

GENERAL AGREEMENT ON

RESTRICTED

VAL/44

16 November 1992

TARIFFS AND TRADE

Special Distribution

Committee on Customs Valuation

TWELFTH 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.

At its meeting of 3 November 1992, the Committee conducted its twelfth annual review on the basis of document VAL/W/56. The present document takes into account the points made during that review and the work of the Committee at that meeting as a whole.

The information contained in this document covers the period from 7 December 1991 to 9 November 1992.

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1. ACCESSIONS, ACCEPTANCES AND RESERVATIONS

(a) Status of accessions and acceptances

The number of signatories is twenty-nine.

The Republic of Poland signed the Agreement on 30 October 1990, subject to ratification.

(b) Terms of acceptance

In regard to the 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)

Mexico (10 March 1993)
Turkey (12 February 1994)

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

Mexico (10 March 1996)
Turkey (12 February 1997)
Zimbabwe (1 January 1993, VAL/M/27, paragraphs 23 and 24)
Zimbabwe will apply the computed value method before
31 December 1992.

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

India

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

Argentina	Mexico
Brazil	Turkey
India	Zimbabwe
Malawi	

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

Argentina	Mexico
Brazil	Turkey
India	Zimbabwe

2. COMPOSITION OF THE COMMITTEE ON CUSTOMS VALUATION

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

Signatories

Argentina	Korea, Republic of
Australia	Lesotho
Austria	Malawi
Botswana	Mexico
Brazil	New Zealand
Canada	Norway ¹
Cyprus	Poland ¹
Czech and Slovak Federal Republic	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	Russian Federation
Cuba	Singapore
Ecuador	Sri Lanka
Egypt	Thailand
Indonesia	Trinidad and Tobago
Israel	Zaire

(ii) International Organizations:

Customs Co-operation Council (permanent observer)
IMF
UNCTAD

¹Subject to ratification

3. MEETINGS OF THE COMMITTEE

Since the eleventh annual review, the Committee has held two meetings on 14 May 1992 and on 3 November 1992. The minutes of these meetings are contained in documents VAL/M/29 and VAL/M/30, respectively.

4. NATIONAL LEGISLATION PRESENTED

(i) Texts of national legislation

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

European Communities	VAL/1/Add.2/Suppl.12
Mexico (Article 21.1 - delayed application)	VAL/1/Add.25/Suppl.1
Romania	VAL/1/Add.8/Suppl.2

Annex I contains a complete list of national legislations that have been communicated to the Committee.

(ii) Checklist of issues

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 eleventh annual review no further replies to the checklist of issues have been submitted. Annex I contains a list of the replies that have been communicated to the Committee.

(iii) Examination of national legislations

The Committee has continued its detailed consideration of national implementing legislations. At its meeting of 14 May 1992, the Committee concluded its examination of the implementing legislation of Cyprus, and decided to revert to that of Malawi once Malawi's responses to the checklist of issues had been received. The Indian notification dated 1 October 1991 concerning the amendment to Rule 10 of the Customs Valuation Rules, 1988 of India was also the subject of further discussion. Explanations were provided by the Indian delegation to various issues raised by a number of delegations. The Committee took note of the

statements made and agreed to conclude its examination of the Indian amendment with the understanding that it be included in the agenda of a future meeting if requested by a Party. At that same meeting, the Committee also took note of the texts of laws, decrees and regulations relevant to the Agreement that had been submitted by Argentina and agreed to revert to this matter at its next meeting. At its meeting of 3 November 1992, the Committee concluded its examination of the supplementary legislation submitted by the European Communities concerning exchange rates to be used and the time-limits imposed for the supply of documents or information necessary for the determination of customs value. In addition, at that meeting the Committee examined a new piece of legislation submitted by Romania concerning certain charges to be included and the exchange rates to be used when determining the customs value of imported goods. It took note of the questions raised by a number of delegations and the clarifications provided by the Romanian delegation, and decided to return to this item at its next meeting. The Committee also agreed, at that same meeting, to revert to the implementing legislations of Argentina and Mexico at its forthcoming meeting, when the requested translations of those texts would be available.

At the Committee meeting of 3 November 1992 and in accordance with the decision taken by the Committee at its meeting of 7 February 1991, to delay Zimbabwe's application of Articles 1.2(b)(iii) and 6 of the Agreement, Zimbabwe communicated its second progress report on the steps taken to implement the two Articles. The Committee was informed that Zimbabwe would not be seeking an extension of the delay-period since the draft legislation to implement the two Articles was before the Zimbabwean Parliament, and would become law before 31 December 1992.

(iv) Status of the application of the Committee Decisions

Information on 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), made available by Parties is summarized in document VAL/W/34/Rev.5. At the meeting of 11 May 1987, it was agreed that Parties which had not yet done so, should furnish the required information on the date from which the Decision on interest charges would be applied.

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

The Committee took note of the comments submitted by Australia, contained in document VAL/W/53, on the question of linguistic consistency between the English, French and Spanish texts of the introductory sub-paragraph of Article 8.1(b). The Committee also took note of the statement made by the observer from the Customs Co-operation Council on this matter.

6. OTHER DECISIONS TAKEN BY THE COMMITTEE

At its meeting of 14 May 1992, the Committee agreed to grant observer status to the Russian Federation.

7. 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 working document VAL/W/29/Rev.7 which reproduces information contained in CCC document 37.738. At its meeting of 3 November 1992, the Committee was informed that in April 1992 the Korean Government had organized a seminar on the GATT Valuation Agreement for customs officials from the ASEAN countries.

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

(i) Meetings of the Technical Committee

Detailed oral reports on the work of the twenty-third (16-20 March 1992) and twenty-fourth (19-23 October 1992) sessions of the Technical Committee on Customs Valuation of the Customs Co-operation Council were presented to the meetings of the Committee on Customs Valuation.

(ii) Texts adopted by the Technical Committee

The Technical Committee adopted at its twenty-third session an explanatory note on confirming commissions, and at its twenty-fourth session a draft commentary on the relationship between Articles 8.1(b)(ii) and 8.1(b)(iv) of the Agreement.

(iii) Information available through the Technical Committee

The Technical Committee has established procedures for the dissemination of information on publications relating to national legislations 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 contained in Annex II of this note.

The Committee on Customs Valuation took note of these reports and expressed appreciation for the continued valuable work of the Technical Committee.

9. 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 in applying the Agreement. One Party submitted a communication on the matter of burden of proof (VAL/W/51).

10. 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.

11. 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 1992: Canada, the European Communities, Finland, Hong Kong, Japan, the Republic of Korea, Norway, Sweden and the United States.

12. OTHER MATTERS RELATING TO IMPLEMENTATION

(i) 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 1992.

13. ANNUAL REPORT TO THE CONTRACTING PARTIES

The Committee adopted its annual report to the CONTRACTING PARTIES in accordance with the requirements of Article 26 of the Agreement (L/7115).

14. 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 create clearly improved conditions for the conduct of international trade. While some three-fourths (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.1-2	VAL/2/Rev.2/Add.4
Australia	VAL/1/Add.14 + Suppl.1-4	VAL/2/Rev.1/Add.12 + Suppl.1
Austria	VAL/1/Add.10 + Suppl. 1	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
Cyprus	VAL/1/Add.26	VAL/2/Rev.2/Add.7
Czech and Slovak Federal Republic	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.1-12	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 + Suppl.1	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.1-4 + Suppl.2/Corr.1-2 + Suppl.3/Corr.1	VAL/2/Rev.2/Add.1 + Suppl.1
Lesotho	VAL/1/Add.21 + Suppl.1	VAL/2/Rev.2/Add.2
Malawi	VAL/1/Add.27	Not received
Mexico	VAL/1/Add.25 + Suppl.1	
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
Poland	VAL/1/Add.28	
Romania	VAL/1/Add.8 + Suppl.1-2	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
	36.625
European Economic Community	26.916
Finland	27.484
India	35.197
Japan	27.473
Korea, Rep. of	34.294
New Zealand	29.938
Norway	32.211
Sweden	28.225
Yugoslavia	35.188
Zimbabwe	36.376

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 the Code on Customs Valuation - 1991
(US\$ billion)

<u>Shares</u>	<u>Imports c.i.f.</u>	
Total World Imports	2,738.47 (1)	100.0
of which:		
Signatories		
applying the Code:		
Argentina	4.10 (2)	0.1
Australia	41.69	1.5
Austria	50.83	1.9
Botswana	1.78 (2)	0.1
Brazil	22.96	0.8
Canada	124.78	4.6
Cyprus	2.66	0.1
Czech and Slovak Federal Republic	10.45 (3)	0.4
EEC	612.80 (1)	22.4
Finland	21.81	0.8
Hong Kong	100.26	3.7
Hungary	8.67 (2)	0.3
India	20.42	0.7
Japan	237.00	8.7
Korea, Rep. of	81.53	3.0
Lesotho	0.60 (4)	0.0
Malawi	0.70	0.0
New Zealand	8.38	0.3
Norway	25.27	0.9
Poland	15.76	0.6
Romania	5.60	0.2
South Africa	18.80	0.7
Sweden	49.67	1.8
Switzerland	66.49	2.4
United States	508.97	18.6
Yugoslavia	14.74	0.5
Zimbabwe	2.12 (2)	0.1
Sub-Total	2,058.84	75.2
Signatories which have delayed application of the Code:		
Mexico	36.59	1.3
Turkey	21.08	0.8
Sub-Total	57.67	2.1
Total of Signatories	2,116.51	77.3

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- (1) Excluding trade between EEC member States.
 (2) 1990 imports, c.i.f.
 (3) Imports, f.o.b.
 (4) 1990 imports, f.o.b.