.6), the Customs Act or the Valuation Rules did not provide that, upon request by the importer, customs authorities gave a written explanation of how the dutiable value was determined. In response, the representative of India confirmed that the valuation chapter of the

Customs Act did not contain any specific provision for the communication of the grounds for a decision on valuation taken by the customs. However, in accordance with well-established general administrative practices, whenever customs decided not to accept a declaration by an assessor or by an importer regarding a particular valuation, the reasons thereto had to be communicated to the importer in writing, usually accompanied by a statement on the value that was being proposed and the evidence on the basis of which the proposed action would be taken. The importer was called upon to reply to those allegations or proposals of the customs. He could also request a personal hearing. In accordance with the appeal provisions of the Customs Act, Chapter 4, Section 128, any person aggrieved by a written or oral decision or order passed under the Act by an officer of customs could appeal to the relevant authority within the three months of communication of the decision. The importer could have recourse to the appeal court even if, by mistake, a customs officer failed to communicate the grounds to the appellent or to the importer. The court could set aside a decision and ask the original officer to record his decision and state the grounds for it in writing before it could be implemented. As the system was working satisfactorily, there were no grounds for complaint on the part of importers. In this connection, he drew the attention of the Committee to the Declaration Form of India which included a column to be filled in by the customs officer, explaining the reasons for not accepting the value declared by the importer. After acceptance of the declaration by customs, a copy of the form was given to the importer. In implementing the Decision, dated 18 July 1988, the Government of India had issued instructions to field formations and to customs collectors. In these instructions, attention was drawn to the provisions of Article 1.2(a) of the Agreement, which required that importers should be informed of the reasons if the customs considered that the relationship had influenced the price. The instructions also stated that it might be necessary to issue an appealable order in case the importer disputed the decision, after giving him a reasonable opportunity to respond. Similarly, the field officers had been asked to provide, on completion of valuation, a copy duly endorsed by the appropriate officer to the importer in accordance with the requirements under Articles 7.3 and 16 of the Agreement. Wherever necessary, appealable orders had to be issued. The national instructions of 18 July 1988 would be made available to the Technical Committee.

23. The representative of the United States pointed out that paragraph 9(1)(e) provided for additions to the price actually paid or payable beyond the scope of Article 8. In response, the representative of India said that, while drafting the implementing legislation, his authorities had taken into account all the provisions of the Agreement, including those in the Protocol. Clauses (a), (b), (c) and (d) of paragraph 9(1) were identical to the provisions of Article 8, whereas clause (e) corresponded to paragraph 1.8 of the Protocol.

24. In response to another question by the representative of the United States, the representative of India said that there was no significance to the underlined portions of Paragraph 12, Interpretative Notes, Note to Rule 4 (VAL/1/Add.24, page 12).

25. With respect to the declaration form, the representative of the United States said that, in Item 24 of the declaration form, the provision to include "any other relevant information" was too broad (VAL/1/Add.24, page 23). She wondered whether importers would be provided with guidelines on the type of information that would be considered as "relevant". The representative of India said that under Item 24 in the declaration form the importer would be able to furnish any extra information which he wished to volunteer on his own to the customs. There were no guidelines as to what type of information should be filled in this residual column.

26. In response to a question by the United States, the representative of India said that the decisions on interest charges (VAL/6/Rev.1) and on carrier media bearing software (VAL/8) had been communicated to the field offices on 13 January 1989.

27. The representative of the United States recalled that, by a letter dated 26 January 1988, the United States Trade Representative had notified the Director-General that the Government of the United States had suspended the application of the Agreement between the United States and India (VAL/33). As India had now fulfilled its commitments under the Agreement, the United States would again apply the Agreement to India.

(iii) Australia

28. The representative of the European Economic Community asked about the current status of the proposals for further amendments to the Australian legislation, in particular the status of the proposals of 1987 and the timetable envisaged for the adoption of these proposals by the Parliament. In response, the representative of Australia stated that at its previous meeting, the Committee had taken note that the Customs (Valuation) Amendment Act 1987, amending the valuation provisions of the Customs Act of 1901, had come into operation on 1 July 1987. As the delegation of Australia had indicated at that meeting, the Customs (Valuation) Amendment Act 1987 was the first part of a two-stage package of amendments to the valuation legislation of Australia contained in the Customs Act of 1901. At that time, it was expected that the second stage of the legislation would come into effect on 1 February 1989. The relevant Bill had been introduced into the Australian Parliament in late 1987 but had been deferred to allow consultations with industry and community groups interested in the proposed changes. During this process, opportunity had also been taken to consider representations by overseas administrations and international organizations which were concerned about the Customs and Excise Legislation Amendment Bill (No. 2) 1987. This Bill was scheduled to be re-introduced into Parliament in the week commencing 4 April 1989. Several proposed amendments to the original Bill and its supporting documentation had particular relevance to consideration of the Customs (Valuation) Amendment Act 1987. These amendments included the removal of the reference to advertising and warranty costs in the definition of "price" in the proposed Bill. In addition, the Explanatory Memorandum to the Customs and Excise Legislation Amendment Bill (No. 2) 1987 would be amended to delete the reference to "marketing services" in that part of the

definition of "price" relating to "the doing of anything to increase the value of the goods". Other amendments to the originally proposed Bill included the following: (i) a clarification that "storage and handling" charges in relation to "transportation" referred only to those costs incidental to the transportation of the goods to be valued (c.f. Technical Committee Commentary 7.1, in particular paragraphs 17-18); (ii) the reference to "trustees" etc. in proposed paragraph 154(3) was to be deleted because it was not a circumstance provided for under Article 15.4 of the Code; (iii) a new provision to ensure that certain royalties and licence fees payable on imported goods did not become included in customs value after importation into Australia; and (iv) the definition of "buying commission" was to be narrowed to ensure that a buying agent would be allowed to represent other parties in transactions unconnected with the sale of the particular imported goods, without prejudicing the right to not include any commission payable to that agent in the customs value. His authorities believed that these amendments addressed the concerns raised in international fora, as well as in Australia, about the scope of the Customs (Valuation) Amendment Act 1987 and the Customs and Excise Legislation Amendment Bill (No. 2) 1987. The passage of the Customs and Excise Legislation Amendment Bill (No. 2) 1987 which was proposed to come into effect on 1 July 1989 would, in effect, replace the amendments made by the Customs (Valuation) Amendment Act 1987. The representative of the European Economic Community expressed the appreciation of his delegation that certain amendments had been made to the proposals as a result of concerns which had been raised in the Committee.

29. The representative of the United States said that her delegation remained concerned about the deletion of the Generally Accepted Accounting Principles (GAAP) from the domestic legislation of Australia. Notwithstanding the statement made by the delegation of Australia at the previous meeting (VAL/M/23, paragraph 21), they considered that the legislation of Australia was not in conformity with the terms of the General Notes in Annex 1 of the Agreement which required the customs administration of each Party to utilize information prepared in a manner consistent with the GAAP in the country. She wondered what guarantee an importer had that the relevant provisions of the Agreement would be respected. The representative of Australia said that the reference to GAAP had been originally included in the legislation of Australia as a criterion for quantifying deductions and additions to the customs value of goods. Decisions of the courts and administrative appeal tribunals in Australia had had the effect of requiring that GAAP be applicable to a transaction as a precondition, before the provisions in which they appeared could be applied to the transaction. Furthermore, in certain circumstances GAAP might not exist. The combination of the court decisions and the absence of GAAP in some arrangements had led to uncertainty. Although his authorities had decided to delete the references to GAAP from the legislation on valuation, they were committed to the use of GAAP for the purposes of determining customs value. The Explanatory Memorandum to the Customs Valuation Amendment Act of 1987 stated that GAAP would continue to be used in the administration of the Act for the purposes of determining value. An expanded version of that Explanatory Memorandum was circulated in

VAL/1/Add.14/Suppl.2. The explanatory material indicating that Australia would use GAAP when determining customs value was also circulated internally.

30. The representative of the European Economic Community reiterated the view that the provisions in the Australian legislation on marketing expenses and buying commission were not consistent with the Agreement. He stressed the need for uniform application of the Agreement in these respects. The representative of the United States said that provisions in the legislation on buying commission still focused on the relationship between the seller and the agent rather than whether the individual in question was the agent of the importer as per paragraph 1(a)(i) of the Note to Article 8. A situation could be conceived where the agent was related both to the buyer and the seller and was entitled to have his commission treated as non-dutiable. Her authorities maintained that the totality of circumstances surrounding a commission ought to be examined. The representative of Australia said that the rôle of the agent to whom the commission was paid was fundamental in the consideration of whether or not a commission in respect of the goods to be valued was to be added to the price. He referred to paragraph 15 of Explanatory Note 2.1 of the Technical Committee. The Australian administration considered that the rôle of a buying agent was to act solely in the interest of the purchaser of the goods. If that agent was associated with the seller otherwise than as the agent of the purchaser, then he could not be seen to be acting solely in the interest of the purchaser. Consequently, any commission paid to such an agent should be included in customs value. The subject of buying agents and buying commission had been a vexed question for his administration. The Technical Committee on Customs Valuation was currently considering a paper on the subject. The representative of the United States drew attention to the definition of the term "buying commission" as set forth in paragraph 1(a)(i) of the Notes to Article 8. This definition did not refer to a relationship between the vendor and the alleged agent. Her authorities were concerned about such a limitation being called into the definition of the term "buying commission" set forth in Explanatory Note 2.1.

31. The representative of the United States asked about the impact of Phase I amendments to the legislation of Australia on inland freight charges. The representative of Australia explained that the changes concerning inland freight in the country of export were contained in the second package of the legislation of Australia. Article 8.2 of the Agreement allowed Parties to include or exclude in whole or in part inland freight incurred in the country of export. The changes in the next stage of the legislation might be of concern to particular importers. A media release by the relevant Minister, dated 21 April 1987, addressed this concern in the following terms, "Where the new valuation arrangement significantly raises protection levels for local industry, the Minister would be prepared to consider requests for review by the Independent Industries Assistance Commission within six months of the provisions coming into operation." This would still be the case when the second package of legislation entered into force. If any party was disadvantaged by any part

of that legislation, including the changes concerning inland freight in the country of export, then some revision of the duty rates could be considered.

(iv) European Economic Community

32. The Committee took note of the changes in the legislation of the European Economic Community issued as: Commission Regulation (EEC) No. 3773/87 of 16 December 1987, amending Regulation (EEC) No. 1577/81, establishing a system of simplified procedures for the determination of the customs value of certain perishable goods; and Commission Regulation (EEC) No. 3272/88 of 24 October 1988, amending Regulation (EEC) No. 1496/80 on the declaration of particulars relating to customs value and on documents to be furnished (VAL/1/Add.2/Suppl.10).

(v) Republic of Korea

33. The representative of the Republic of Korea informed the Committee that the revisions of the Customs Law and the Presidential Decree relevant to the Agreement had entered into force on 1 January 1989 (VAL/1/Add.19/Suppl.3). These revisions were the result of the efforts his country had deployed since its acceptance of the Agreement to bring its national legislation into conformity with the provisions of the GATT and of the Agreement. The revisions which related to some of the important principles in the Agreement, enhanced the legal status of the regulations on customs valuation in his country. A major objective of these revisions relating to the administration of customs was to rationalize the valuation procedures and to make them more efficient for the convenience and benefit of importers and foreign suppliers. His authorities were reviewing the Detailed Implementing Regulations (Commissioner's Order) so as to make it consistent with the revised law. A revised Commissioner's Order would be submitted to the Committee as soon as possible.

(vi) Malawi

34. The Chairman stated that Malawi had accepted the Agreement on 22 November 1983, and should, therefore, be applying it as from 22 December 1988. He had been informed by the secretariat that a letter had been sent to the authorities in Malawi drawing attention to the provisions of Article 25 of the Agreement and the relevant decisions of the Committee regarding the submission of information on the implementing legislation. To date, no information had been received from Malawi.

35. The Committee took note of the statements made under this item. It agreed to complete its examination of the implementing legislation of India and to revert to the implementing legislation of Argentina, Australia and the Republic of Korea at its next meeting.

E. Technical Assistance

36. The Chairman said that he had been asked by the secretariat to announce that, in response to the request made by some developing countries, it was giving active consideration to arranging a workshop on

the Agreement on Customs Valuation, in collaboration with the Customs Co-operation Council. The objective of this workshop would be to provide an opportunity to customs experts from both developed and developing countries to have a free and frank exchange of views on the experience of the operation and implementation of the Agreement. It would thus, on the one hand, assist signatory developing countries which were in the process of implementing the Agreement in preparing appropriate legislation and regulations on customs valuation and, on the other hand, help non-signatory developing countries, which were examining the possibility of accession, to clarify any possible problems they might see in acceding to the Agreement. The programme for the workshop and its timing was being determined by the secretariat in consultation with the Customs Co-operation Council and interested delegations. Tentatively, however, it was proposed that the workshop could be held for three days in the month of October, prior to the next meeting of this Committee. This would avoid the need for a separate visit to Geneva on the part of those experts who normally came to attend the meeting of the Committee. The organization of the workshop was, however, dependent on voluntary financial contribution being made available to the secretariat for payment of travel costs and daily subsistence allowance to experts from those developing countries, which requested such assistance. He personally considered that such a workshop, the aim of which would be to further the objectives of the Agreement, could be useful both for signatory countries and for countries which were considering accession. It could also be seen as complementary to the work in the Negotiating Group on MTN Agreements and Arrangements on, for example, expanding the membership of the Agreement on Customs Valuation and thus making it more universal. In the light of this, he asked the Committee members to consider the request by the secretariat for financial contribution in a positive spirit. The project document containing cost estimates could be obtained in due course from Mr. T. Konaté, Director of the Technical Co-operation Division of the secretariat. For the effective operation of the workshop, it would be important that signatories could ensure that their valuation experts participated. He believed that any such assistance provided for the organization of the workshop would be consistent with the provisions of paragraph 3 of Article 21 of the Agreement relating to technical assistance.

37. A representative of the secretariat added that the organization of a workshop on the Agreement on Customs Valuation was being considered in response to requests received by the Technical Co-operation Division of the secretariat from a number of developing countries. The principle objective of the workshop would be to stimulate interest in further accession to the Agreement. Many developing countries which had not yet acceded to the Agreement had shown interest in it as evidenced in the general trade policy seminars organized in the past by the Technical Co-operation Division. It was expected that the proposed workshop would provide an opportunity for customs experts from different countries to exchange views on their experience in the operation and implementation of the Agreement, thereby enabling non-signatory countries to consider the question of accession to the Agreement. The discussions in the workshop would also be of assistance to signatory developing countries which were in the process of preparing implementing legislation and regulations on customs valuation. The discussions in the workshop would be in the form of a free informal

exchange of views among customs experts from different countries. It was not to be expected that this workshop would adopt a report, draw conclusions or make recommendations.

38. The representative of Mexico said that his delegation would be in favour of the organization of a workshop that would enable Parties to exchange views on the provisions of the Agreement and on its implementation in different countries.

39. The observer from Pakistan said that his delegation was interested in the work of the Committee, although they rarely attended its meetings. The proposed workshop would provide an opportunity for experts from capitals to increase their understanding of the different facets of the Agreement.

40. The observer from Indonesia said that they supported the idea of organizing a workshop on the Agreement. His delegation believed that the workshop would provide customs experts from developed as well as developing countries with an opportunity to share experience on the operation of the Agreement.

41. The observer from Nigeria said that there were many countries, especially developing countries, who had difficulties with the implementation and administration of the Agreement. Joined by the representative of Indonesia, he expressed the appreciation of his delegation to the secretariat for suggesting the organization of a workshop for those countries.

42. The representative of Argentina said that his delegation supported the organization of the workshop announced by the Chairman.

43. The representative of Brazil, in joining other delegations which supported the organization of a workshop, considered that the proposed workshop would not only provide a useful exchange of views on the implementation of the Agreement, but it would also promote even wider membership.

44. The observer from the Côte d'Ivoire said that the fact that her delegation attended the meetings of the Committee in an observer capacity bore witness to her country's interest in its work. The suggested workshop would give those countries considering accession to the Agreement the possibility of obtaining all the information necessary to enable them to make their decision in full knowledge of the facts.

45. The representative of Yugoslavia said that her delegation supported the idea of organizing a workshop as they felt that it would be useful not only for the Parties to the Agreement, but also for the developing countries which were considering the possibility of accession to the Agreement.

46. The representative of India said that his delegation supported the proposal for holding an informal exchange of views on the Agreement in the context of a workshop. With their experience of the application of the

Agreement over the past months, the Indian authorities would be able to contribute to such a workshop.

47. The observer from the Customs Co-operation Council said that the Council would welcome any initiative to giving assistance to any country considering the adoption of the Agreement. By way of background, however, he explained that the promotion of the Agreement was one of the principal measures in the goals and objectives of the Council. In 1987, a Special Meeting on Customs Valuation had been organized by the Council in order to give non-contracting parties an opportunity to air any concerns they had regarding possible adoption of the Agreement. Twenty countries had attended the Special Meeting. As a result of that meeting, the Technical Committee had adopted a number of Advisory Opinions in order to assist countries in clarifying some of the more difficult provisions of the Agreement. While the Council would continue to view any initiative that was aimed at promoting further acceptance of the Agreement positively, it would be of utmost importance that full representation was obtained from all Parties that were already applying the Agreement. Furthermore, in view of the fact that many countries had already participated in the Special Meeting organised in the CCC, it might not be particularly effective simply to revisit some of those past problems. The GATT secretariat would therefore need to approach the problems from a new angle. The CCC would be able to provide whatever assistance would be needed should the Parties decide to proceed with the orgarization of the workshop. However, the CCC would not be in a position to make a financial contribution, but would be prepared to collaborate with the secretariat in any way it could to make the workshop a success.

48. The representative of Australia said that, having heard the statement by the observer from the CCC, he was confused about the objective of the proposal by the GATT secretariat. In the report of the Chairwoman of the Technical Committee, under item C of the agenda, the Committee had heard that some well-attended seminars on the Agreement had recently been held in Zambia and Mexico. He asked for clarification on what exactly this proposed workshop would do that had not already been addressed in technical seminars and which would lend support to the arguement for a workshop in the context of GATT.

49. The representative of the United States said that in the past, there had been a situation in which the Committee had believed that the CCC was getting too involved in issues more correctly addressed in the GATT Committee. It now appeared that the GATT was getting too involved in issues that were more rightly addressed under the purview of the Technical Committee. Her delegation did not understand why the GATT secretariat had proposed to hold the technical assistance workshop in Geneva. The Technical Committee had been established to carry out functions such as technical assistance. As the Technical Committee had done an outstanding job in providing such assistance, it was in the CCC that technical assistance should continue to be carried out. If the signatories to the Agreement felt that the CCC should be doing more, then that was something that could be discussed in the CCC. While they supported technical

assistance, they believed that in times of tight budgets and increasing demands on scarce resources, particular care had to be taken to avoid duplication of efforts.

50. The representative of the European Ecomonic Community supported the points made by the representative of the United States. Most of the experts on customs valuation attended the meetings of the Technical Committee in Brussels at regular intervals. Travelling to Geneva might involve unnecessary expense and might indeed hinder participation of some experts in such a workshop.

51. A representative of the secretariat said that in suggesting the organization of a workshop, the secretariat was merely responding to the wishes and requests expressed by the delegations of a number of developing countries, as part of its technical co-operation programme. As it would not be possible to finance this type of workshop from the regular technical co-operation budget of the GATT, the workshop would be dependant on voluntary contributions. With respect to the reservations made on holding the workshop in the GATT context, he said that the meetings of the Technical Committee were formal meetings where the views expressed were put on record, whereas this workshop was envisaged as an informal forum in which experts from both developed and developing could have a full, free and frank exchange of views, without the reservations that went with meetings such as those of the Technical Committee.

52. In response to the last statement, the representative of the United States said that the Technical Committee had the capacity to hold an informal workshop. The necessary expertise resided in the Technical Committee and not in the GATT secretariat.

53. The Committee took note of the statements made.

54. The representative of Mexico referred to a seminar on Customs Valuation organized by the Government of Mexico on 6-8 March 1989, with the participation of officials from the secretariats of GATT and the CCC, and the Chairman of the Committee. The seminar had met its objective of improving the understanding of public and private sectors of the Agreement and its future implementation in his country.

55. The Chairman said that he considered that the organization of, and participation in, the seminar had been impressive and showed the importance that Mexico attached to the Agreement. He hoped that it would assist the Mexican authorities in their further consideration of the matter and in the work that they would have to undertake to implement the Agreement effectively.

F. Other Business

(i) Treatment of quota charges

56. The Committee noted that no statements were made on the treatment of quota charges. It agreed to revert to this item at the next meeting.

(ii) Linguistic consistency

57. The Committee reverted to the problem of linguistic consistency in the Notes to Articles 2 and 3 of the Agreement (VAL/M/21, paragraph 68; VAL/M/22, paragraphs 41-46; and VAL/M/23, paragraphs 29-32).

58. With regard to the inclusion of the words "la vente" in the French text, the representative of the European Economic Community said that there was a very clear implication in this version of the Notes that the goods could only be valued under Articles 2 and 3 if they had already been the subject of a sale. This was manifestly contrary to the intentions of the Agreement. He suggested that the reference to "la vente" in these Notes be deleted and that these words be replaced by the word "celle". In this way, any misinterpretation of the Notes to Articles 2 and 3 in the French text would be excluded.

59. The representative of Argentina said that the word "vente" occurred twice in the first sentence of the first paragraph of the notes to Articles 2 and 3, which read, "Lors de l'application de l'Article 2 [l'Article 3], l'administration des douanes se référera chaque fois que cela sera possible à une vente de marchandises identiques [similaires]". In order to avoid further confusion, it should be made clear that the word "celle" referred to the words "la vente" and not to the words "la même quantité".

60. The representative of the European Economic Community pointed out that when the word "vente" first appeared in the first sentence it referred to the goods, already valued under the transaction value method, which were identical/similar to the goods being valued. When it next appeared in that sentence, it referred clearly to the goods being valued. It was in this second case that the words "la vente" should be deleted and replaced by the word "celle". Articles 2 and 3 of the Agreement applied where it was not possible to apply Article 1 of the Agreement.

61. The Chairman suggested that the proposed rectification of the French text of the Agreement would be circulated to Parties for comments. If there were no objections to the proposed rectification within thirty days of its circulation, the French text of the Agreement would be changed as suggested by the European Economic Community. It was so agreed.

62. With regard to the inclusion of the words "valor de transacción de mercancías" in the Spanish text, the representative of the European Economic Community said that, although the wording of the Spanish text did not correspond to the English or the French texts, there was no problem of substance with the Spanish text. Therefore, an alignment of the Spanish text with the English and French texts was not necessary. The representative of Argentina supported this statement.

63. The Committee took note of the statements made.

G. Date and draft agenda of the next meeting

64. The Committee agreed to hold its next meeting on 10 October 1989. The following draft agenda was agreed for the next meeting:

A. Accession of further countries to the Agreement;
B. Report on the work of the Technical Committee;
C. Information on implementation and administration of the Agreement;
D. Technical assistance;
F. Other business.