

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

VAL/M/1

27 February 1981

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Committee on Customs Valuation

MINUTES OF THE MEETING HELD ON 13 JANUARY 1981

Chairman: Mr. E.-A. Hörig

1. The Committee on Customs Valuation, established under Article 18.1 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade which entered into force on 1 January 1981, held its first meeting on 13 January 1981.
2. In opening the meeting, the representative of the Director-General welcomed the signatories to the first meeting. He said that as of this day, a total of seventeen delegations (the EEC counting as one) had signed the Agreement and the Protocol and had thus become members of the Committee. He considered this as an encouraging basis for the Committee to start its work and hoped that the implementation of the new valuation system would bring about a considerable simplification in international trade, as well as transparency and objectivity both for customs administrations and business, as it covered the largest number of transactions across the border. A complete list of delegations which had signed the Agreement and the Protocol was contained in document L/4914/Rev.3 and Addenda 1 and 3.
3. The Committee elected Mr. E.-A. Hörig (Federal Republic of Germany) as Chairman and Mr. M. Pullinen (Finland) as Vice-Chairman.
4. The Chairman expressed his thanks to the members of the Committee for the confidence they had just expressed in electing him as Chairman of the Committee. He stated that the entry into force of the Agreement had marked a very important step in the search for a common basis on customs valuation between trading partners. He emphasized that the Committee had to work towards as broad an acceptance as possible. The aim was to foster and ease trade by making customs charges more predictable. He expressed the hope that as many developing countries as possible would join the Agreement.
5. The Committee adopted the following agenda:
 - A. Procedures for the participation of observers (L/4905, paragraph 5).
 - B. Procedures for accession of non-contracting parties.
 - C. Circulation of documents.
 - D. Derestriction of documents.

- E. List of persons available to serve on panels.
- F. Procedures for reservations.
- G. Implementation and administration of the Agreement (notification by Parties of their national legislation).
- H. Work programme of the Technical Committee.
- I. Date and draft agenda for the next meeting.
- J. Other business.

A. Procedures for the participation of observers

6. In introducing the procedures for participation of observers reproduced in Annex I, the Chairman proposed that the Committee approve the decision which was based on the CONTRACTING PARTIES' Decision of 28 November 1979 (L/4905) and in line with those taken by the other NTM Committees in 1980.

7. The Committee adopted the decision.

8. With respect to paragraphs 1 and 2 of the procedures, the Chairman informed the Committee that so far twenty-three delegations had requested observer status for this Committee. Twenty-one of these were contracting parties, plus Bulgaria and Ecuador which were not contracting parties. The Committee agreed to admit these two countries as well.

9. Regarding paragraph 5 of the procedures, the Committee agreed to a proposal by the Chairman that requests from international organizations to participate as observers would be considered individually, and invitations would be issued on a meeting-by-meeting basis. In these cases, he would consult with the signatories to determine that there was no objection to issuing an invitation to the requesting international organization. This consultation would take place before the draft agenda for a meeting was being issued.

10. In this connexion the Chairman informed the Committee that in 1980 the Director-General of GATT had received a request from the UNCTAD Secretariat to attend the meetings of the Committee on a regular basis. Likewise, the IMF had approached him with a request for observer status, as had been the case in the other NTM Committees. He would consequently consult with members of the Committee in good time whether there were objections that these two organizations were admitted as observers for the next meeting and would propose that the Committee admit them already to this meeting. It was so agreed.

11. After the observers had been admitted to the meeting room, the Chairman read out the decision adopted by the Committee concerning the procedures for the participation of observers.

B. Procedures for accession of non-contracting parties

12. The Chairman invited comments on the procedures for accession of non-contracting parties, bearing in mind that Bulgaria had expressed an interest in joining the Agreement in due course and that some other non-GATT countries might wish to accede to the Agreement at some later stage.

13. The representative of Austria said that his delegation would welcome it if as many countries as possible would accept the new customs valuation system. Nevertheless, each request for accession had to be examined on a case-by-case basis in order to check whether the country in question was in a position to fulfil the obligations required by the Agreement.

14. The representative of the United States supported the views expressed by the previous speaker that each request should be reviewed on a case-by-case basis. Moreover, the Committee on Customs Valuation would be best served by adopting a procedure similar to that of the Committee on Technical Barriers to Trade.

15. The representative of the European Economic Community said that, while agreeing with the representatives of Austria and the United States, the understanding of his delegation was that there was only one potential candidate who had shown an interest in joining the Agreement in due course. The Committee should revert to the question at a subsequent meeting.

16. In concluding the discussion, the Chairman said that the Committee would wait for the outcome of the discussions on the same subject in the Committee on Technical Barriers to Trade. Moreover, there was an agreement among the Parties that the question of accession to the Agreement of countries which were not contracting parties to the GATT could be taken up at a later stage if a particular case presented itself.

C. Circulation of documents

17. The Chairman recalled that the other NTM Committees had adopted a common approach on this matter which, in their view, met the general need for transparency and the Committees' particular, if occasional, need for confidentiality. He therefore proposed that after each meeting, he would issue under his own responsibility a concise note on the meeting which would be circulated to all contracting parties. The Committee's working documents, minutes, etc. would be issued in the VAL- series and circulated to all participants; they would be available to all contracting parties upon request. In the case of sensitive documents, when the need for confidentiality

arose (as for instance in a dispute settlement procedure), documents would be issued on an ad hoc basis and have a restricted circulation, to be determined in each case. International organizations would receive the same documentation as other observers when they received the invitation.

The Committee adopted these procedures.

D. Derestriction of documents

18. The Committee agreed on a procedure which was based on customary GATT practice, i.e. that working documents and minutes were never derestricted and that the secretariat should make a proposal annually regarding other documents to be derestricted at the end of the year; these latter documents would be derestricted if no delegation objected to the proposal. The Committee might revert to the question of the derestriction of panel reports and decisions based on these reports at future meetings. Also in accordance with GATT practice, restricted documents would be circulated to governments entitled to receive them for their own, and not for public, use. These documents would also under certain circumstances be circulated to international organizations on the understanding that this was for the internal use of the secretariats of these organizations and that, for instance, the substance of the documents should not be communicated to governments not otherwise entitled to receive them. This proposal corresponded to the decisions taken and practice followed in the other NTM Committees.

E. List of persons available to serve on panels

19. The Chairman recalled that according to Annex III of the Agreement, Parties were invited to indicate at the beginning of each year to the Chairman of the Committee the name or names of one or two governmental experts whom the Parties would be willing to make available for panel work. He said that, as of this day, a list of panel members had already been received from the European Economic Community and from Sweden. He added that the list of panel members could be renewed or altered at any time during the year.

20. The representatives of Japan and Spain indicated that their authorities would submit a list as soon as possible.

21. In answer to two questions from the representative of India, the Chairman said that the Parties were invited to confirm, preferably at the beginning of the year, that their lists remained valid. He indicated also that the lists would not be circulated except if this was expressly requested. He invited the Parties to submit the names of their experts as soon as possible.

F. Procedures for reservations

22. The Chairman proposed that the Committee adopt the procedures for reservations reproduced in Annex II.

23. The observer for Australia recalled that during informal consultations he had made a statement concerning the right of a signatory to make a reservation and the right of Parties not to accept a reservation. At that time he had expressed concern at the possibility of one Party being able to exercise what amounted to a veto, and he had suggested that a decision by a Party not to accept a reservation should be subject to scrutiny by the Committee. He expressed the view that this suggestion was incompatible with the proposed decision on reservations and that the latter text was unacceptable to his authorities. He reiterated that his authorities were unable to accept that one Party could effectively veto the basis on which another country wanted to participate in the Agreement. He pointed out that such a concept was not incorporated in the General Agreement. In his view, the procedures of the Committee should follow those of the General Agreement with the requirement that decisions be reached by consensus. In the absence of a consensus, the "consent of other Parties" in Article 23 of the Agreement should be interpreted as in the case of decisions by the GATT CONTRACTING PARTIES, i.e. by a majority of votes cast or, in exceptional circumstances (e.g. in which an obligation imposed upon a Party to the Agreement was waived) by a two-thirds majority of votes cast, as was provided for in paragraphs 4 and 5 of Article XXV of the General Agreement. As was the case under GATT, frequent resort to voting was not anticipated. However, these procedures were preferable to a situation in which one Party could exercise what amounted to the right of veto. In examining this problem his authorities had been conscious of the fact that, unlike the other MTN Agreements and the General Agreement itself, the Agreement on Customs Valuation did not include a clause permitting non-application of the Agreement between particular Parties. This issue was of course directly related to the question of reservations. He repeated that the Agreement should be consistent with the General Agreement. He requested that the text of the procedures for reservations be amended as suggested above, or that the decision on procedures be deferred.

24. The representative of the European Economic Community said that the previous speaker had raised a point of considerable importance. The practical difficulty was that if no decision was taken and the matter was left open until the next meeting of the Committee, this would create an unsatisfactory situation where it would not be clear whether reservations had been accepted or not. Furthermore, what the observer for Australia was suggesting was in fact that the Agreement be rewritten; however, the Parties had to apply the Agreement as it was. Having adopted the procedures for reservations, the Committee could perhaps reach a gentlemen's agreement which could not have the effect of modifying the legal text of the Agreement, but under which there would be a discussion if a country wishing to accede considered that its application was being blocked because a reasonable reservation that it wished to make was being objected to by a Party without good grounds. In the context of the negotiations on the final provisions of the Agreement, it had been suggested by a number of delegations that there should be no right of reservation and that the countries should apply the

terms of the Agreement except to the extent that certain special rights were agreed for developing countries. It was not open to the Parties to rewrite the Agreement. He proposed that the Committee revert to the question of veto on the basis of a paper the secretariat could produce for the next meeting. With reference to paragraph 4 of the text of the procedures for reservations, it was implicit that the reservation would not come into force if another Party objected to it within the time-limits specified in paragraphs 1 and 2. He suggested that a clarification concerning time-limits be added to the existing provision.

25. The representative of India said that the point raised by the observer for Australia was very important as it concerned a point of substance and not of procedures. He suggested that paragraph 4 of the text of the procedures which was a point of substance should remain as it stood. Paragraphs 1, 2 and 3 were only points of procedure. If paragraph 4 went beyond the Agreement, as suggested by the observer for Australia, there was a reason to postpone a decision on the text. His delegation had no definite views and would like to hear the opinion of other delegations on paragraph 4.

26. The representative of the United States urged the Committee to take a decision at the present meeting with respect to the text under consideration because there were certain concrete instances in which decisions were needed. He agreed with the representative of the European Economic Community on that point and supported his suggestion that the Committee adopt the text in its present form, without deleting paragraph 4. In the meantime, the secretariat could be requested to prepare a paper. The Committee would revert to the matter at a later meeting. He wondered why the observer for Australia had raised the question and what reservations the Australian authorities might wish to make in acceding to the Agreement.

27. The observer for Australia said that non-adoption of procedures for reservations could indeed be unsatisfactory for countries wishing to enter reservations. However, to adopt the present procedures would constitute a precedent that would create bad GATT law. It remained that a procedure formally adopted by the Committee would have a more binding effect than any gentlemen's agreement that might be agreed to by the Parties. Given the length of time since the Agreement had been initialled, a two-month delay would cause less damage in the long term than the introduction of a principle which the Parties might regret at a later date.

28. The observer for New Zealand said that his authorities would also regret it if the Committee were to decide at this meeting on the procedures regarding reservations, if there were doubts as to whether they were in conformity with Article 23 of the Agreement. He would appreciate having further time to consider the question.

29. The representative of the European Economic Community said that the observer for Australia was in fact requesting a fundamental change in the existing rules and had mentioned the lack of a non-application clause in the Agreement. In the view of the EEC, there could be an understanding that the signatories examine the situation and discuss in the Committee whether or not a refusal to accept or consent to a proposed reservation was unreasonable. In the final analysis, however, the Agreement seemed to entitle the Parties to say that they did not accept any change in the rules. He was prepared to discuss the problem, if it arose, in the Committee, and to endeavour to persuade a minority view that they were being unreasonable and unfair. The text of the procedures for reservations was consistent with the Agreement. The Committee could examine the problem raised by Australia and see whether some informal understanding could be reached, which would in practice solve any potential difficulties. In signing the Agreement, the Parties had agreed to certain rights that must stand. He urged the Committee to adopt the procedures and to examine the substantive point in a subsequent discussion.

30. The representative of the United Kingdom speaking on behalf of Hong Kong said that what made the Australian proposal difficult was the fact that while the reservations must be accepted by other Parties, there was no reference to acceptance by the Committee. It seemed necessary and advisable that the Committee reach some conclusions.

31. The observer for Australia recalled that a veto power given to individual Parties could not be consistent with Article 23. Reservations had to be accepted by "other Parties", which did not necessarily mean "each Party" acting individually, but could also mean "the other Parties" acting collectively as a group. While both interpretations were valid, the interpretation favoured by Australia had the added advantage of being in accordance with the General Agreement. The Committee was operating under the auspices of the GATT and should adopt procedures which were in accordance with that instrument.

32. The observer for Pakistan said that provisions such as Articles 21 and 23 had been incorporated mainly in order to accommodate the needs of developing countries. Article 23, as it was worded, implied unanimity. Therefore, as the observer for Australia had stated, a situation might arise where some countries would not find certain reservations acceptable. A decision could be taken on the matter only after further deliberations.

33. The representative of Sweden, speaking on behalf of the Nordic countries, pointed out that the Nordic countries had a great interest in seeing Australia, New Zealand and other countries accede to the Agreement and the Protocol and considered that the procedures should not be unduly difficult. Nevertheless, they supported the views of the representatives of the European Economic Community and the United States on the text of the procedures for reservations which reflected the rules of the Agreement.

34. The representative of India reiterated that the matter was one of substance, in the sense that a departure from procedural requirements constituted a dangerous precedent. The interpretation of Article 23 by Australia was not necessarily a conclusive interpretation. There was also some doubt with respect to paragraph 3 of the Protocol which provided that developing countries might "wish to make a reservation as to minimum values to enable them to retain such values on a limited and transitional basis under such terms and conditions as may be agreed to by the Parties to the Agreement". In his view, the right of a developing country was unconditional in this respect. The question remained as to whether the text on the procedures for reservations went further than the Agreement. If such was the case, the Committee should wait until the next possible opportunity to consider the matter.

35. The representative of Hungary said that the issue raised by Australia was procedural and substantive. He agreed with the proposal by the representative of the European Economic Community to request from the secretariat a study on the possible links between the Agreement and the rules of the General Agreement. When the issue was discussed again on the basis of the study, the Committee might modify its temporary agreement on the question. He wondered whether such an understanding would satisfy the observer for Australia for the time being and would also be acceptable to the Parties.

36. The Chairman said that the Parties needed the procedures on reservations at the beginning of the application of the Agreement. The Committee should adopt the text on these procedures which reflected the rules of the Agreement on Customs Valuation. The Parties to the Agreement certainly did not want to exclude any country from acceding to the Agreement if there were some special difficulties which could be overcome by a reservation. They were also open to an examination of cases where there might be opposition to a reservation from one Party only and which might seem unreasonable. At the same time, the Parties had expressed their willingness for the text to be adopted at this meeting. Following a discussion on the precise wording to be used in the text of the procedures, the Committee agreed on the addition, at the end of paragraph 4, of a sentence saying that "cases where a minority view about the acceptability or non-acceptability of a reservation exists would be examined in the Committee at the request of the country wishing to enter the reservation, with a view to seeking a mutually acceptable solution". The Committee thereafter adopted the procedures for reservations contained in Annex II.

G. Implementation and administration of the Agreement (notification by Parties of their national legislation)

37. The Committee adopted the following decision on notification and circulation of national legislation in accordance with Article 25 of the Agreement:

- (i) Parties will submit the complete texts of their national legislation (laws, regulations, etc.) on customs valuation in one of the three official GATT languages as soon as possible to the secretariat

which will circulate them as Committee documents to the other Parties in the language submitted. If a general interest is expressed in the Committee that the text of a particular Party be available also in other official GATT languages, this text will be translated and circulated as a Committee document. In those cases where the national legislation is not in an official GATT language, the original texts shall also be submitted to the secretariat where they will be open for inspection.

- (ii) It is understood that the texts of the national legislation of developing countries availing themselves of the provisions of Article 21, paragraphs 1 and 2 of the Agreement will be supplied to the Committee before the developing countries begin the application of the provisions of the Agreement and the Protocol.

38. The Committee heard statements by a number of delegations on steps taken to implement and administer the Agreement. The representative of Austria stated that the Parliament had ratified the Agreement, and that the instrument of ratification had been sent to the secretariat in German language; the English version would be sent at a later stage. As to the Protocol, the Council of Ministers had decided to submit it to the Parliament for ratification. The representative of the European Economic Community said that the Agreement had been implemented in the European Economic Community since 1 July 1980. The Protocol had come into effect on 1 January 1981. Copies of the European Economic Community regulations had already been supplied to the secretariat. By virtue of the accession of Greece to the European Communities, Greece had automatically acceded to the Agreement. The secretariat had been formally notified of this situation and the letter would be circulated for information to delegations. The representative of Japan said that the Law for Partial Amendment of the Customs Tariff Law, the Cabinet Order and the Ministerial Ordinance concerning the new system of customs valuation had been promulgated and put into force on 1 January 1981. An English version of it, as soon as completed, would be sent to the secretariat for circulation. At this stage, only a provisional translation was available on request. The representative of Sweden reported that the Ordinance on Customs Valuation of 25 September 1980 and Instructions concerning the Ordinance of 9 October 1980 had been sent to the secretariat, in Swedish and in English languages. The representative of Finland stated that the Customs Valuation Act of 19 December 1980 which came into force on 1 January 1981 would be sent to the secretariat very soon in English, Finnish and Swedish versions. A Board of Customs Decision had also been issued, but its translation was not yet available. The representative of Norway said that the legislation which came into force on 1 January 1981 would be sent to the secretariat in its original language and in English as soon as possible. The representative of the United States stated that the new valuation law which had been applied as of 1 July 1980 did not include provisions concerning the Protocol. The legislation implementing the latter had been approved by the Congress in December 1980 and was applied since

1 January 1981. A copy of the original legislation implementing the provisions of the Agreement had already been sent to the secretariat. The legislation implementing the Protocol, as well as the Customs Service Regulations, would be sent as soon as possible. The representative of Hungary said that the Agreement and the Protocol which had been signed on 18 July 1980 would be sent in their original language and in English to the secretariat in two weeks' time.

39. The Chairman asked for comments by members of the Committee on the question of the examination of their national legislation in the Committee once it had been circulated (as had been the practice, e.g. in the Anti-Dumping Committee).

40. The representative of the United States said that the tasks between the Committee on Customs Valuation and the Technical Committee on Customs Valuation of the CCC should complement each other rather than duplicate. The GATT Committee would administer the Agreement under trade policy aspects while the Technical Committee would administer it at a technical level. The GATT Committee should examine whether Parties had properly implemented the fundamental obligations of the Agreement relating, inter alia, to the publication of laws and regulations, the right of appeal, currency conversion, withdrawal of goods and information to exporters by Customs. As to technical questions, he wondered whether they should not be referred to the Technical Committee for more detailed examination.

41. The representative of Hungary stated that the GATT Committee should examine the conformity of the national legislation with respect to the Agreement, and that technical matters be referred to the Technical Committee for advice.

42. The representative of the European Economic Community pointed out that questions should be examined by the Committee on a case-by-case basis, due to the difficulty of distinguishing between the policy and technical matters. He shared the views expressed by the previous speakers that the GATT Committee should look at the way in which Parties had implemented the Agreement in their national legislation. A systematic review of this legislation which could be undertaken by the Technical Committee would not prevent the GATT Committee from studying specific questions. The Technical Committee could report discrepancies to the GATT Committee which would concentrate on some issues. A subsequent meeting could be devoted to a question and answer exercise in this respect.

43. The representative of Norway said that paragraph 2(b), (d) and (e) of Annex II listed the responsibilities of the Technical Committee in respect of which any Party or the GATT Committee might request studies, information, advice and technical assistance.

44. The Committee agreed that a checklist of issues relating to national legislation on customs valuation should be established in collaboration between the Chairman and the secretariat, on the basis of contributions to be made by Parties by 30 January 1981. This checklist would serve as a basis of an initial examination of the national legislation of Parties at the next meeting of the Committee.

H. Work Programme of the Technical Committee

45. The Chairman said that members of the Committee had been aware that the Agreement provided for the establishment of a Technical Committee on Customs Valuation under the auspices of the Customs Co-operation Council. The responsibilities of that Committee as well as provisions governing its working procedures had been spelled out in Annex II to the Agreement. He extended a warm welcome to Mr. John B. O'Loughlin, Director in charge of customs valuation in the CCC secretariat, and expressed his hope for a good and fruitful co-operation and collaboration between the two Committees and, indeed, between the two organizations concerned. On this particular agenda item the Chairman said that following a request made before the entry into force of the Agreement, the CCC and GATT secretariats had established a list of issues for inclusion in the initial work programme of the Technical Committee, it being understood that the Committee could also discuss any other points. This list, to which some delegations had added a few items, comprised the points as enumerated in Annex 3.

46. The permanent observer for the Customs Co-operation Council said that he intended to place these items on the agenda of the next meeting of the Technical Committee. On some of these items, a fairly rapid conclusion could be reached and a final report could be issued. Some documents had already been circulated in preparation of the first meeting of the Technical Committee. As a general practice, the CCC tried to issue documents as early as possible in order to give the customs administrations the opportunity to review the documents and provide the CCC with written comments. A working document was then available for the meeting itself. He added that the GATT and the CCC as international organizations had existed side by side for many years and that there had been a great deal of co-operation and interplay between them. On the one hand GATT is responsible for trade policy matters while, on the other, the customs administrations are responsible for implementing them. For the first time, this Agreement had provided a legal link between the two organizations and, thus, a connexion had now been established in the working relationship between the trade policy representatives of the various countries and the corresponding customs administrations.

47. The Chairman made it clear that an examination in depth of the issues enumerated was called for.

48. The representative of the European Economic Community said that the list of items did not constitute an agenda for the next meeting of the Technical Committee, but constituted points for inclusion in its initial work programme.

49. The Committee agreed on the points for inclusion in the initial work programme of the Technical Committee on Customs Valuation.

I. Date and draft agenda for the next meeting

50. The Committee agreed to hold its next meeting in the week of 4 May 1981, the precise date to be established by the Chairman in consultation with the Parties.

51. The draft agenda for the next meeting would include the following items:

- (1) General policy statements
- (2) Adherence of further countries to the Agreement
- (3) Information on implementation and administration of the Agreement (notification by Parties of their national legislation and its examination on the basis of the checklist agreed at the last meeting) (Article 25.1)
- (4) Consideration of procedures on reservations made under Article 23.
- (5) Procedures for the annual review of the operation of the Agreement and the annual report to the CONTRACTING PARTIES (Article 26).
- (6) Use of various valuation methods by Parties
- (7) Report by the Chairman of the Technical Committee
- (8) Date and draft agenda for the next meeting
- (9) Other business

52. Other items might be included by the Chairman in consultation with delegations. The draft agenda for the next meeting would be circulated in accordance with established practices.

J. Other business

(a) Proposed rectification

53. The Chairman said that it had been drawn to the secretariat's attention that the French translation of the term "copyrights" in the Interpretative Note to Article 8:1(c) of the Agreement which presently was "droits de reproduction" should be replaced by the term "droit d'auteur". In this connexion he referred to a working document which the secretariat had circulated in VAL/W/1. If there were no objections to this change being made, the Committee might request the secretariat to initiate the rectification process, through the issuance of a special document; unless objections were raised within thirty days, the French text would accordingly be changed. It was so agreed.

(b) Data on customs valuation methods

54. The Chairman said that it would be helpful if signatories requested their customs authorities to collect data on the method of valuation applied for all customs entries during a certain period of time. He invited preliminary comments from the members of the Committee.
55. The representative of Sweden pointed out that this proposal might create practical difficulties in that many customs stations were located in distant harbours.
56. It was agreed to put this item on the agenda of the next meeting.

ANNEX 1

Procedures for the Participation of Observers

"Taking into account the decision arrived at by the CONTRACTING PARTIES at their thirty-fifth session on 28 November 1979 (document L/4905), the Committee agrees on the following procedures for the participation of observers:

1. Representatives of contracting parties which are not signatories may follow the proceedings of the Committee in an observer capacity.
2. Representatives of non-signatory countries not contracting parties, which participated in the multilateral trade negotiations and which are interested in following the proceedings of the Committee in an observer capacity, should communicate a request to the Director-General of the GATT indicating their desire to do so. The Committee shall decide on each request.
3. Observers may participate in the discussions but decisions shall be taken only by signatories.
4. The Committee may deliberate on confidential matters in special restricted sessions.
5. The Committee may invite, as appropriate, international organizations to follow particular issues of the Committee in an observer capacity. In addition, requests from international organizations to follow particular issues within the Committee in an observer capacity shall be considered on a case-by-case basis by the Committee.
6. In view of its special responsibilities and functions assigned to it under the Agreement and without constituting a precedent, the Customs Co-operation Council is accorded permanent observer status."

ANNEX 2

Reservations under the Agreement on Customs Valuation

1. A reservation made under Article 23 of the Agreement by a government accepting or acceding to the Agreement before 1 January 1981 shall be deemed to be accepted by the other Parties unless the Committee is notified (through the secretariat) by a particular Party to the contrary before 1 February 1981. Upon request of a Party or Parties notified to the secretariat before 1 February 1981, the time-limit shall be extended for another thirty days.
2. Governments which accept or accede to the Agreement on or after 1 January 1981 shall be deemed to accept all reservations previously accepted by the Parties. Reservations made by Governments which accept or accede to the Agreement on or after 1 January 1981 shall be deemed to be accepted by the other Parties unless the Committee is notified (through the secretariat) to the contrary by a particular Party before expiry of thirty days following the date on which the Agreement enters into force for the Party making the reservation. Upon request of a Party or Parties notified to the secretariat before the expiry of the period referred to in the preceding sentence, the time-limit shall be extended for a further thirty days.
3. For reservations made under paragraph 3 of the Protocol, the Party having made the reservation shall communicate to the Committee (through the secretariat) in due course a proposal containing the terms and conditions under which it wants to retain the minimum customs values (or similar schemes). This proposal would be discussed by the Committee with the aim of reaching an agreement on the terms and conditions of such reservation. Agreement should be reached as quickly as possible and at any rate not later than the date at which the Party having availed itself of the possibility of Article 21:1 starts implementing the provisions of the Agreement.
4. A reservation shall not come into force if:
 - in the case of a reservation made under Article 23 of the Agreement another Party objects to the reservation within the time-limits as specified in paragraphs 1 and 2 or,
 - in the case of a reservation made under paragraph 3 of the Protocol, no agreement has been reached on the content (terms and conditions) of the reservation by the time that the Agreement is implemented by the Party in question.

Cases where a minority view about the acceptability or non-acceptability of a reservation exists would be examined in the Committee, at the request of the country wishing to enter the reservation, with a view to seeking a mutually acceptable solution.

5. Reservations made by a developing country in conformity with paragraphs 4 or 5 of the Protocol to the Agreement shall be deemed to be consented to by the other Parties.

ANNEX 3

Points for Inclusion in Initial Work Programme
of the Technical Committee on Customs Valuation

Concept of sale

Meaning of "sold for export to the country of importation"

Treatment of royalties and licence fees

Application of Articles 2 and 3

Meaning of "are distinguished"

Time element with regard to Articles 1, 2 and 3

Case study on Article 8:1(d)

Case study on "commissions" in Article 8:1(a)(i)

Interpretation of Article 8:1(b)(iv) concerning engineering, development, artwork, etc.

Acceptability of a price below prevailing market prices for identical goods.